

STATE CORPORATION COMMISSION



One Hundred Tenth Annual Report

of the

State Corporation Commission

of

Virginia

For the Year Ending December 31, 2012

GENERAL REPORT

Letter of Transmittal

COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

RICHMOND, VIRGINIA, *December 31, 2012*

To the Honorable Robert F. McDonnell

Governor of Virginia

Sir:

We have the honor to transmit herewith the one hundred tenth Annual Report of the State Corporation Commission for the year 2012.

Respectfully submitted,

Mark C. Christie, Chairman

James C. Dimitri, Commissioner

Judith Williams Jagdmann, Commissioner

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State Corporation Commission

COMMISSIONERS

*Judith Williams Jagdmann

Chairman

**Mark C. Christie

Chairman

James C. Dimitri

Commissioner

Joel H. Peck

Clerk of the Commission

*Term as Chairman expired January 31, 2012

**Elected Chairman effective for term of one year,
February 1, 2012

Commissioners

The three initial Commissioners took office March 1, 1903. From 1903 to 1919 the Commissioners were appointed by the Governor subject to confirmation by the General Assembly. Between 1919 and 1926 they were elected by popular vote. Between 1926 and 1928 they were appointed by the Governor subject to confirmation by the General Assembly. Since 1928 they have been elected by the General Assembly.

The names and terms of office of the Commissioners:

		Years
Beverly T. Crump	March 1, 1903 to June 1, 1907	4
Henry C. Stuart	March 1, 1903 to February 28, 1908	5
Henry Fairfax	March 1, 1903 to October 1, 1905	3
Jos. E. Willard	October 1, 1905 to February 18, 1910	4
Robert R. Prentis	June 1, 1907 to November 17, 1916	9
Wm. F. Rhea	February 28, 1908 to November 15, 1925	18
J. R. Wingfield	February 18, 1910 to January 31, 1918	8
C. B. Garnett	November 17, 1916 to October 28, 1918	2
Alexander Forward	February 1, 1918 to December 5, 1923	5
Robert E. Williams	November 12, 1918 to July 1, 1919	1
(Temporary Appointment during absence of Forward on military service)		
S. L. Lupton	October 28, 1918 to June 1, 1919	1
Berkley D. Adams	June 12, 1919 to January 31, 1928	9
Oscar L. Shewmake	December 16, 1923 to November 24, 1924	1
H. Lester Hooker	November 25, 1924 to January 31, 1972	47
Louis S. Epes	November 16, 1925 to November 16, 1929	4
Wm. Meade Fletcher	February 1, 1928 to December 19, 1943	16
George C. Peery	November 29, 1929 to April 17, 1933	3
Thos. W. Ozlin	April 17, 1933 to July 14, 1944	11
Harvey B. Apperson	January 31, 1944 to October 5, 1947	4
Robert O. Norris	August 30, 1944 to November 20, 1944	
L. McCarthy Downs	December 16, 1944 to April 18, 1949	5
W. Marshall King	October 7, 1947 to June 24, 1957	10
Ralph T. Catterall	April 28, 1949 to January 31, 1973	24
Jesse W. Dillon	July 16, 1957 to January 28, 1972	14
Preston C. Shannon	March 10, 1972 to January 31, 1996	25
Junie L. Bradshaw	March 10, 1972 to January 31, 1985	13
Thomas P. Harwood, Jr.	February 20, 1973 to February 20, 1992	19
Elizabeth B. Lacy	April 1, 1985 to December 31, 1988	4
Theodore V. Morrison, Jr.	February 15, 1989 to December 31, 2007	19
Hullihen Williams Moore	February 26, 1992 to January 31, 2004	13
Clinton Miller	February 15, 1996 to January 31, 2006	11
Mark C. Christie	February 1, 2004 to	
Judith Williams Jagdmann	February 1, 2006 to	
James C. Dimitri	September 3, 2008 to	

From 1903 through 2012 the lines of succession were:

	Years		Years		Years
Crump	4	Stuart	5	Fairfax	3
Prentis	9	Rhea	18	Willard	4
Garnett	2	Epes	4	Wingfield	8
Lupton	1	Peery	3	Forward	5
Adams	9	Ozlin	11	Williams	1
Fletcher	16	Norris	0	Shewmake	1
Apperson	4	Downs	5	Hooker	47
King	10	Catterall	24	Bradshaw	13
Dillon	14	Harwood	19	Lacy	4
Shannon	25	Moore	13	Morrison	19
Miller	11	Christie	9	Dimitri	4
Jagdmann	7				

**COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION**

RULES OF PRACTICE AND PROCEDURE

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CHAPTER 20**STATE CORPORATION COMMISSION
RULES OF PRACTICE AND PROCEDURE****PART I.****GENERAL PROVISIONS.***5 VAC 5-20-10. Applicability.*

The State Corporation Commission Rules of Practice and Procedure are promulgated pursuant to the authority of § 12.1-25 of the Code of Virginia and are applicable to the regulatory and adjudicatory proceedings of the State Corporation Commission except where superseded by more specific rules for particular types of cases or proceedings. When necessary to serve the ends of justice in a particular case, the commission may grant, upon motion or its own initiative, a waiver or modification of any of the provisions of these rules, except 5 VAC 5-20-220, under terms and conditions and to the extent it deems appropriate. These rules do not apply to the internal administration or organization of the commission in matters such as the procurement of goods and services, personnel actions, and similar issues, nor to matters that are being handled administratively by a division or bureau of the commission.

5 VAC 5-20-20. Good faith pleading and practice.

Every pleading, written motion, or other document presented for filing by a party represented by an attorney shall be signed by at least one attorney of record in the attorney's individual name, and the attorney's mailing address and telephone number, and where available, telefax number and email address, shall be stated. An individual not represented by an attorney shall sign the individual's pleading, motion, or other document, and shall state the individual's mailing address and telephone number. A partnership not represented by an attorney shall have a partner sign the partnership's pleading, motion, or other document, and shall state the partnership's mailing address and telephone number. A nonlawyer may only represent the interests of another before the commission in the presentation of facts, figures, or factual conclusions, as distinguished from legal arguments or conclusions. In the case of an individual or entity not represented by counsel, each signature shall be that of the individual or a qualified officer or agent of the entity. Documents signed pursuant to this rule need not be under oath unless so required by statute.

The commission allows electronic filing. Before filing electronically, the filer shall complete an electronic document filing authorization form, establish a filer authentication password with the Clerk of the State Corporation Commission and otherwise comply with the electronic filing procedures adopted by the commission. Upon establishment of a filer authentication password, a filer may make electronic filings in any case. All documents submitted electronically must be capable of being printed as paper documents without loss of content or appearance.

The signature of an attorney or party constitutes a certification that (i) the attorney or party has read the pleading, motion, or other document; (ii) to the best of the attorney's or party's knowledge, information, and belief formed after reasonable inquiry, the pleading, motion or other document is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and (iii) the pleading, motion or other document is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. A pleading, written motion, or other document will not be accepted for filing by the Clerk of the Commission if it is not signed.

An oral motion made by an attorney or party in a commission proceeding constitutes a representation that the motion (i) is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and (ii) is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

5 VAC 5-20-30. Counsel.

Except as otherwise provided in 5 VAC 5-20-20, no person other than a properly licensed attorney at law shall file pleadings or papers or appear at a hearing to represent the interests of another person or entity before the commission. An attorney admitted to practice in another jurisdiction, but not licensed in Virginia, may be permitted to appear in a particular proceeding pending before the commission in association with a member of the Virginia State Bar. The Virginia State Bar member will be counsel of record for every purpose related to the conduct and disposition of the proceeding.

In all appropriate proceedings before the Commission, the Division of Consumer Counsel, Office of the Attorney General, may appear and represent and be heard on behalf of consumers' interests, and investigate matters relating to such appearance, and otherwise may participate to the extent reasonably necessary to discharge its statutory duties.

5 VAC 5-20-40. Photographs and broadcasting of proceedings.

Electronic media and still photography coverage of commission hearings will be allowed at the discretion of the commission.

5 VAC 5-20-50. Consultation by parties with commissioners and hearing examiners.

No commissioner or hearing examiner shall consult with any party or any person acting on behalf of any party with respect to a pending formal proceeding without giving adequate notice and opportunity for all parties to participate.

5 VAC 5-20-60. Commission staff.

The commissioners and hearing examiners shall be free at all times to confer with any member of the commission staff. However, no facts nor legal arguments likely to influence a pending formal proceeding and not of record in that proceeding shall be furnished ex parte to any commissioner or hearing examiner by any member of the commission staff.

5 VAC 5-20-70. Informal complaints.

All correspondence and informal complaints shall be referred to the appropriate division or bureau of the commission. The head of the division or bureau receiving this correspondence or complaint shall attempt to resolve the matter presented. Matters not resolved to the satisfaction of all participating parties by the informal process may be reviewed by the full commission upon the proper filing of a formal proceeding in accordance with the rules by any party to the informal process.

PART II.**COMMENCEMENT OF FORMAL PROCEEDINGS.***5 VAC 5-20-80. Regulatory proceedings.*

A. Application. Except where otherwise provided by statute, rule or commission order, a person or entity seeking to engage in an industry or business subject to the commission's regulatory authority, or to make changes in any previously authorized service, rate, facility, or other aspect of such industry or business that, by statute or rule, must be approved by the commission, shall file an application requesting authority to do so. The application shall contain (i) a specific statement of the action sought; (ii) a statement of the facts that the applicant is prepared to prove that would warrant the action sought; (iii) a statement of the legal basis for such action; and (iv) any other information required by law or regulation. Any person or entity filing an application shall be a party to that proceeding.

B. Participation as a respondent. A notice of participation as a respondent is the proper initial response to an application. A notice of participation shall be filed within the time prescribed by the commission and shall contain (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any person or entity filing a notice of participation as a respondent shall be a party to that proceeding.

C. Public witnesses. Any person or entity not participating in a matter pursuant to subsection A or B of this section may make known their position in any regulatory proceeding by filing written comments in advance of the hearing if provided for by commission order or by attending the hearing, noting an appearance in the manner prescribed by the commission, and giving oral testimony. Public witnesses may not otherwise participate in the proceeding, be included in the service list, or be considered a party to the proceeding.

D. Commission staff. The commission staff may appear and participate in any proceeding in order to see that pertinent issues on behalf of the general public interest are clearly presented to the commission. The staff may, inter alia, conduct investigations and discovery, evaluate the issues raised, testify and offer exhibits, file briefs and make argument, and be subject to cross-examination when testifying. Neither the commission staff collectively nor any individual member of the commission staff shall be considered a party to the case for any purpose by virtue of participation in a proceeding.

5 VAC 5-20-90. Adjudicatory proceedings.

A. Initiation of proceedings. Investigative, disciplinary, penal, and other adjudicatory proceedings may be initiated by motion of the commission staff or upon the commission's own motion. Further proceedings shall be controlled by the issuance of a rule to show cause, which shall give notice to the defendant, state the allegations against the defendant, provide for a response from the defendant and, where appropriate, set the matter for hearing. A rule to show cause shall be served in the manner provided by § 12.1-19.1 or § 12.1-29 of the Code of Virginia. The commission staff shall prove the case by clear and convincing evidence.

B. Answer. An answer or other responsive pleading shall be filed within 21 days of service of the rule to show cause, unless the commission shall order otherwise. The answer shall state, in narrative form, each defendant's responses to the allegations in the rule to show cause and any affirmative defenses asserted by the defendant. Failure to file a timely answer or other responsive pleading may result in the entry of judgment by default against the party failing to respond.

5 VAC 5-20-100. Other proceedings.

A. Promulgation of general orders, rules, or regulations. Before promulgating a general order, rule, or regulation, the commission shall, by order upon an application or upon its own motion, require reasonable notice of the contents of the proposed general order, rule, or regulation, including publication in the Virginia Register of Regulations, and afford interested persons an opportunity to comment, present evidence, and be heard. A copy of each general order, rule, and regulation adopted in final form by the commission shall be filed with the Registrar of Regulations for publication in the Virginia Register of Regulations.

B. Petitions in other matters. Persons having a cause before the commission, whether by statute, rule, regulation, or otherwise, against a defendant, including the commission, a commission bureau, or a commission division, shall proceed by filing a written petition containing (i) the identity of the parties; (ii) a statement of the action sought and the legal basis for the commission's jurisdiction to take the action sought; (iii) a statement of the facts, proof of which would warrant the action sought; (iv) a statement of the legal basis for the action; and (v) a certificate showing service upon the defendant.

Within 21 days of service of a petition under this rule, the defendant shall file an answer or other responsive pleading containing, in narrative form, (i) a response to each allegation of the petition and (ii) a statement of each affirmative defense asserted by the defendant. Failure to file a timely

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answer may result in entry of judgment by default against the defendant failing to respond. Upon order of the commission, the commission staff may participate in any proceeding under this rule in which it is not a defendant to the same extent as permitted by 5 VAC 5-20-80 D.

C. Declaratory judgments. Persons having no other adequate remedy may petition the commission for a declaratory judgment. The petition shall meet the requirements of subsection B of this section and, in addition, contain a statement of the basis for concluding that an actual controversy exists. In the proceeding, the commission shall by order provide for the necessary notice, responsive pleadings, and participation by interested parties and the commission staff.

PART III.

PROCEDURES IN FORMAL PROCEEDINGS.

5 VAC 5-20-110. *Motions.* Motions may be filed for the same purposes recognized by the courts of record in the Commonwealth. Unless otherwise ordered by the commission, any response to a motion must be filed within 14 days of the filing of the motion, and any reply by the moving party must be filed within ten days of the filing of the response.

5 VAC 5-20-120. *Procedure before hearing examiners.*

A. Assignment. The commission may, by order, assign a matter pending before it to a hearing examiner. Unless otherwise ordered, the hearing examiner shall conduct all further proceedings in the matter on behalf of the commission in accordance with these rules. In the discharge of his duties, the hearing examiner shall exercise all the adjudicatory powers possessed by the commission including, inter alia, the power to administer oaths; require the attendance of witnesses and parties; require the production of documents; schedule and conduct pre-hearing conferences; admit or exclude evidence; grant or deny continuances; and rule on motions, matters of law, and procedural questions. The hearing examiner shall, upon conclusion of all assigned duties, issue a written final report and recommendation to the commission at the conclusion of the proceedings.

B. Objections and certification of issues. An objection to a ruling by the hearing examiner during a hearing shall be stated with the reasons therefor at the time of the ruling. Any objection to a hearing examiner's ruling may be argued to the commission as part of a response to the hearing examiner's report. A ruling by the hearing examiner that denies further participation by a party in interest or the commission staff in a proceeding that has not been concluded may be immediately appealed to the commission by filing a written motion with the commission for review. Upon the motion of any party or the staff, or upon the hearing examiner's own initiative, the hearing examiner may certify any other material issue to the commission for its consideration and resolution. Pending resolution by the commission of a ruling appealed or certified, the hearing examiner shall retain procedural control of the proceeding.

C. Responses to hearing examiner reports. Unless otherwise ordered by the hearing examiner, responses supporting or objecting to the hearing examiner's final report must be filed within 21 days of the issuance of the report. A reply to a response to the hearing examiner's report may only be filed with leave of the commission. The commission may accept, modify, or reject the hearing examiner's recommendations in any manner consistent with law and the evidence, notwithstanding an absence of objections to the hearing examiner's report.

5 VAC 5-20-130. *Amendment of pleadings.*

No amendment shall be made to any pleading after it is filed except by leave of the commission, which leave shall be liberally granted in the furtherance of justice. The commission shall make such provision for notice and for opportunity to respond to the amended pleadings as it may deem necessary and proper.

5 VAC 5-20-140. *Filing and service.*

A pleading or other document shall be considered filed with the commission upon receipt of the original and required copies by the Clerk of the Commission no later than the time established for the closing of business of the clerk's office on the day the item is due. The original and copies shall be stamped by the Clerk to show the time and date of receipt.

Electronic filings may be submitted at any time and will be deemed filed on the date and at the time the electronic document is received by the commission's database; provided, that if a document is received when the clerk's office is not open for public business, the document shall be deemed filed on the next regular business day. A filer will receive an electronic notification identifying the date and time the document was received by the commission's database. An electronic document may be rejected if it is not submitted in compliance with these rules.

When a filing would otherwise be due on a day when the clerk's office is not open for public business during all or part of a business day, the filing will be timely if made on the next regular business day that the office is open to the public. Except as otherwise ordered by the commission, when a period of 15 days or fewer is permitted to make a filing or take other action pursuant to commission rule or order, intervening weekends or holidays shall not be counted in determining the due date.

Service of a pleading, brief, or other document filed with the commission required to be served on the parties to a proceeding or upon the commission staff, shall be effected by delivery of a true copy to the party or staff, or by deposit of a true copy into the United States mail or overnight express mail delivery service properly addressed and postage prepaid, or via hand-delivery, on or before the date of filing. Service on a party may be made by service on the party's counsel. Alternatively, electronic service shall be permitted on parties or staff in cases where all parties and staff have agreed to such service, or where the commission has provided for such service by order. At the foot of a formal pleading, brief, or other document required to be served, the party making service shall append a certificate of counsel of record that copies were mailed or delivered as required. Notices, findings of fact, opinions, decisions, orders, or other documents to be served by the commission may be served by United States mail. However, all writs, processes, and orders of the commission, when acting in conformity with § 12.1-27 of the Code of Virginia, shall be attested by the Clerk of the Commission and served in compliance with § 12.1-19.1 or 12.1-29 of the Code of Virginia.

5 VAC 5-20-150. Copies and format.

Applications, petitions, motions, responsive pleadings, briefs, and other documents filed by parties must be filed in an original and 15 copies unless otherwise directed by the commission. Except as otherwise stated in these rules, submissions filed electronically are exempt from the copy requirement. One copy of each responsive pleading or brief must be served on each party and the commission staff counsel assigned to the matter, or, if no counsel has been assigned, on the general counsel.

Each document must be filed on standard size white opaque paper, 8-1/2 by 11 inches in dimension, must be capable of being reproduced in copies of archival quality, and only one side of the paper may be used. Submissions filed electronically shall be made in portable document format (PDF).

Each document shall be bound or attached on the left side and contain adequate margins. Each page following the first page shall be numbered. If necessary, a document may be filed in consecutively numbered volumes, each of which may not exceed three inches in thickness. Submissions filed electronically may not exceed 100 pages of printed text of 8-1/2 by 11 inches.

Each document containing more than one exhibit should have dividers separating each exhibit and should contain an index. Exhibits such as maps, plats, and photographs not easily reduced to standard size may be filed in a different size, as necessary. Submissions filed electronically that otherwise would incorporate large exhibits impractical for conversion to electronic format shall be identified in the filing and include a statement that the exhibit was filed in hardcopy and is available for viewing at the commission or that a copy may be obtained from the filing party. Such exhibit shall be filed in an original and 15 copies.

All filed documents shall be fully collated and assembled into complete and proper sets ready for distribution and use, without the need for further assembly, sorting, or rearrangement.

The Clerk of the Commission may reject the filing of any document not conforming to the requirements of this rule.

5 VAC 5-20-160. Memorandum of completeness.

With respect to the filing of a rate application or an application seeking actions, that by statute or rule must be completed within a certain number of days, a memorandum shall be filed by an appropriate member of the commission staff within ten days of the filing of the application stating whether all necessary requirements imposed by statute or rule for filing the application have been met and all required information has been filed. If the requirements have not been met, the memorandum shall state with specificity the remaining items to be filed. The Clerk of the Commission immediately shall serve a copy of the memorandum on the filing party. The first day of the period within which action on the application must be concluded shall be set forth in the memorandum and shall be the initial date of filing of applications that are found to be complete upon filing. Applications found to require supplementation shall be complete upon the date of filing of the last item identified in the staff memorandum. Applications shall be deemed complete upon filing if the memorandum of completeness is not timely filed.

5 VAC 5-20-170. Confidential information.

A person who proposes in good faith in a formal proceeding that information to be filed with or delivered to the commission be withheld from public disclosure on the ground that it contains trade secrets, privileged, or confidential commercial or financial information shall file this information under seal with the Clerk of the Commission, or otherwise deliver the information under seal to the commission staff, or both, as may be required. Items filed or delivered under seal shall be securely sealed in an opaque container that is clearly labeled "UNDER SEAL," and, if filed, shall meet the other requirements for filing contained in these rules. An original and 15 copies of all such information shall be filed with the clerk. One additional copy of all such information shall also be delivered under seal to the commission staff counsel assigned to the matter, or, where no counsel has been assigned, to the general counsel who, until ordered otherwise by the commission, shall disclose the information only to the members of the commission staff directly assigned to the matter as necessary in the discharge of their duties. Staff counsel and all members of the commission staff, until otherwise ordered by the commission, shall maintain the information in strict confidence and shall not disclose its contents to members of the public, or to other staff members not assigned to the matter. The commission staff or any party may object to the proposed withholding of the information.

When an application (including supporting documents and prefiled testimony) contains information that the applicant claims to be confidential, the filing shall be made under seal and accompanied by a motion for protective order or other confidential treatment. The provision to a party of information claimed to be trade secrets, privileged, or confidential commercial or financial information shall be governed by a protective order or other individual arrangements for confidential treatment.

On every document filed or delivered under seal, the producing party shall mark each individual page of the document that contains confidential information, and on each such page shall clearly indicate the specific information requested to be treated as confidential by use of highlighting, underscoring, bracketing or other appropriate marking. All remaining materials on each page of the document shall be treated as nonconfidential and available for public use and review. If an entire document is confidential, or if all information provided in electronic format under Part IV of these rules is confidential, a marking prominently displayed on the first page of such document or at the beginning of any information provided in electronic format, indicating that the entire document is confidential shall suffice.

Upon challenge, the information shall be treated as confidential pursuant to these rules only where the party requesting confidential treatment can demonstrate to the satisfaction of the commission that the risk of harm of publicly disclosing the information outweighs the presumption in favor of public disclosure. If the commission determines that the information should be withheld from public disclosure, it may nevertheless require the information to be disclosed to parties to a proceeding under appropriate protective order.

Whenever a document is filed with the clerk under seal, an original and one copy of an expurgated or redacted version of the document deemed by the filing party or determined by the commission to be confidential shall be filed with the clerk for use and review by the public. A document containing confidential information shall not be submitted electronically. An expurgated or redacted version of the document may be filed electronically. Documents containing confidential information must be filed in hardcopy and in accordance with all requirements of these rules. Upon a determination by the

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commission or a hearing examiner that all or portions of any materials filed under seal are not entitled to confidential treatment, the filing party shall file one original and one copy of the expurgated or redacted version of the document reflecting the ruling.

When the information at issue is not required to be filed or made a part of the record, a party who wishes to withhold confidential information from filing or production may move the commission for a protective order without filing the materials. In considering such a motion, the commission may require production of the confidential materials for inspection in camera, if necessary.

A party may request additional protection for extraordinarily sensitive information by motion filed pursuant to 5 VAC 5-20-110, and filing the information with the Clerk of the Commission under seal and delivering a copy of the information to commission staff counsel under seal as directed above. Whenever such treatment has been requested under Part IV of these rules, the commission may make such orders as necessary to permit parties to challenge the requested additional protection.

The commission, hearing examiners, any party and the commission staff may make use of confidential material in orders, filing pleadings, testimony, or other documents, as directed by order of the commission. When a party or commission staff uses confidential material in a filed pleading, testimony, or other document, the party or commission staff must file both confidential and nonconfidential versions of the pleading, testimony, or other document. Confidential versions of filed pleadings, testimony, or other documents shall clearly indicate the confidential material contained within by highlighting, underscoring, bracketing or other appropriate marking. When filing confidential pleadings, testimony, or other documents, parties must submit the confidential version to the Clerk of the Commission securely sealed in an opaque container that is clearly labeled "UNDER SEAL." Nonconfidential versions of filed pleadings, testimony, or other documents shall expurgate, redact, or otherwise omit all references to confidential material.

The commission may issue such order as it deems necessary to prevent the use of confidentiality claims for the purpose of delay or obstruction of the proceeding.

A person who proposes in good faith that information to be delivered to the commission staff outside of a formal proceeding be withheld from public disclosure on the ground that it contains trade secrets, privileged, or confidential commercial or financial information may deliver the information under seal to the commission staff, subject to the same protections afforded confidential information in formal proceedings.

5 VAC 5-20-180. Official transcript of hearing.

The official transcript of a hearing before the commission or a hearing examiner shall be that prepared by the court reporters retained by the commission and certified by the court reporter as a true and correct transcript of the proceeding. Transcripts of proceedings shall not be prepared except in cases assigned to a hearing examiner, when directed by the commission, or when requested by a party desiring to purchase a copy. Parties desiring to purchase copies of the transcript shall make arrangement for purchase with the court reporter. When a transcript is prepared, a copy thereof shall be made available for public inspection in the clerk's office. If the transcript includes confidential information, an expurgated or redacted version of the transcript shall be made available for public inspection in the clerk's office. Only the parties who have executed an agreement to adhere to a protective order or other arrangement for access to confidential treatment in such proceeding and the commission staff shall be entitled to access to an unexpurgated or unredacted version of the transcript. By agreement of the parties, or as the commission may by order provide, corrections may be made to the transcript.

5 VAC 5-20-190. Rules of evidence.

In proceedings under 5 VAC 5-20-90, and all other proceedings in which the commission shall be called upon to decide or render judgment only in its capacity as a court of record, the common law and statutory rules of evidence shall be as observed and administered by the courts of record of the Commonwealth. In other proceedings, evidentiary rules shall not be unreasonably used to prevent the receipt of evidence having substantial probative effect.

5 VAC 5-20-200. Briefs.

Written briefs may be authorized at the discretion of the commission, except in proceedings under 5 VAC 5-20-100 A, where briefs may be filed by right. The time for filing briefs and reply briefs, if authorized, shall be set at the time they are authorized. The commission may limit the length of a brief. The commission may by order provide for the electronic filing or service of briefs.

5 VAC 5-20-210. Oral argument.

The commission may authorize oral argument, limited as the commission may direct, on any pertinent matter at any time during the course of the proceeding.

5 VAC 5-20-220. Petition for rehearing or reconsideration.

Final judgments, orders, and decrees of the commission, except judgments prescribed by § 12.1-36 of the Code of Virginia, and except as provided in §§ 13.1-614 and 13.1-813 of the Code of Virginia, shall remain under the control of the commission and subject to modification or vacation for 21 days after the date of entry. Except for good cause shown, a petition for rehearing or reconsideration must be filed not later than 20 days after the date of entry of the judgment, order, or decree. The filing of a petition will not suspend the execution of the judgment, order, or decree, nor extend the time for taking an appeal, unless the commission, within the 21-day period following entry of the final judgment, order or decree, shall provide for a suspension in an order or decree granting the petition. A petition for rehearing or reconsideration must be served on all parties and delivered to commission staff counsel on or before the day on which it is filed. The commission will not entertain responses to, or requests for oral argument on, a petition. An order granting a rehearing or reconsideration will be served on all parties and commission staff counsel by the Clerk of the Commission.

5 VAC 5-20-230. Extension of time.

The commission may, at its discretion, grant a continuance, postponement, or extension of time for the filing of a document or the taking of an action required or permitted by these rules, except for petitions for rehearing or reconsideration filed pursuant to 5 VAC 5-20-220. Except for good cause

shown, motions for extensions shall be made in writing, served on all parties and commission staff counsel, and filed with the commission at least three days prior to the date the action sought to be extended is due.

PART IV.

DISCOVERY AND HEARING PREPARATION PROCEDURES.

5 VAC 5-20-240. Prepared testimony and exhibits.

Following the filing of an application dependent upon complicated or technical proof, the commission may direct the applicant to prepare and file the testimony and exhibits by which the applicant expects to establish its case. In all proceedings in which an applicant is required to file testimony, respondents shall be permitted and may be directed by the commission or hearing examiner to file, on or before a date certain, testimony and exhibits by which they expect to establish their case. Any respondent that chooses not to file testimony and exhibits by that date may not thereafter present testimony or exhibits except by leave of the commission, but may otherwise fully participate in the proceeding and engage in cross-examination of the testimony and exhibits of commission staff and other parties. The commission staff also shall file testimony and exhibits when directed to do so by the commission. Failure to comply with the directions of the commission, without good cause shown, may result in rejection of the testimony and exhibits by the commission. With leave of the commission and unless a timely objection is made, the commission staff or a party may correct or supplement any prepared testimony and exhibits before or during the hearing. In all proceedings, all evidence must be verified by the witness before introduction into the record, and the admissibility of the evidence shall be subject to the same standards as if the testimony were offered orally at hearing, unless, with the consent of the commission, the staff and all parties stipulate the introduction of testimony without need for verification. An original and 15 copies of prepared testimony and exhibits shall be filed unless otherwise specified in the commission's scheduling order and public notice, or unless the testimony and exhibits are filed electronically and otherwise comply with these rules. Documents of unusual bulk or weight and physical exhibits other than documents need not be filed in advance, but shall be described and made available for pretrial examination.

5 VAC 5-20-250. Process, witnesses, and production of documents and things.

A. Subpoenas. Commission staff and any party to a proceeding shall be entitled to process, to convene parties, to compel the attendance of witnesses, and to compel the production of books, papers, documents, or things provided in this rule.

B. Commission issuance and enforcement of other regulatory agency subpoenas. Upon motion by commission staff counsel, the commission may issue and enforce subpoenas at the request of a regulatory agency of another jurisdiction if the activity for which the information is sought by the other agency, if occurring in the Commonwealth, would be a violation of the laws of the Commonwealth that are administered by the commission.

A motion requesting the issuance of a commission subpoena shall include:

1. A copy of the original subpoena issued by the regulatory agency to the named defendant;
2. An affidavit of the requesting agency administrator stating the basis for the issuance of the subpoena under that state's laws; and
3. A memorandum from the commission's corresponding division director providing the basis for the issuance of the commission subpoena.

C. Document subpoenas. In a pending proceeding, at the request of commission staff or any party, the Clerk of the Commission shall issue a subpoena. When a matter is under investigation by commission staff, before a formal proceeding has been established, whenever it appears to the commission by affidavit filed with the Clerk of the Commission by the commission staff or an individual, that a book, writing, document, or thing sufficiently described in the affidavit, is in the possession, or under the control, of an identified person and is material and proper to be produced, the commission may order the Clerk of the Commission to issue a subpoena and to have the subpoena duly served, together with an attested copy of the commission's order compelling production at a reasonable place and time as described in the commission's order.

D. Witness subpoenas. In a pending proceeding, at the request of commission staff or any party, the Clerk of the Commission shall issue a subpoena.

5 VAC 5-20-260. Interrogatories or requests for production of documents and things.

The commission staff and any party in a formal proceeding before the commission, other than a proceeding under 5VAC5-20-100 A, may serve written interrogatories or requests for production of documents upon a party, to be answered by the party served, or if the party served is an entity, by an officer or agent of the entity, who shall furnish to the staff or requesting party information as is known. Interrogatories or requests for production of documents, including workpapers pursuant to 5VAC5-20-270, that cannot be timely answered before the scheduled hearing date may be served only with leave of the commission for good cause shown and upon such conditions as the commission may prescribe. Such otherwise timely interrogatories or requests for production of documents, including workpapers pursuant to 5VAC5-20-270, may not be served until such leave is granted. Interrogatories or requests for production of documents may be served upon a member of the commission staff, or an expert or consultant filing testimony on behalf of the commission staff, in a proceeding under 5 VAC 5-20-80 to discover: (i) factual information that supports the workpapers submitted by the staff pursuant to 5VAC5-20-270, including electronic spreadsheets that include underlying formulas and assumptions; (ii) any other documents relied upon as a basis for recommendations or assertions in prefiled testimony, staff reports or exhibits filed by staff, or by an expert or consultant filing testimony on behalf of the staff; or (iii) the identity of other formal proceedings in which an expert or consultant filing testimony on behalf of the staff testified regarding the same or a substantially similar subject matter. The disclosure of communications within the commission shall not be required and, except for good cause shown, no interrogatories or requests for production of documents may be served upon a member of the commission staff, or an expert or consultant filing testimony on behalf of the staff, prior to the filing of staff's testimony. All interrogatories and requests for production of documents shall be filed with the Clerk of the Commission. Responses to interrogatories and requests for production of documents shall not be filed with the Clerk of the Commission.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The response to each interrogatory or document request shall identify by name the person making the response. Any objection to an interrogatory or document request shall identify the interrogatory or document request to which the objection is raised, and shall state with specificity the basis and supporting legal theory for the objection. Objections shall be served with the list of responses or in such manner as the commission may designate by order. Responses and objections to interrogatories or requests for production of documents shall be served within 10 days of receipt, unless otherwise ordered by the commission. Upon motion promptly made and accompanied by a copy of the interrogatory or document request and the response or objection that is subject to the motion, the commission will rule upon the validity of the objection; the objection otherwise will be considered sustained.

Interrogatories or requests for production of documents may relate to any matter not privileged, which is relevant to the subject matter involved, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things, and the identity and location of persons having knowledge of evidentiary value. It is not grounds for objection that the information sought will be inadmissible at the hearing if the information appears reasonably calculated to lead to the discovery of admissible evidence.

Where the response to an interrogatory or document request may only be derived or ascertained from the business records of the party questioned, from an examination, audit, or inspection of business records, or from a compilation, abstract, or summary of business records, and the burden of deriving or ascertaining the response is substantially the same for one entity as for the other, a response is sufficient if it (i) identifies by name and location all records from which the response may be derived or ascertained; and (ii) tenders to the inquiring party reasonable opportunity to examine, audit, or inspect the records subject to objection as to their proprietary or confidential nature. The inquiring party bears the expense of making copies, compilations, abstracts, or summaries.

5 VAC 5-20-270. Hearing preparation.

In a formal proceeding, a party or the commission staff may serve on a party a request to examine the workpapers supporting the testimony or exhibits of a witness whose prepared testimony has been filed in accordance with 5 VAC 5-20-240. The movant may request abstracts or summaries of the workpapers, and may request copies of the workpapers upon payment of the reasonable cost of duplication or reproduction. Copies requested by the commission staff shall be furnished without payment of copying costs. In actions pursuant to 5 VAC 5-20-80 A, the commission staff shall, upon the filing of its testimony, exhibits, or report, provide (in either paper or electronic format) a copy of any workpapers that support the recommendations made in its testimony or report to any party upon request and may additionally file a copy of such workpapers with the Clerk of the Commission. The Clerk of the Commission shall make any filed workpapers available for public inspection and copying during regular business hours.

5 VAC 5-20-280. Discovery applicable only to 5 VAC 5-20-90 proceedings.

This rule applies only to a proceeding in which a defendant is subject to a monetary penalty or injunction, or revocation, cancellation, or curtailment of a license, certificate of authority, registration, or similar authority previously issued by the commission to the defendant:

1. Discovery of material in possession of the commission staff. Upon written motion of the defendant, the commission shall permit the defendant to inspect and, at the defendant's expense, copy or photograph (exclusive of investigative notes): (i) any relevant written or recorded statements, the existence of which is known, after reasonable inquiry, by the commission staff counsel assigned to the matter to be within the custody, possession, or control of commission staff, made by (a) the defendant, or representatives or agents of the defendant if the defendant is other than an individual, or (b) any witness whom the commission staff intends, or does not intend, to call to testify at the hearing, to a commission staff member or law enforcement officer; (ii) designated books, tangible objects, papers, documents, or copies or portions thereof, that are within the custody, possession, or control of commission staff and that commission staff intends to introduce into evidence at the hearing or that the commission staff obtained for the purpose of the instant proceeding; and (iii) the list of the witnesses that commission staff intends to call to testify at the hearing. Upon good cause shown to protect the identity of persons not named as a defendant, the commission or hearing examiner may direct the commission staff to withhold disclosure of material requested under this rule. The term "statement" as used in relation to any witness (other than a defendant) described in clause (i) of this subdivision includes a written statement made by said witness and signed or otherwise adopted or approved by him, and verbatim transcriptions or recordings of a witness' statement that are made contemporaneously with the statement by the witness.

A motion by the defendant or staff under this rule shall be filed and served at least 30 days before the hearing date. The motion shall include all relief sought. A subsequent motion may be made only upon a showing of cause as to why the motion would be in the interest of justice. An order or ruling granting relief under this rule shall specify the time, place, and manner of making discovery and inspection permitted, and may prescribe such terms and conditions as the commission may determine.

Upon written motion of the commission staff, staff may also obtain the list of witnesses that the defendant intends to call to testify at the hearing, and inspect, copy, and photograph, at commission staff's expense, the evidence that the defendant intends to introduce into evidence at the hearing.

The commission staff and the defendant shall be required to produce the information described above as directed by the commission or hearing examiner, but not later than 10 days prior to the scheduled hearing; and the admission of any additional evidence not provided in accordance herewith shall not be denied solely on the basis that it was not produced timely, provided the additional evidence was produced to commission staff or the defendant as soon as practicable prior to the hearing, or prior to the introduction of such evidence at the hearing. The requirement to produce the information described in this section shall be in addition to any requirement by commission staff or the defendant to timely respond to an interrogatory or document request made pursuant to 5VAC5-20-260.

Nothing in this rule shall require the disclosure of any information, the disclosure of which is prohibited by statute or other legal privilege. The disclosure of the results of a commission staff investigation or work product of commission staff counsel shall not be required.

2. Depositions. After commencement of a proceeding to which this rule applies, the commission staff or a party may take the testimony of (i) a party, or (ii) a person not a party for good cause shown to the commission or hearing examiner, other than a member of the commission staff, by deposition on oral examination or by written questions. Depositions may be used for any purpose for which they may be used in the courts of record of the

Commonwealth. Except where the commission or hearing examiner finds that an emergency exists, no deposition may be taken later than 10 days in advance of the formal hearing. The attendance of witnesses at depositions may be compelled by subpoena. Examination and cross-examination of the witness shall be as at hearing. Depositions may be taken in the City of Richmond or in the town, city, or county in which the deposed person resides, is employed, or does business. The parties and the commission staff, by agreement, may designate another place for the taking of the deposition. Reasonable notice of the intent to take a deposition must be given in writing to the commission staff counsel and to each party to the action, stating the time and place where the deposition is to be taken. A deposition may be taken before any person (the "officer") authorized to administer oaths by the laws of the jurisdiction in which the deposition is to be taken. The officer shall certify his authorization in writing, administer the oath to the deponent, record or cause to be recorded the testimony given, and note any objections raised. In lieu of participating in the oral examination, a party or the commission staff may deliver sealed written questions to the officer, who shall propound the questions to the witness. The officer may terminate the deposition if convinced that the examination is being conducted in bad faith or in an unreasonable manner. Costs of the deposition shall be borne by the party noticing the deposition, unless otherwise ordered by the commission.

3. Requests for admissions. The commission staff or a party to a proceeding may serve upon a party written requests for admission. Each matter on which an admission is requested shall be stated separately. A matter shall be deemed admitted unless within 21 days of the service of the request, or some other period the commission may designate, the party to whom the request is directed serves upon the requesting party a written answer addressing or objecting to the request. The response shall set forth in specific terms a denial of the matter set forth or an explanation as to the reasons the responding party cannot truthfully admit or deny the matter set forth. Requests for admission shall be filed with the Clerk of the Commission and simultaneously served on commission staff counsel and on all parties to the proceeding.

Adopted: September 1, 1974

Revised: May 1, 1985 by Case No. CLK850262

Revised: August 1, 1986 by Case No. CLK860572 and Repealed June 1, 2001 by Case No. CLK000311

Adopted: June 1, 2001 by Case No. CLK000311

Revised: January 15, 2008 by Case No. CLK-2007-00005

Revised: February 24, 2009 by Case No. CLK-2008-00002

Revised: August 9, 2011 by Case No. CLK-2011-00001

LEADING MATTERS DISPOSED OF BY FORMAL ORDERS
BUREAU OF FINANCIAL INSTITUTIONS

CASE NO. BAN20050954
APRIL 25, 2012

APPLICATION OF
 ACE CASH EXPRESS, INC.

For a license to engage in business as a payday lender

CORRECTING AND LICENSE REISSUANCE ORDER

On June 10, 2005, the State Corporation Commission ("Commission") entered an Order in this case granting Ace Cash Express, Inc. ("Company"), a license to engage in business as a payday lender under Chapter 18 of Title 6.2 of the Code of Virginia (formerly Chapter 18 of Title 6.1 of the Code of Virginia). Thereafter, the Bureau of Financial Institutions ("Bureau") reported to the Commission that an office address contained in the Order is incorrect as a result of information supplied by the Company.

ACCORDINGLY, IT IS ORDERED THAT:

- (1) The eleventh location listed in the Order Granting a License entered on June 10, 2005, is hereby corrected, *nunc pro tunc* to that date, to read "3819 Kecoughtan Avenue, Hampton, Virginia 23669" rather than "3819 Kecoughtan Avenue, Hampton, Virginia 23661."
- (2) All other provisions of the Order Granting a License entered on June 10, 2005, shall remain in full force and effect.
- (3) The Bureau shall issue and deliver to the Company a corrected license certificate.

CASE NO. BAN20050956
APRIL 25, 2012

APPLICATION OF
 ACE VIRGINIA TITLE LOANS LLC

For a license to engage in business as a motor vehicle title lender

CORRECTING AND LICENSE REISSUANCE ORDER

On April 5, 2011, the State Corporation Commission ("Commission") entered an Order in this case granting Ace Virginia Title Loans LLC ("Company") a license to engage in business as a motor vehicle title lender under Chapter 22 of Title 6.2 of the Code of Virginia. Thereafter, the Bureau of Financial Institutions ("Bureau") reported to the Commission that an office address contained in the Order is incorrect as a result of information supplied by the Company.

Accordingly, IT IS ORDERED THAT:

- (1) The twenty-ninth location listed in the Order Granting a License entered on April 5, 2011, is hereby corrected, *nunc pro tunc* to that date, to read "1496 Lynnhaven Parkway, Suite 101, Virginia Beach, Virginia 23453" rather than "1496 Lynnhaven Parkway, Suite 101, Virginia Beach, Virginia 23456."
- (2) All other provisions of the Order Granting a License entered on April 5, 2011, shall remain in full force and effect.
- (3) The Bureau shall issue and deliver to the Company a corrected license certificate.

**CASE NO. BAN20110498
JANUARY 20, 2012**

APPLICATION OF
GUARANTEED PAYDAY LOANS L.C.

For a license to engage in business as a payday lender

ORDER GRANTING A LICENSE

Guaranteed Payday Loans L.L.C., a Virginia limited liability company, has applied to the State Corporation Commission ("Commission"), pursuant to § 6.2-1806 of the Code of Virginia, for a license to engage in the business of making payday loans at 8191 Brook Road, Suite 9, Richmond, Virginia 23227. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.2 of the Code of Virginia.

THEREFORE, the application is APPROVED provided that the applicant begins business within one (1) year from the date of this Order and the applicant gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20120050
FEBRUARY 22, 2012**

APPLICATION OF
KENNETH R. LEHMAN

To acquire control of First Capital Bancorp, Inc.

ORDER OF APPROVAL

Kenneth R. Lehman of Arlington, Virginia, has filed with the State Corporation Commission ("Commission") the application required by § 6.2-704 of the Code of Virginia to acquire up to 52% of First Capital Bancorp, Inc., a Virginia bank holding company. The Commission's Bureau of Financial Institutions ("Bureau") investigated the proposed acquisition.

NOW THE COMMISSION, having considered the application and the report of the Bureau, finds that the application meets the criteria in § 6.2-705 of the Code of Virginia.

THEREFORE, the proposed acquisition of First Capital Bancorp, Inc., by Kenneth R. Lehman is APPROVED, provided the acquisition takes place within one (1) year from the date of this Order and the applicant notifies the Bureau of the effective date of the transaction within ten (10) days thereof.

**CASE NUMBER: BAN20120169
JUNE 21, 2012**

APPLICATION OF
PAYNE'S TITLE LOANS, LLC

For a license to engage in business as a motor vehicle title lender

ORDER GRANTING A LICENSE

Payne's Title Loans, LLC ("Applicant"), a Virginia corporation, has applied to the State Corporation Commission ("Commission"), pursuant to § 6.2-2203 of the Code of Virginia, for a license to engage in the business of making motor vehicle title loans at the following locations: (1) 816 Cherry Avenue, Charlottesville, Virginia 22903; (2) 1905 Seminole Trail, Charlottesville, Virginia 22901; and (3) 727 North Main Street, Culpeper, Virginia 22701. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

NOW THE COMMISSION, having considered the application and the Bureau's report, finds that the application meets the criteria in Chapter 22 of Title 6.2 of the Code of Virginia.

Accordingly, IT IS ORDERED THAT the application is APPROVED provided that the Applicant begins business within one (1) year from the date of this Order and the Applicant gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NUMBER: BAN20120175
JUNE 19, 2012**

APPLICATION OF
DAVID L. SOKOL AND THE DAVID L. SOKOL REVOCABLE TRUST

To acquire control of Middleburg Financial Corporation

ORDER OF APPROVAL

David L. Sokol of Wilson, Wyoming, and The David L. Sokol Revocable Trust ("Applicant") have filed with the State Corporation Commission ("Commission") the application required by § 6.2-704 of the Code of Virginia to acquire up to 30% of the voting stock of Middleburg Financial Corporation, a Virginia bank holding company. The Commission's Bureau of Financial Institutions ("Bureau") investigated the proposed acquisition.

NOW THE COMMISSION, having considered the application and the report of the Bureau, finds that the application meets the criteria in § 6.2-705 of the Code of Virginia.

THEREFORE, the proposed acquisition of Middleburg Financial Corporation by David L. Sokol and The David L. Sokol Revocable Trust is APPROVED provided the acquisition takes place within one (1) year from the date of this Order and the Applicant notifies the Bureau of the effective date of the transaction within ten (10) days thereof.

**CASE NO. BAN20120217
JULY 6, 2012**

APPLICATION OF
NEWPORT NEWS SHIPBUILDING EMPLOYEES' CREDIT UNION, INC.
D/B/A BAYPORT CREDIT UNION

To merge with membersTrust Credit Union

ORDER APPROVING A MERGER

Newport News Shipbuilding Employees' Credit Union, Inc. d/b/a Bayport Credit Union ("Applicant"), a Virginia state-chartered credit union, has applied to the State Corporation Commission ("Commission"), pursuant to § 6.2-1344 of the Code of Virginia ("Code"), to merge with membersTrust Credit Union, a Virginia state-chartered credit union. The Applicant will be the survivor of the proposed merger. The application was investigated by the Bureau of Financial Institutions ("Bureau").

NOW THE COMMISSION, having considered the application and the Bureau's report, finds that: (1) the field of membership of the credit union that is proposed to result from the merger satisfies the requirements of § 6.2-1327 B of the Code; (2) the plan of merger will promote the best interests of the members of the credit unions; and (3) the members of membersTrust Credit Union and the board of directors of the Applicant have approved the plan of merger in accordance with applicable law.

Accordingly, IT IS ORDERED THAT, provided the merging credit unions comply with the applicable provisions of the Virginia Nonstock Corporation Act¹, the proposed merger of membersTrust Credit Union into Newport News Shipbuilding Employees' Credit Union, Inc. d/b/a Bayport Credit Union is APPROVED, effective upon the issuance by the Clerk of the Commission of a certificate of merger. Following the merger, Newport News Shipbuilding Employees' Credit Union, Inc. d/b/a Bayport Credit Union shall be authorized to operate a service facility, in addition to its current service facilities, at what is now the office of membersTrust Credit Union at 4388 Holland Road, Suite 100, Virginia Beach, Virginia 23452. The authority granted herein shall expire one (1) year from the date of this Order Approving A Merger unless extended by order of the State Corporation Commission prior to the expiration date.

¹ Va. Code § 13.1-801 *et seq.*

**CASE NO. BFI-2011-00224
JANUARY 12, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
DOMINION MANAGEMENT SERVICES, INC. D/B/A CASHPOINT,
Defendant

SETTLEMENT ORDER

The Commissioner of Financial Institutions ("Commissioner") has reported to the State Corporation Commission ("Commission") that on September 27, 2010, Dominion Management Services, Inc. d/b/a CashPoint ("Defendant") filed an application for a license to engage in the business of making motor vehicle title loans under Chapter 22 of Title 6.2 of the Code of Virginia ("Code"), which was approved by the Commission on December 2, 2010; that subsequent to the Defendant being granted a license, the Commission's Bureau of Financial Institutions ("Bureau") learned that between

October 1, 2010, and December 1, 2010, the Defendant made nine hundred thirteen (913) motor vehicle title loans without a license in violation of § 6.2-2201 of the Code; hat on July 19, 2011, the Bureau examined the Defendant and alleged that it had violated § 6.2-2207 B of the Code in one (1) instance, § 6.2-2215 (1) of the Code in eighteen (18) instances, § 6.2-2215 (3) of the Code in one (1) instance, § 6.2-2215 (5) of the Code in one (1) instance, § 6.2-2215 (11) of the Code in two (2) instances, § 6.2-2215 (13) of the Code in one (1) instance, § 6.2-2216 D of the Code in one (1) instance, § 6.2-2216 E of the Code in one (1) instance, § 6.2-2217 A of the Code in three (3) instances, § 6.2-2217 B of the Code in one (1) instance, § 6.2-2217 C of the Code in seven (7) instances, 10 VAC 5-210-30 A in one (1) instance, 10 VAC 5-210-50 D in fourteen (14) instances, and 10 VAC 5-210-50 M in four (4) instances; and that upon being informed that the Commissioner intended to recommend the imposition of a civil penalty and the suspension of the Defendant's license, the Defendant offered to settle this case by paying a civil penalty in the sum of Thirty Five Thousand Dollars (\$35,000) and abiding by the provisions of this Order, tendered said sum to the Commonwealth of Virginia, and waived its right to a hearing in this case. The Commissioner has recommended that the Commission accept the Defendant's offer of settlement pursuant to the authority granted under § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the Defendant's offer of settlement, and the recommendation of the Commissioner, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The Defendant's offer in settlement of this case is accepted.
- (2) The Defendant shall, no later than thirty (30) days from the date of this Order, refund to borrowers all interest, fees, and charges paid in connection with the motor vehicle title loans that the Defendant made without a license between October 1, 2010, and December 1, 2010, which total approximately Five Hundred Seventy Seven Thousand Dollars (\$577,000).
- (3) The Defendant's license to engage in the business of making motor vehicle title loans shall be suspended for a period of two (2) months commencing on January 16, 2012. However, subject to all restrictions and requirements of the Code, the Defendant may continue to service any outstanding motor vehicle title loans made by the Defendant prior to January 16, 2012.
- (4) This case is continued generally on the Commission's docket.

**CASE NO. BFI-2011-00228
JANUARY 23, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

AA MORTGAGE GROUP LLC,
Defendant

ORDER

The Commissioner of Financial Institutions ("Commissioner") has reported to the State Corporation Commission ("Commission") that AA Mortgage Group, LLC ("Defendant"), is licensed to engage in business as a mortgage broker under Chapter 16 of Title 6.2 of the Code of Virginia; that the bond filed by the Defendant pursuant to § 6.2-1604 of the Code of Virginia was cancelled on October 27, 2011; that the Commissioner, pursuant to delegated authority, gave written notice to the defendant by certified mail on November 17, 2011, (1) of his intention to recommend revocation of the Defendant's license unless a new bond was filed by December 17, 2011, and (2) that a written request for a hearing was required to be filed in the Office of the Clerk on or before December 12, 2011; and that no written request for a hearing was received or filed.

NOW THE COMMISSION finds that the Defendant has failed to maintain its bond in force as required by law.

Accordingly, IT IS ORDERED THAT the license granted to the Defendant to engage in business as a mortgage broker is hereby revoked.

**CASE NO. BFI-2011-00228
MARCH 23, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

AA MORTGAGE GROUP, LLC,
Defendant

VACATING ORDER

On January 23, 2012, the State Corporation Commission ("Commission") entered an Order ("January 23, 2012 Order") revoking the mortgage broker license issued to AA Mortgage Group, LLC ("Defendant"), under Chapter 16 of Title 6.2 of the Code of Virginia for failure to maintain its surety bond in force as required by law. Thereafter, the Staff of the Bureau of Financial Institutions ("Staff") reported that said Order had been tendered erroneously to the Commission for entry inasmuch as the Defendant's license was surrendered previously.

NOW THE COMMISSION, having considered this matter and the Staff's recommendation, is of the opinion that the January 23, 2012 Order should be vacated.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Accordingly, IT IS ORDERED THAT:

- (1) The January 23, 2012 Order entered in this case, revoking the Defendant's license to engage in business as a mortgage broker is vacated effective as of that date.
- (2) This case is dismissed as moot.
- (3) The papers filed herein shall be placed among the ended causes.

**CASE NO. BFI-2011-00229
JANUARY 23, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
BONDCORP REALTY SERVICES, INC.,
Defendant

ORDER

The Commissioner of Financial Institutions ("Commissioner") has reported to the State Corporation Commission ("Commission") that Bondcorp Realty Services, Inc. ("Defendant"), is licensed to engage in business as a mortgage broker under Chapter 16 of Title 6.2 of the Code of Virginia; that the bond filed by the Defendant pursuant to § 6.2-1604 of the Code of Virginia was cancelled on October 31, 2011; that the Defendant failed to respond to numerous requests from the Bureau of Financial Institutions ("Bureau"); that the Commissioner, pursuant to delegated authority, gave written notice to the defendant by certified mail on November 18, 2011, (1) of his intention to recommend revocation of the Defendant's license for failure to respond to Bureau requests in violation of 10 VAC 5-160-50 and failure to maintain a surety bond in violation of § 6.2-1604 of the Code, and (2) that a written request for a hearing was required to be filed in the Office of the Clerk on or before December 12, 2011; and that no written request for a hearing was received or filed.

NOW THE COMMISSION finds that the Defendant has failed to respond to requests from the Bureau and has failed to maintain its bond in force as required by law.

Accordingly, IT IS ORDERED THAT the license granted to the Defendant to engage in business as a mortgage broker is hereby revoked.

**CASE NO. BFI-2011-00230
MARCH 20, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
ADVANCE AMERICA,
CASH ADVANCE CENTERS OF VIRGINIA, INC. D/B/A ADVANCE AMERICA,
CASH ADVANCE CENTERS,
Defendant

SETTLEMENT ORDER

The Commissioner of Financial Institutions ("Commissioner") has reported to the State Corporation Commission ("Commission") that Advance America, Cash Advance Centers of Virginia, Inc. d/b/a Advance America, Cash Advance Centers ("Defendant"), is a licensed payday lender under Chapter 18 of Title 6.2 (formerly Chapter 18 of Title 6.1) of the Code of Virginia ("Code"); and that on November 12, 2010, the Commission's Bureau of Financial Institutions ("Bureau") examined the Defendant and alleged that it had violated § 6.1-459 (6) of the Code in twenty-nine (29) instances; § 6.1-459 (7) of the Code in fifteen (15) instances; § 6.1-459 (8) of the Code in four (4) instances; § 6.1-459 (10) of the Code in five (5) instances; § 6.1-459 (17) of the Code in one (1) instance; § 6.1-459 (21) of the Code in one (1) instance; § 6.1-459 (26) of the Code in seven (7) instances; 10 VAC 5-200-30 B of the Commission's regulations governing payday lending ("Regulations") in six (6) instances; 10 VAC 5-200-70 C of the Regulations in one (1) instance; 10 VAC 5-200-110 D of the Regulations in seventy (70) instances; 10 VAC 5-200-110 I of the Regulations in one (1) instance; and 10 VAC 5-200-110 K of the Regulations in one (1) instance. The Commissioner further reported that upon being informed that he intended to recommend the imposition of a civil penalty, the Defendant offered to settle this case by paying a civil penalty in the sum of One Hundred Thousand Dollars (\$100,000) and abiding by the provisions of this Order, tendered said sum to the Commonwealth of Virginia, and waived its right to a hearing in this case. The Commissioner has recommended that the Commission accept the Defendant's offer of settlement pursuant to the authority granted under § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the Defendant's offer of settlement, and the recommendation of the Commissioner, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The Defendant's offer in settlement of this case is accepted.

(2) The Defendant shall not file any applications under Chapter 18 of Title 6.2 of the Code until the Bureau has conducted a follow-up examination of the Defendant and found significant improvement in the Defendant's compliance with Virginia law.

(3) This case is dismissed.

(4) The papers filed herein shall be placed in the file for ended causes.

**CASE NO. BFI-2011-00233
JANUARY 19, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

NATIONAL FUTURE MORTGAGE, INC.,
Defendant

ORDER REVOKING A LICENSE

The Commissioner of Financial Institutions has reported to the State Corporation Commission ("Commission") that National Future Mortgage, Inc. ("Defendant"), is licensed to engage in business as a mortgage lender and mortgage broker under Chapter 16 of Title 6.2 of the Code of Virginia; that the Defendant failed to respond to numerous requests from the Bureau of Financial Institutions ("Bureau") relating to the Defendant's transition to the Nationwide Mortgage Licensing System and Registry ("NMLS"), in violation of 10 VAC 5-160-50; that the Commissioner of Financial Institutions, pursuant to delegated authority, gave written notice to the Defendant by certified mail on November 21, 2011, (1) of his intention to recommend revocation of the Defendant's license, and (2) that a written request for a hearing was required to be filed in the Office of the Clerk on or before December 21, 2011; and that no written request for a hearing was filed.

NOW THE COMMISSION finds that the Defendant has violated 10 VAC 5-160-50 by failing to respond to Bureau requests relating to the Defendant's transition to NMLS.

Accordingly, IT IS ORDERED THAT the license granted to the Defendant to engage in business as a mortgage lender and mortgage broker is hereby revoked.

**CASE NO. BFI-2011-00233
FEBRUARY 3, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

NATIONAL FUTURE MORTGAGE, INC.,
Defendant

VACATING ORDER

On January 19, 2012, the State Corporation Commission ("Commission") entered an Order revoking the mortgage lender and mortgage broker license issued to National Future Mortgage, Inc. ("Defendant") for failure to respond to numerous requests from the Bureau of Financial Institutions ("Bureau") relating to the Defendant's transition to the Nationwide Mortgage Licensing System and Registry. Thereafter, the Defendant contacted the Bureau and contended that it had surrendered its license prior to the entry of said Order, and the Commissioner of Financial Institutions ("Commissioner") recommended that the Order be vacated.

NOW THE COMMISSION, having considered the record herein and the recommendation of the Commissioner, finds that the Order revoking the Defendant's mortgage lender and mortgage broker license should be vacated.

Accordingly, IT IS ORDERED THAT:

(1) The Order Revoking License entered herein on January 19, 2012, is VACATED effective as of that date.

(2) This case is dismissed.

(3) The papers filed herein shall be placed in the file for ended causes.

**CASE NO. BFI-2011-00235
FEBRUARY 3, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

Ex Parte: In re: low-income designated credit unions

ORDER ADOPTING A REGULATION

On November 28, 2011, the State Corporation Commission ("Commission") entered an Order to Take Notice of a proposal by the Bureau of Financial Institutions ("Bureau") to adopt a parity regulation that would give state-chartered credit unions the power to obtain a low-income designation so that they can take advantage of various benefits and resources that are currently available to federal credit unions that have obtained a low-income designation. The Order and proposed regulation were published in the Virginia Register of Regulations on December 19, 2011, posted on the Commission's website, and mailed to all state-chartered credit unions and other interested parties. State-chartered credit unions and other interested parties were afforded the opportunity to file written comments or request a hearing on or before January 6, 2012.

Comments on the proposed regulation were filed by the Virginia Credit Union League, Virginia Credit Union, Inc., Newport News Shipbuilding Employees' Credit Union, Inc. d/b/a BayPort Credit Union, Beacon Credit Union, Incorporated, Virginia Transfer and Storage Company, Virginians Against Payday Loans, and the Virginia Interfaith Center for Public Policy. All of the comment letters supported the proposed regulation. The Commission did not receive any requests for a hearing.

NOW THE COMMISSION, having considered the proposed regulation, the comments filed, the record herein, and applicable law, concludes that the proposed regulation should be adopted.

Accordingly, IT IS ORDERED THAT:

- (1) The proposed regulation, as attached hereto, is adopted effective February 15, 2012.
- (2) This Order and the attached regulation shall be posted on the Commission's website at <http://www.scc.virginia.gov/case>.
- (3) The Commission's Division of Information Resources shall send a copy of this Order, including a copy of the attached regulation, to the Virginia Registrar of Regulations for publication in the Virginia Register of Regulations.
- (4) This case is dismissed from the Commission's docket of active cases.

NOTE: A copy of Attachment A entitled "Credit Unions" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. BFI-2011-00238
FEBRUARY 29, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
RUSSELL KINNARD HENRY, JR.,
Defendant

ORDER

The Commissioner of Financial Institutions ("Commissioner") of the State Corporation Commission ("Commission") has reported to the Commission that Russell Kinnard Henry, Jr. ("Defendant"), of Harrisonburg, Virginia, pled guilty in the United States District Court, Western District of Virginia (Harrisonburg Division), on November 9, 2011, to the felonies of (1) bank fraud, in violation of 18 U.S.C. § 1344; (2) theft, embezzlement, or misapplication by bank officer or employee greater than \$1,000, in violation of 18 U.S.C. § 656; and (3) false statement for purpose of influencing a financial institution, in violation of 18 U.S.C. § 1014; and that in the opinion of the Commissioner, the guilty plea and the acts that led to it are reasonably related to the qualifications, functions, or duties of a person employed by, or in a position of management or control of, a mortgage lender or mortgage broker licensed under Chapter 16 of Title 6.2 of the Code of Virginia ("Chapter 16"). On December 13, 2011, the Commissioner gave written notice to the Defendant by certified mail (1) of his intention to recommend to the Commission that the Defendant be barred, pursuant to § 6.2-1620 of the Code of Virginia, from any position of employment, management, or control of any mortgage lender or mortgage broker licensed under Chapter 16; and (2) that a written request for a hearing was required to be filed in the Office of the Clerk of the Commission on or before January 13, 2012; and that no written request for a hearing was received or filed.

NOW THE COMMISSION, having considered the record herein and the recommendation of the Commissioner, finds that the Defendant has pled guilty to multiple felonies, and the guilty plea involved offenses reasonably related to the qualifications, functions, or duties of a person employed by, or in a position of management or control of, a licensed mortgage lender or mortgage broker.

Accordingly, IT IS ORDERED THAT:

- (1) The Defendant is hereby barred from any position of employment, management, or control of a mortgage lender or mortgage broker licensed under Chapter 16.
- (2) This case is dismissed, and the papers filed herein shall be placed in the file for ended causes.

**CASE NO. BFI-2012-00003
JULY 6, 2012**

PETITION OF
DANIEL MCDONALD

For approval of mortgage loan originator license

FINAL ORDER

On January 23, 2012, Daniel McDonald ("Petitioner") filed a Petition pursuant to 5 VAC 5-20-100, *Other proceedings*, of the State Corporation Commission's ("Commission") Rules of Practice and Procedure, 5 VAC 5-20-10 *et seq.*, contesting the denial of his application for a mortgage loan originator license by the Bureau of Financial Institutions ("Bureau"). The Petitioner requested a hearing before the Commission.

On January 30, 2012, the Commission entered a Scheduling Order which, among other things, scheduled a hearing for March 15, 2012, and assigned the case to a Hearing Examiner to conduct all further proceedings on behalf of the Commission and to file a final report.

On February 10, 2012, the Petitioner filed a response in which he maintained that he is entitled to a mortgage loan originator license because he has met all the requirements of the Nationwide Mortgage Licensing System and Registry, and the Bureau has failed to provide any legal basis for denying him a mortgage loan originator license.

On March 2, 2012, the Bureau filed its response to the Petition. In its response, the Bureau argued that the decision by E. J. Face, Jr., Commissioner of Financial Institutions, to deny the Petitioner a mortgage loan originator license should be affirmed. The Bureau stated that pursuant to § 6.2-1706 of the Code of Virginia, applicants for a mortgage loan originator license must demonstrate to the Commission that they possess the financial responsibility, character, and general fitness such as to warrant belief that they will act as a mortgage loan originator efficiently and fairly, in the public interest, and in accordance with law. In determining whether an applicant should be granted a mortgage loan originator license, the Bureau considers a number of factors in determining whether to grant or deny the license, including: (i) whether the applicant has significant outstanding debts and is the subject of one or more judgments or liens; (ii) if this is the case, whether the applicant has demonstrated good faith efforts to satisfy all outstanding debts; and (iii) whether the applicant has falsely responded to questions on his application and/or failed to disclose certain information to the Bureau that is relevant to its analysis.

In support of Commissioner Face's denial, the Bureau attached a copy of the License Denial Order that was issued on December 27, 2011. The License Denial Order provided the following reasons in support of the denial: (i) the Petitioner has two unsatisfied judgments totaling Fifteen Thousand Nine Hundred Sixty-five Dollars (\$15,965); (ii) the Petitioner has an unsatisfied federal tax lien of Thirteen Thousand Three Hundred Fifteen Dollars (\$13,315); (iii) the Petitioner initially failed to disclose his unsatisfied judgments and federal tax lien in his application for a license; (iv) when questioned by the Bureau about his failure to disclose his unsatisfied judgments and federal tax lien, the Petitioner responded in a manner that conflicted with information that he had previously furnished to the Bureau; (v) the Petitioner has four unpaid collection accounts totaling Eleven Thousand Five Hundred Ninety-nine Dollars (\$11,599), three charged-off accounts totaling Nine Thousand Eight Hundred Eighty-two Dollars (\$9,882), and a mortgage loan with an outstanding balance of Three Hundred Seventeen Thousand Six Hundred Seventy-seven Dollars (\$317,677) that is more than one hundred eighty (180) days past due; (vi) the Petitioner has not demonstrated good faith efforts to satisfy all of his outstanding debts; (vii) the Petitioner is the president and sole owner of Security Trust Mortgage, L. L. C. ("S T M"), a licensed mortgage broker; (viii) during an examination of S T M conducted on June 2, 2010, the Bureau cited at least one violation of law in connection with each of the loan files reviewed; (ix) on October 14, 2010, the Bureau cited S T M for two violations of Rule 10 VAC 5-160-20, *Operating rules*, of the Commission's Rules Governing Mortgage Lenders and Brokers, 10 VAC 5-160-10 *et seq.*, caused by a pre-approval letter that the Petitioner gave to a consumer; and (x) the Petitioner failed to disclose in his application for a license all of his employers within the past ten (10) years.

The evidentiary hearing was convened on March 22, 2012.¹ The Petitioner appeared *pro se*. He called no witnesses and did not testify on his own behalf. The Bureau appeared by its counsel, Scott A. White, Esquire.

The Bureau presented the testimony of two witnesses: Melissa McCollum, who is a senior financial analyst with the Bureau, and Ernest R. Street, who is a principal financial analyst with the Bureau. Ms. McCollum testified regarding a mortgage pre-approval letter that the Petitioner issued in a real estate transaction. Mr. Street testified that the Bureau has adopted internal guidelines that are applied in a consistent manner to determine whether an applicant is qualified under the law to become licensed. He also testified about his review of the Petitioner's application and his specific reasons for recommending that it be denied.

On April 27, 2012, the Hearing Examiner filed his report ("Report"), which thoroughly summarized the factual and procedural history of this case, as well as the evidence and arguments presented at the hearing. Additionally, the Hearing Examiner made a number of findings and recommendations in his Report. Specifically, the Hearing Examiner made the following findings:

¹ The hearing was originally scheduled for March 15, 2012; however, it was continued by the Hearing Examiner for one week so that the Bureau could provide a list of its witnesses to the Petitioner.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

- (1) Commissioner Face did not abuse his discretion when he denied [the] Petitioner's application for a mortgage loan originator license;
- (2) The reasons cited in the Bureau's License Denial Order are true, supported by credible evidence, and apply directly to [the] Petitioner's financial responsibility, character and general fitness to hold a mortgage loan originator license; and
- (3) The Commission should affirm the Bureau's decision to deny [the] Petitioner a mortgage loan originator license.²

Based on his findings, the Hearing Examiner concluded by recommending that the Commission enter an order adopting his findings and recommendations and dismissing this case from the Commission's docket of active cases.³

On April 25, 2012, the Petitioner sent a letter to the Commission requesting that the record be reopened to receive additional evidence.⁴ In support, the Petitioner stated that he was not given ample time to gather and submit the documents in question prior to the hearing. On May 31, 2012, the Bureau filed a response in which it stated that the documents, in addition to not being timely submitted, were either cumulative of existing evidence or lacked relevance to the proceedings.

Both the Petitioner and the Bureau filed comments to the Report on May 14, 2012, and May 18, 2012, respectively. The Petitioner asked the Commission to void the Hearing Examiner's recommendations, while the Bureau asked the Commission to adopt the Hearing Examiner's findings and recommendations and affirm the Bureau's License Denial Order in the case of the Petitioner.

NOW THE COMMISSION, having considered the entire record in this proceeding, including the Report and the comments thereto, grants the Petitioner's Motion⁵ and adopts the Hearing Examiner's findings of fact and recommendations.⁶

Accordingly, IT IS ORDERED THAT:

- (1)The Petitioner's Motion to Reopen the Record is hereby GRANTED.
- (2)The Bureau of Financial Institutions' License Denial Order in this case is hereby AFFIRMED.
- (3) The Petition of Daniel McDonald is hereby DISMISSED.
- (4) The papers herein shall be placed in the file for ended causes.

² Report at 15.

³ *Id.* at 16.

⁴ By Order dated May 10, 2012, we treated this letter as a motion to reopen the record ("Motion") to receive additional evidence. The Motion was granted, and we allowed the Bureau an opportunity to respond within fourteen (14) days of the date of the Order.

⁵ Although we grant the Petitioner's Motion, we note that with the exception of the IRS form that withdrew a federal tax lien filed against the Petitioner, the submitted exhibits were cumulative of evidence already in the record. Furthermore, the withdrawn tax lien does not affect our finding that the Petitioner failed to disclose such lien to the Bureau.

⁶ As this case is before us in a civil capacity, we do not adopt any finding of the Hearing Examiner related to criminal activity.

**CASE NO. BFI-2012-00006
SEPTEMBER 5, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
SERVICE 1ST MORTGAGE, INC.,
Defendant

SETTLEMENT ORDER

The Staff reported to the State Corporation Commission ("Commission") that Service 1st Mortgage, Inc. ("Defendant"), is licensed to engage in business as a mortgage lender and mortgage broker under Chapter 16 of Title 6.2 of the Code of Virginia ("Code"); that the Staff learned in November 2011 that the Defendant sent direct mail advertisements to Virginia consumers in violation of 10 VAC 5-160-60 of the Commission's Rules Governing Mortgage Lenders and Brokers, 10 VAC 5-160-10 *et seq.*, and § 6.2-941 (C) of the Code; that an examination conducted by the Staff in February 2012 found that the Defendant sent additional direct mail advertisements to Virginia consumers in violation of 10 VAC 5-160-60; and that upon being informed that the Commissioner of Financial Institutions ("Commissioner") intended to recommend the imposition of a fine, the Defendant offered to settle this case by paying a fine in the sum of Ten Thousand Dollars (\$10,000) and by abiding by the provisions of this Settlement Order, tendered said sum to the

Commonwealth of Virginia, and waived its right to a hearing in the case. The Commissioner has recommended that the Commission accept the Defendant's offer of settlement pursuant to the authority granted under § 12.1-15 of the Code.

Accordingly, IT IS ORDERED THAT:

- (1) Service 1st Mortgage, Inc.'s offer in settlement of this case is accepted.
- (2) The Defendant shall cease and desist from sending direct mail advertisements to Virginia consumers that are false, misleading, or deceptive.
- (3) The Defendant shall comply with all provisions of 10 VAC 5-160-60 and §§ 6.2-941 (C) and 6.2-1614 (8) of the Code.
- (4) This case is dismissed, and the papers filed herein shall be placed in the file for ended causes.

**CASE NO. BFI-2012-00013
MARCH 6, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

Ex Parte: In re: national mortgage servicing settlement

ORDER APPROVING CONSENT JUDGMENTS

The Commissioner of Financial Institutions ("Commissioner") has requested that the State Corporation Commission ("Commission") approve and accept five proposed joint state-federal consent judgments by and between the U.S. Department of Justice, the U.S. Department of the Treasury, the U.S. Department of Housing and Urban Development, forty-nine (49) state attorneys general, numerous state regulatory agencies, and (a) Bank of America Corporation, *et al.*, (b) JPMorgan Chase & Co., *et al.*, (c) Citigroup Inc., *et al.*, (d) Ally Financial, Inc., *et al.*, and (e) Wells Fargo & Company, *et al.* The Commissioner has recommended that the Commission (i) approve and accept the five proposed consent judgments, and (ii) authorize the Commissioner to execute any documents attendant to the proposed consent judgments necessary to evidence the Commission's approval and acceptance.

NOW THE COMMISSION, having considered the terms of the proposed consent judgments and the recommendation of the Commissioner, is of the opinion and finds that the proposed consent judgments should be approved and accepted, and that the Commissioner should be authorized to execute any documents attendant to the proposed consent judgments necessary to evidence the Commission's approval and acceptance.

Accordingly, IT IS ORDERED THAT:

- (1) The five proposed joint state-federal consent judgments are approved and accepted.
- (2) The Commissioner is authorized to execute any documents attendant to the proposed consent judgments necessary to evidence the Commission's approval and acceptance.

**CASE NO. BFI-2012-00014
JUNE 5, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
MICROFINANCE INTERNATIONAL CORPORATION
D/B/A ALANTE FINANCIAL,
Defendant

SETTLEMENT ORDER

The Commissioner of Financial Institutions ("Commissioner") has reported to the State Corporation Commission ("Commission") that Microfinance International Corporation d/b/a Alante Financial ("Defendant") is licensed to engage in the business of money transmission under Chapter 19 of Title 6.2 of the Code of Virginia ("Code"); that the Commission's Bureau of Financial Institutions alleged that the Defendant violated §§ 6.2-1906 (B), 6.2-1905 (D), and 6.2-1917 (D) of the Code; and that upon being informed that the Commissioner intended to recommend that the Defendant's license be revoked pursuant to § 6.2-1907 (B) of the Code, the Defendant offered to settle this case by surrendering its money transmitter license no later than June 30, 2012, and waived its right to a hearing in this case. The Commissioner has recommended that the Commission accept the Defendant's offer of settlement pursuant to the authority granted under § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the Defendant's offer of settlement, and the recommendation of the Commissioner, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The Defendant's offer in settlement of this case is accepted.

- (2) The Defendant shall surrender its money transmitter license no later than June 30, 2012.
- (3) This case is continued generally.

**CASE NO. BFI-2012-00015
MAY 3, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
GOMAX LENDING INC.,
Defendant

ORDER REVOKING A LICENSE

The Commissioner of Financial Institutions has reported to the State Corporation Commission ("Commission") that Go Max Lending Inc. ("Defendant") is licensed to engage in business as a mortgage lender under Chapter 16 of Title 6.2 of the Code of Virginia ("Chapter 16"); that the Defendant failed to maintain at least Two Hundred Thousand Dollars (\$200,000) in funds available for the operation of its business, as required by Chapter 16; that the Commissioner of Financial Institutions, pursuant to delegated authority, gave written notice to the Defendant by certified mail on March 22, 2012 (1) of his intention to recommend revocation of the Defendant's license and (2) that a written request for a hearing was required to be filed in the Office of the Clerk of the Commission on or before April 23, 2012; and that no written request for a hearing was filed.

NOW THE COMMISSION finds that the Defendant has failed to maintain at least Two Hundred Thousand Dollars (\$200,000) in funds available for the operation of its business as required by law.

Accordingly, IT IS ORDERED THAT the license granted to the Defendant to engage in business as a mortgage lender is hereby revoked.

**CASE NO. BFI-2012-00018
JUNE 25, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
QC FINANCIAL SERVICES, INC. D/B/A QUIK CASH,
Defendant

SETTLEMENT ORDER

The Commissioner of Financial Institutions ("Commissioner") has reported to the State Corporation Commission ("Commission") that QC Financial Services, Inc. d/b/a Quik Cash ("Defendant") is a licensed payday lender under Chapter 18 of Title 6.2 of the Code of Virginia ("Code"); and that on July 22, 2011, the Commission's Bureau of Financial Institutions ("Bureau") examined the Defendant and alleged that it had violated § 6.2-1816 (6) of the Code; violated § 6.2-1816 (7) of the Code; violated subsection B of 10 VAC 5-200-30, *Notice and payday lending pamphlet*, of the Commission's rules governing payday lending ("Rule") 10 VAC 5-200-10 *et seq.*; violated subsection C of Rule 10 VAC 5-200-70, *Additional business requirements and restrictions*; and violated subsections D, I, J, and K of Rule 10 VAC 5-200-110, *Payday lending database*. The Commissioner further reported that upon being informed that he intended to recommend the imposition of a civil penalty, the Defendant offered to settle this case by paying a civil penalty in the sum of Fifty-five Thousand Dollars (\$55,000), tendered said sum to the Commonwealth of Virginia, and waived its right to a hearing in the case. The Commissioner has recommended that the Commission accept the Defendant's offer of settlement pursuant to the authority granted under § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the Defendant's offer of settlement, and the recommendation of the Commissioner, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The Defendant's offer in settlement of this case is accepted.
- (2) This case is dismissed.
- (3) The papers filed herein shall be placed in the file for ended causes.

**CASE NO. BFI-2012-00022
MAY 15, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

Ex Parte: In re: Mortgage Loan Originators

ORDER TO TAKE NOTICE

Section 6.2-1720 of the Code of Virginia provides that the State Corporation Commission ("Commission") shall adopt such regulations as it deems appropriate to effect the purposes of Chapter 17 (§ 6.2-1700 *et seq.*) of Title 6.2 of the Code of Virginia ("Chapter 17"). The Commission's regulations governing licensed mortgage loan originators ("licensees") are set forth in Chapter 161 of Title 10 of the Virginia Administrative Code ("Chapter 161").

The Bureau of Financial Institutions ("Bureau") has submitted to the Commission proposed amendments to Chapter 161. The proposed regulations set forth the criteria used for determining whether an applicant for a mortgage loan originator license has the financial responsibility, character, and general fitness required for licensure under § 6.2-1706 of the Code of Virginia. The proposed changes to Chapter 161 also include various conforming and clarifying amendments based on federal regulations adopted in 2011 pursuant to the Federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 ("S.A.F.E. Act").¹ In addition, the proposed regulations reflect certain statutory amendments to Chapter 17 that will become effective on July 1, 2012.² The proposed regulations also (i) require records containing consumers' personal financial information to be disposed of in a secure manner, (ii) clarify the Commission's enforcement authority under Chapter 17, and (iii) require licensees to provide the Bureau with a written response, books, records, documentation, or information requested by the Bureau within the time period specified in the Bureau's request. Various other technical and clarifying amendments, including changes resulting from the recodification of Title 6.1 of the Code of Virginia,³ also have been proposed.

NOW THE COMMISSION, based on the information supplied by the Bureau, is of the opinion and finds that the proposed regulations should be considered for adoption with a proposed effective date of July 1, 2012.

Accordingly, IT IS ORDERED THAT:

(1) The proposed regulations are appended hereto and made a part of the record herein.

(2) Comments or requests for a hearing on the proposed regulations must be submitted in writing to Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, on or before June 20, 2012. Requests for a hearing shall state why a hearing is necessary and why the issues cannot be adequately addressed in written comments. All correspondence shall contain a reference to Case No. BFI-2012-00022. Interested persons desiring to submit comments or request a hearing electronically may do so by following the instructions available at the Commission's website: <http://www.scc.virginia.gov/case>.

(3) This Order and the attached proposed regulations shall be posted on the Commission's website at <http://www.scc.virginia.gov/case>.

(4) The Commission's Division of Information Resources shall send a copy of this Order, including a copy of the attached proposed regulations, to the Virginia Registrar of Regulations for publication in the *Virginia Register of Regulations*.

NOTE: A copy of Attachment A entitled "Mortgage Loan Originators" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

¹ The S.A.F.E. Act authorized the U.S. Department of Housing and Urban Development ("HUD") to monitor and enforce states' compliance with the S.A.F.E. Act's requirements for state licensing and registration, and HUD issued rules setting minimum standards for state licensing and registration. 76 Fed. Reg. 38464 (June 30, 2011). Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act transferred rulemaking authority under the S.A.F.E. Act from HUD to the Consumer Financial Protection Bureau ("CFPB") effective July 21, 2011. The CFPB thereafter published Regulation H, S.A.F.E. Mortgage Licensing Act – State Compliance and Bureau Registration System, 12 C.F.R. Part 1008, based on HUD's regulations. 76 Fed. Reg. 78483 (Dec. 19, 2011).

² Chapters 52 and 187 of the 2012 Virginia Acts of Assembly.

³ Chapter 794 of the 2010 Virginia Acts of Assembly recodified Title 6.1 of the Code of Virginia as Title 6.2 of the Code of Virginia effective October 1, 2010. Chapter 16.1 of Title 6.1 has been replaced by Chapter 17 of Title 6.2.

CASE NO. BFI-2012-00022
AUGUST 1, 2012

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

Ex Parte: In re: Mortgage Loan Originators

ORDER ADOPTING REGULATIONS

On May 15, 2012, the State Corporation Commission ("Commission") entered an Order to Take Notice ("May 15 Order") of a proposal by the Bureau of Financial Institutions ("Bureau") to amend the Commission's regulations governing licensed mortgage loan originators, which are set forth in Chapter 161 of Title 10 of the Virginia Administrative Code, 10 VAC 5-161-10 *et seq.* The May 15 Order and proposed regulations were published in the *Virginia Register of Regulations* on June 4, 2012, posted on the Commission's website, and mailed to all licensed mortgage loan originators, licensed mortgage lenders, licensed mortgage brokers, and other interested parties. Licensees and other interested parties were afforded the opportunity to file written comments or request a hearing on or before June 20, 2012.

Comments on the proposed regulations were filed by Tyler Craddock, Executive Director of the Virginia Manufactured and Modular Housing Association; Rita E. Povich of Today's Mortgage LLC; and Nathan J. Burch, Claudia P. Hauyon, Joe G. Lucas, Jerry Quick, Stephen B. Shapbell, and Charles Lee Tighe, all of whom identified themselves as being with McLean Mortgage Corporation. Comments were also filed by Glen Bralley, Pamela Caldwell, Darius Jenkins, James Perkins, Brad R. Roche, and Leslie Wish. No requests for a hearing were filed.

Mr. Craddock asserted that the proposed language in 10 VAC 5-161-20 A is not consistent with Chapters 52 and 187 of the 2012 Acts of Assembly, which amended § 6.2-1701 of the Code of Virginia to require licensure for individuals who "engage in the business of a mortgage loan originator." Ms. Povich recommended that the time period specified in 10 VAC 5-161-60 C for providing certain notices to the Bureau remain at 15 days instead of being changed to one (1) business day. The other 12 commenters expressed concern about 10 VAC 5-161-45 A, which would govern whether an individual shall be found to have the financial responsibility required by § 6.2-1706 of the Code of Virginia. These commenters generally contended that the proposal would cause numerous licensed mortgage loan originators to lose their licenses, and several commenters requested that the Commission grandfather such individuals so that they would not have to comply with this regulation. Some of these commenters also asserted that the dollar thresholds in subdivision A 1 for outstanding judgments, collection accounts, governmental liens, and delinquent accounts are too small or restrictive.

The Bureau considered the comments filed and responded to them in its Statements of Position, which the Bureau filed with the Clerk of the Commission on July 16, 2012. Based on its responses, the Bureau stated that it is amenable to adjusting the time period in 10 VAC 5-161-60 C to five (5) calendar days but otherwise recommends that the Commission adopt the proposed regulations.

NOW THE COMMISSION, having considered the proposed regulations, the comments filed, the Bureau's Statements of Position, the record herein, and applicable law, concludes that the time period set forth in 10 VAC 5-161-60 C of the proposed regulations should be modified so that licensed mortgage loan originators have five (5) calendar days to provide the required notices to the Bureau. The Commission further concludes that the proposed regulations, as modified, should be adopted with an effective date of August 15, 2012.

Accordingly, IT IS ORDERED THAT:

- (1) The proposed regulations, as modified herein and attached hereto, are adopted effective August 15, 2012.
- (2) This Order and the attached regulations shall be posted on the Commission's website at: <http://www.scc.virginia.gov/case>.
- (3) The Commission's Division of Information Resources shall send a copy of this Order, including a copy of the attached regulations, to the Virginia Registrar of Regulations for publication in the *Virginia Register of Regulations*.
- (4) This case is dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

NOTE: A copy of the Attachment entitled "Mortgage Loan Originators" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

CASE NO. BFI-2012-00025
JUNE 15, 2012

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
JPAY, INC.,
Defendant

SETTLEMENT ORDER

The Commissioner of Financial Institutions has reported to the State Corporation Commission ("Commission") that JPay, Inc. ("Defendant"), engaged in the business of money transmission without obtaining a license in violation of § 6.2-1901 of the Code of Virginia ("Code"); and that the Defendant has offered to settle this case by paying a fine in the sum of Twenty-five Thousand Dollars (\$25,000), tendered said sum to the Commonwealth of

Virginia, and waived its right to a hearing in this case. The Commissioner of Financial Institutions has recommended that the Commission accept the Defendant's offer of settlement pursuant to the authority granted under § 12.1-15 of the Code.

Accordingly, IT IS ORDERED THAT:

- (1) The Defendant's offer in settlement of this case is accepted.
- (2) This case is dismissed.
- (3) The papers filed herein shall be placed in the file for ended causes.

**CASE NO. BFI-2012-00030
JUNE 1, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

Ex Parte: In re: database inquiry fee

ORDER MODIFYING DATABASE INQUIRY FEE

Section 6.2-1810 B 4 of the Code of Virginia requires every payday lender licensed under Chapter 18 of Title 6.2 of the Code of Virginia ("licensee") to pay a database inquiry fee to the database provider in order to defray the cost of submitting an inquiry to the payday lending database. Rule 10 VAC 5-200-115, *Database inquiry fee*, of the State Corporation Commission's ("Commission") rules governing payday lending, 10 VAC 5-200-10 *et seq.*, provides that the amount of the database inquiry fee shall not exceed \$5 per loan. On October 16, 2008, the Commission established a database inquiry fee of \$0.68 per consummated payday loan, which became effective January 1, 2009.¹ Section 6.2-1817 C of the Code of Virginia permits licensees to charge borrowers a verification fee of up to \$5 per loan, which is used in part to defray the cost of the database inquiry fee.

The database provider, Veritec Solutions, LLC ("Veritec"), has requested that the Commission increase the database inquiry fee to \$1.24 per consummated payday loan. In support of its request, Veritec cites the significant variance between: (i) the minimum payday loan volume in the Commonwealth of Virginia ("Commonwealth") that it expected for 2009 and 2010; which served as one of the bases for setting the database inquiry fee at \$0.68 per loan; and (ii) actual payday loan volume in the Commonwealth following the statutory reforms and required use of the payday lending database, which became effective January 1, 2009.² Veritec reports that it is not seeking to recover the revenue that it had anticipated when it submitted its proposal to the Commission in 2008 but rather to sustain the database going forward assuming that there are no significant changes in loan volume. The Commissioner of Financial Institutions ("Commissioner") has reviewed Veritec's request and has recommended that the Commission modify the database inquiry fee.

NOW THE COMMISSION, having considered the information supplied by Veritec and the recommendation of the Commissioner, finds that the amount of the database inquiry fee should be increased to \$1.24 per consummated payday loan and that such amount bears a reasonable relationship to the actual cost of operating the database.

Accordingly, IT IS ORDERED THAT:

- (1) Beginning July 1, 2012, every licensee shall pay a database inquiry fee of \$1.24 per consummated payday loan; and
- (2) All database inquiry fees shall be remitted by each licensee directly to Veritec on a weekly basis.

¹ *Commonwealth of Virginia, ex rel., State Corporation Commission, Ex parte: In Re: database inquiry fee*, Case No. BFI-2008-00373, 2008 S.C.C. Ann. Rept. 121, Order Establishing Database Inquiry Fee (Oct. 16, 2008).

² According to the 2010 annual report published by the Bureau of Financial Institutions, the following are the total number of payday loans made by licensees in recent years: 3,537,395 (2007); 3,378,047 (2008); 437,766 (2009); and 435,273 (2010).

**CASE NO. BFI-2012-00031
AUGUST 1, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

OFFICIAL PAYMENTS CORPORATION,
Defendant

SETTLEMENT ORDER

The Commissioner of Financial Institutions ("Commissioner") has reported to the State Corporation Commission ("Commission") that Official Payments Corporation ("Defendant") engaged in the business of money transmission without obtaining a license in violation of § 6.2-1901 of the Code of Virginia ("Code"); and that the Defendant has offered to settle this case by paying a civil penalty in the sum of Twenty-five Thousand Dollars (\$25,000),

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tendered said sum to the Commonwealth of Virginia, and waived its right to a hearing in this case. The Commissioner has recommended that the Commission accept the Defendant's offer of settlement pursuant to the authority granted under § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the Defendant's offer of settlement, and the recommendation of the Commissioner, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The Defendant's offer in settlement of this case is accepted.
- (2) This case is dismissed.
- (3) The papers filed herein shall be placed in the file for ended causes.

**CASE NO. BFI-2012-00037
OCTOBER 23, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
NICOLE G. HATHAWAY,
Defendant

ORDER

The Commissioner of Financial Institutions ("Commissioner") has reported to the State Corporation Commission ("Commission") that Nicole G. Hathaway ("Defendant") of New Kent, Virginia, pled guilty in September 2011 to the felony of mail fraud in violation of 18 U.S.C. § 1341, related to her participation in a mortgage loan fraud scheme; that on March 14, 2012, the Defendant was convicted of felony mail fraud in the United States District Court, Eastern District of Virginia (Richmond Division); and that in the opinion of the Commissioner, the conviction and the acts that led to it are reasonably related to the qualifications, functions, or duties of a person employed by, or in a position of management or control of, a mortgage lender or mortgage broker licensed under Chapter 16 of Title 6.2 of the Code of Virginia ("Code"). On July 31, 2012, the Commissioner gave written notice to the Defendant by first class and certified mail: (1) of his intention to recommend to the Commission that the Defendant be barred, pursuant to § 6.2-1620 of the Code, from any position of employment, management, or control of any licensed mortgage lender or mortgage broker; and (2) that a written request for a hearing was required to be filed in the Office of the Clerk on or before August 31, 2012. No written request for a hearing was received or filed.

NOW THE COMMISSION, having considered the record herein and the recommendation of the Commissioner, finds that the Defendant has pled guilty to and has been convicted of a felony involving fraud, and the conviction involved an offense reasonably related to the qualifications, functions, or duties of a person employed by, or in a position of management or control of, a licensed mortgage lender or mortgage broker.

Accordingly, IT IS ORDERED THAT:

- (1) The Defendant is barred from any position of employment, management, or control of a licensed mortgage lender or mortgage broker.
- (2) This case is dismissed.
- (3) The papers filed herein shall be placed in the file for ended causes.

**CASE NO. BFI-2012-00038
SEPTEMBER 26, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
ENVOY MORTGAGE, LTD, LP (USED IN VA BY: ENVOY MORTGAGE, LTD),
Defendant

SETTLEMENT ORDER

The Commissioner of Financial Institutions ("Commissioner") has reported to the State Corporation Commission ("Commission") that Envoy Mortgage, LTD, LP (Used in VA by: Envoy Mortgage, LTD) ("Defendant"), is a licensed mortgage lender and mortgage broker under Chapter 16 of Title 6.2 of the Code of Virginia ("Code"); and that on January 25, 2012, the Commission's Bureau of Financial Institutions examined the Defendant and alleged that it had: failed to provide required disclosures to residential mortgage loan applicants in violation of § 6.2-406 A (2) of the Code; permitted unlicensed individuals to take applications for or offer or negotiate the terms of residential mortgage loans on behalf of the Defendant in violation of 10 VAC 5-160-20 (7) of the Commission's Rules Governing Mortgage Lenders and Brokers, 10 VAC 5-160-10 *et seq.*; and failed to comply with the requirements for lock-in agreements in violation of 10 VAC 5-160-30 (B). The Commissioner further reported that the Defendant, upon being informed that the Commissioner intended to recommend to the Commission the imposition of a civil penalty, offered to settle this case by paying a civil penalty in the sum of Fourteen Thousand Dollars (\$14,000), tendered said sum to the Commonwealth of Virginia, and waived its right to a hearing in the case. The

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Commissioner has recommended that the Commission accept the Defendant's offer of settlement pursuant to the authority granted under § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the Defendant's offer of settlement, and the recommendation of the Commissioner, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The Defendant's offer in settlement of this case is accepted.
- (2) This case is dismissed.
- (3) The papers filed herein shall be placed in the file for ended causes.

**CASE NO. BFI-2012-00062
OCTOBER 25, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

JUSTIN ENTERPRISES, INC.
D/B/A CASH TO PAYDAY,
Defendant

SETTLEMENT ORDER

The Commissioner of Financial Institutions ("Commissioner") has reported to the State Corporation Commission ("Commission") that Justin Enterprises, Inc. d/b/a Cash To Payday ("Defendant"), is a licensed payday lender under Chapter 18 of Title 6.2 of the Code of Virginia ("Code"); and that on November 4, 2011, the Commission's Bureau of Financial Institutions examined the Defendant and alleged that it had violated subdivisions 1, 6, 7, 8, 17, and 25 of § 6.2-1816 of the Code and the following provisions of the Commission's rules governing payday lending, 10 VAC 5-200-10 *et seq.*: 10 VAC 5-200-20 G, 10 VAC 5-200-30 B, 10 VAC 5-200-70 C, and subsections D, I, J, and K of 10 VAC 5-200-110. The Commissioner further reported that, upon being informed that the Commissioner intended to recommend the imposition of a civil penalty, the Defendant offered to settle this case by paying a civil penalty in the sum of Twenty-five Thousand Dollars (\$25,000), tendered said sum to the Commonwealth of Virginia, and waived its right to a hearing in this case. The Commissioner has recommended that the Commission accept the Defendant's offer of settlement pursuant to the authority granted under § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the Defendant's offer of settlement, and the recommendation of the Commissioner, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The Defendant's offer in settlement of this case is accepted.
- (2) This case is dismissed.
- (3) The papers filed herein shall be placed in the file for ended causes.

**CASE NO. BFI-2012-00063
NOVEMBER 26, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

INTEGRITY PDL SERVICES, LLC,
Defendant

CEASE AND DESIST ORDER

The Commissioner of Financial Institutions ("Commissioner") has reported to the State Corporation Commission ("Commission") that Integrity PDL Services, LLC ("Defendant"), in violation of § 6.2-1801 of the Code of Virginia ("Code"), is engaging in the business of making payday loans to Virginia residents without having first obtained a license; that the Commissioner, pursuant to § 6.2-1822 of the Code, gave written notice to the Defendant by certified mail on August 28, 2012, (i) of his intention to seek an order from the Commission requiring the Defendant to cease and desist from engaging in the business of making payday loans to Virginia residents, and (ii) that a written request for a hearing was required to be filed in the Office of the Clerk on or before October 5, 2012; and that no written request for a hearing was received or filed.

NOW THE COMMISSION, having considered the record herein and the recommendation of the Commissioner, finds that the Defendant is engaging in the business of making payday loans to Virginia residents in violation of § 6.2-1801 of the Code.

Accordingly, IT IS ORDERED THAT:

- (1) The Defendant shall immediately cease and desist from engaging in the business of making payday loans to Virginia residents in violation of § 6.2-1801 of the Code of Virginia.
- (2) This case is dismissed.
- (3) The papers filed herein shall be placed in the file for ended causes.

**CASE NO. BFI-2012-00065
DECEMBER 18, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
SENTRIX FINANCIAL SERVICES, INC.,
Defendant

SETTLEMENT ORDER

The Staff of the State Corporation Commission ("Commission") reported that Sentrix Financial Services, Inc. ("Defendant"), is licensed to engage in business as a mortgage broker under Chapter 16 of Title 6.2 of the Code of Virginia; that on December 6, 2011, the Bureau of Financial Institutions ("Bureau") examined the Defendant and on March 26, 2012, the Bureau completed a special investigation of the Defendant and, as a result of the examination and investigation, alleged that the Defendant had violated § 6.2-406 and subsection 1 of § 6.2-1614 of the Code of Virginia, as well as 10 VAC 5-160-20 A (7) and 10 VAC 5-160-60 of the Commission's Rules Governing Mortgage Lenders and Brokers, 10 VAC 5-160-10 *et seq.*, the requirements of the Real Estate Settlement Procedures Act¹ and the requirements of the Equal Credit Opportunity Act, Regulation B;² and that upon being informed that the Commissioner of Financial Institutions ("Commissioner") intended to recommend the imposition of a fine, the Defendant offered to settle this case by paying a fine in the sum of Twelve Thousand Five Hundred Dollars (\$12,500) in four (4) equal installments of Three Thousand One Hundred Twenty-five Dollars (\$3,125), with the first installment due immediately and the subsequent installments due monthly thereafter on the 15th of each month, and waived its right to a hearing in the case. The Commissioner recommended that the Commission accept the Defendant's offer of settlement pursuant to the authority granted under § 12.1-15 of the Code of Virginia.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The Defendant's offer in settlement of this case is accepted.
- (2) The Defendant shall fully comply with the aforesaid terms and undertakings of this settlement.
- (3) The State Corporation Commission shall retain jurisdiction in this matter for all purposes, including the institution of a show cause proceeding or taking such other action it deems appropriate on account of the Defendant's failure to comply with the terms and undertakings of the settlement.

¹ 12 U.S.C. § 2601 *et seq.*

² 12. C.F.R. § 202.1 *et seq.*

**CASE NO. BFI-2012-00068
OCTOBER 18, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

Ex Parte: In re: Mortgage Lenders and Mortgage Brokers

ORDER TO TAKE NOTICE

Section 6.2-1613 of the Code of Virginia provides that the State Corporation Commission ("Commission") shall adopt such regulations as it deems appropriate to effect the purposes of Chapter 16 (§ 6.2-1600 *et seq.*) of Title 6.2 of the Code of Virginia ("Chapter 16"). The Commission's regulations governing licensed mortgage lenders and mortgage brokers ("licensees") are set forth in Chapter 160 of Title 10 of the Virginia Administrative Code ("Chapter 160").

The Bureau of Financial Institutions ("Bureau") has submitted to the Commission proposed amendments to Chapter 160. The proposed regulations: (i) clarify that a person engaged solely in the business of a loan processor or underwriter is not a mortgage broker subject to licensure under Chapter 16; (ii) set forth the requirements for a licensee's use of third party loan processors and underwriters; (iii) define the term "refinancing"; (iv) prohibit

licensees from making any false, deceptive, or misleading statement to borrowers or the Bureau; and (v) require licensees to use mortgage loan originators who are licensed, covered by the licensee's surety bond, sponsored by the licensee in the Nationwide Mortgage Licensing System and Registry ("Registry"), and who are either an employee or an exclusive agent of the licensee. Further, the proposed regulations make a number of changes pertaining to retention of records, providing notices and written reports through the Registry, updating of records within the Registry, advertising, and other matters.

NOW THE COMMISSION, based on the information supplied by the Bureau, is of the opinion and finds that the proposed regulations should be considered for adoption with a proposed effective date of January 1, 2013.

Accordingly, IT IS ORDERED THAT:

(1) The proposed regulations are appended hereto and made a part of the record herein.

(2) Comments or requests for a hearing on the proposed regulations must be submitted in writing to Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, on or before December 7, 2012. Requests for a hearing shall state why a hearing is necessary and why the issues cannot be adequately addressed in written comments. All correspondence shall contain a reference to Case No. BFI-2012-00068. Interested persons desiring to submit comments or request a hearing electronically may do so by following the instructions available at the Commission's website: <http://www.scc.virginia.gov/case>.

(3) This Order and the attached proposed regulations shall be posted on the Commission's website at <http://www.scc.virginia.gov/case>.

(4) The Commission's Division of Information Resources shall send a copy of this Order, including a copy of the attached proposed regulations, to the Virginia Registrar of Regulations for publication in the *Virginia Register of Regulations*.

NOTE: A copy of appended "Rules Governing Mortgage Lenders and Brokers" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

CLERK'S OFFICE**CASE NO. CLK-2012-00006
NOVEMBER 26, 2012**

IN RE:
THE DISTHENE GROUP, INC.

INVOLUNTARY DISSOLUTION ORDER

On September 6, 2012, the Circuit Court of Buckingham County ("Circuit Court") entered a Decree of Dissolution ("Decree") in Case No. CL11-117, directing that The Disthene Group, Inc., a Virginia corporation, be dissolved pursuant to § 13.1-749 of the Code of Virginia. Thereafter, a certified copy of the Decree was delivered to the State Corporation Commission ("Commission").

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to § 13.1-749 A of the Code of Virginia, The Disthene Group, Inc., is hereby DISSOLVED.
- (2) The Clerk of the Circuit Court is requested to advise the Commission when all of the assets of the corporation have been distributed to its creditors and shareholders, if any, upon receipt of which advice the Commission will enter an order terminating the corporation's existence.
- (3) This case is continued generally on the Commission's docket.

**CASE NO. CLK-2012-00006
DECEMBER 17, 2012**

IN RE:
THE DISTHENE GROUP, INC.

ORDER ON PETITION FOR RECONSIDERATION

On November 26, 2012, the State Corporation Commission ("Commission") entered an Involuntary Dissolution Order ("Dissolution Order") dissolving The Disthene Group, Inc. ("Petitioner"), following a Decree ("Decree") entered by the Circuit Court of Buckingham County ("Circuit Court") directing that Petitioner be dissolved pursuant to § 13.1-749 of the Code of Virginia ("Code"). On December 10, 2012, the Petitioner filed a Petition for Reconsideration ("Petition") with the Commission requesting that the Commission vacate or suspend the Dissolution Order, or, in the alternative, enter an order stating that the Dissolution Order shall remain non-final pending the Petitioner's appeal of the Decree to the Supreme Court of Virginia ("Supreme Court"). The Petitioner alleges that the adjudication of the proceedings in the Circuit Court is not final, and that the Petitioner will suffer substantial prejudice by the Dissolution Order if the Supreme Court overturns the Decree or otherwise rules that the Petitioner should not be dissolved.

NOW THE COMMISSION, having considered this matter, is of the opinion and finds as follows. Rule 5 VAC 5-20-220 of the Commission's Rules of Practice and Procedure, 5 VAC 5-0-10 *et seq.* ("Rule"), provides that final judgments, orders, and decrees of the Commission, with certain exceptions, remain under the control of the Commission and subject to modification or vacation for 21 days after the date of entry. Section 13.1-749 of the Code, however, requires that the Commission enter two orders to effect dissolution of a corporation and termination of its corporate existence. First, the Commission must enter an order of involuntary dissolution after a court enters a decree directing that a corporation shall be dissolved. Second, after the court advises the Commission that the winding up of the corporation and distribution of its assets are complete, the Commission must enter an order terminating the corporate existence. The Dissolution Order is not a final Commission order for purposes of § 13.1-749 of the Code, and the matter of the Petitioner's dissolution and termination of its corporate existence remains active on the Commission's docket. Thus, having considered the Petition for Reconsideration, the Commission is of the opinion that the Petitioner's request to vacate or suspend the November 26, 2012 Involuntary Dissolution Order should be denied.

Accordingly, IT IS ORDERED THAT:

- (1) The Petitioner's request to vacate or suspend the November 26, 2012 Involuntary Dissolution Order is DENIED.
- (2) This case is continued generally on the Commission's docket.

BUREAU OF INSURANCE

**CASE NO. INS-1991-00068
SEPTEMBER 26, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

FIDELITY BANKERS LIFE INSURANCE COMPANY,
Defendant

FINAL ORDER

On September 10, 2012, Jacqueline K. Cunningham, as Deputy Receiver ("Deputy Receiver") of Fidelity Bankers Life Insurance Company Trust and First Dominion Mutual Life Insurance Company (formerly Fidelity Bankers Life Insurance Company) (collectively, "Companies"), pursuant to § 38.2-1519 of the Code of Virginia and 5 VAC 5-20-80 of the State Corporation Commission's ("Commission") Rules of Practice and Procedure, 5 VAC 5-20-10 *et seq.*, filed a Final Report and Application for Order Approving Termination of Receivership and Closure of Proceeding ("Final Report"). The Final Report, among other things, provided thorough information on the completion of the steps taken as outlined in the Liquidation Order.¹ Additionally, the Deputy Receiver requested that the Commission approve the termination and closure of the receivership proceedings and discharge the Deputy Receiver and the Special Deputy Receiver of the duties associated with the receivership.

Accordingly, IT IS ORDERED THAT:

- (1) All actions taken by the Deputy Receiver as described in the Plans of Liquidation and Final Report are hereby ADOPTED and RATIFIED.
- (2) The Deputy Receiver's Final Report is hereby APPROVED.
- (3) The receivership proceedings are hereby TERMINATED, CLOSED and DISMISSED.
- (4) The Deputy Receiver's assignments of any First Dominion Mutual Life Insurance Company funds received post-closing to Cantilo & Bennett, L.L.P., and Grant Thornton, LLP, is APPROVED until such time as those firms have been paid in full.
- (5) The Deputy Receiver and Special Deputy Receiver, their staff, agents, and counsel are hereby DISCHARGED of any and all duties, obligations, responsibilities, or liabilities owed, or allegedly owed, to the Companies, including any duty, obligation, responsibility, or liability owed, or allegedly owed, to the Companies' beneficiaries, creditors, or the beneficiaries, assigns, or successors-in-interest of any of the foregoing.
- (6) The Deputy Receiver and Special Deputy Receiver, their staff, agents, and counsel are hereby DISCHARGED from all further responsibility for the affairs of the Companies, and any and all claims, demands, and causes of action of every kind that may arise from, or be connected with, the administration of this receivership.
- (7) This case is DISMISSED, and the papers herein shall be placed in the file for ended causes.

¹ 2009 S.C.C. Ann. Rept. 78, Order Approving Plans of Liquidation for Fidelity Bankers Life Insurance Company Trust and First Dominion Mutual Life Insurance Company and Related Matters (May 21, 2009).

**CASE NO. INS-1997-00098
MARCH 20, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

THE HOME INSURANCE COMPANY,
Defendant

FINAL ORDER

The Home Insurance Company ("Defendant"), a foreign corporation domiciled in the State of New Hampshire, is licensed to transact the business of insurance in the Commonwealth of Virginia.

By Order Suspending License entered herein May 20, 1997, the Defendant was prohibited from issuing any new contracts or policies of insurance in Virginia.

By letter of Angela Anglum, Vice President and Corporate Secretary for the Defendant, on behalf of Peter A. Bengelsdorf, Special Deputy Liquidator for the Defendant, dated February 29, 2012, and received by the State Corporation Commission's ("Commission") Bureau of Insurance ("Bureau") on March 5, 2012, the Commission was advised that the Defendant wishes to withdraw its license to transact the business of insurance in Virginia.

The withdrawal of the Defendant's license has been processed by the Bureau effective March 13, 2012.

In light of the foregoing the Bureau has recommended that the Order Suspending License entered by the Commission be vacated and this case be closed.

NOW THE COMMISSION, having considered the record herein and the recommendation of the Bureau of Insurance, is of the opinion that the Order Suspending License entered by the Commission should be vacated.

Accordingly, IT IS ORDERED THAT:

- (1) The Order Suspending License entered by the Commission should be, and is hereby, VACATED;
- (2) This case be, and is hereby, CLOSED; and
- (3) The papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2003-00092
JULY 24, 2012**

IN RE:
JOINT PETITION OF SPECIAL DEPUTY RECEIVERS
of
DOCTORS INSURANCE RECIPROCAL, RRG, In Receivership
AMERICAN NATIONAL LAWYERS INSURANCE RECIPROCAL, RRG, In Receivership
and
THE RECIPROCAL ALLIANCE, RRG, In Receivership,
Joint Petitioners

FINAL ORDER

On April 25, 2003, the Special Deputy Receivers ("SDRs") for Doctors Insurance Reciprocal, Risk Retention Group, American National Lawyers Insurance Reciprocal, Risk Retention Group, and The Reciprocal Alliance, Risk Retention Group (collectively, "Companies"), by counsel, filed with the State Corporation Commission ("Commission") a Joint Petition for Expedited Review of Claims and Deputy Receiver's Determination of Appeal and Brief in Support of Joint Petition ("Joint Petition"). Among other things, the Companies sought a finding by the Commission that the insureds of the Companies were entitled to be treated in the same manner and with the same priority as Reciprocal of America ("ROA") insureds. The Companies sought to have their insureds' claims and those of third-party claimants paid by ROA. The Companies also expressed concern about the fate of certain trust funds seized by the Deputy Receiver of ROA ("Deputy Receiver") from a trust account held by First Virginia Reinsurance, Ltd.¹

On July 14, 2003, the Commission issued an Order Referring Case to Hearing Examiner. In the order, the Commission stated its belief that referring this case to a Hearing Examiner would facilitate its orderly disposition.²

The litigation between the SDRs and the Deputy Receiver was halted by an Agreement to Stay Proceedings and Tolling Agreement that the Hearing Examiner approved on October 10, 2003.³ On January 5, 2007, the Deputy Receiver filed a Notification of Termination, effectively restarting this litigation.

During the course of the proceedings, the SDRs withdrew certain claims and requests for relief within the Amended Joint Petition. Apart from those claims and requests for relief which were withdrawn or were the subject of the rulings in the Commission's February 14, 2008 Order, there were remaining claims in the case by the SDRs and counterclaims by the Deputy Receiver.

On July 13, 2012, the SDRs and the Deputy Receiver, by their respective counsel, filed a Joint Request to Non-Suit Claims and Counterclaims and Dismiss Case ("Joint Request"). In support of their Joint Request, the SDRs and Deputy Receiver state that they have determined, among other things, that it is in the best interests of their respective estates that the claims and counterclaims be non-suited with prejudice. Only the receivers of the respective estates and their designees have the right and authority to prosecute and defend claims regarding their estates. The SDRs and the Deputy Receiver request that the case be dismissed with prejudice.

By way of relief, the SDRs and the Deputy Receiver requested that the Hearing Examiner issue a report: (i) ruling that the remaining claims of the SDRs in this matter are non-suited with prejudice; (ii) ruling that the counterclaims of the Deputy Receiver herein are non-suited with prejudice;

¹ On June 20, 2003, the Commission entered an order directing that ROA and The Reciprocal Group be liquidated. That order set in motion the need to resolve the issues raised in the Joint Petition as soon as practicable. *Commonwealth of Virginia ex rel., State Corporation Commission v. Reciprocal of America and The Reciprocal Group*, Case No. INS-2003-00024, 2003 S.C.C. Ann. Rept. 116 Order of Liquidation with a Finding of Insolvency and Directing the Cancellation of Direct Insurance Policies (June 20, 2003).

² On September 5, 2003, the Deputy Receiver of ROA filed a Motion for Summary Judgment in which he moved the Commission for summary judgment on all claims of the Amended Joint Petition except for certain contract and constructive trust claims asserted. The Commission issued an Order Granting Motion for Summary Judgment on February 14, 2008 ("February 14, 2008 Order"), 2008 S.C.C. Ann. Rept. 131.

³ With slight modifications, the Commission approved the Tolling Agreement on December 13, 2005.

(iii) recommending to the Commission that this case be dismissed with prejudice as agreed between the SDRs and Deputy Receiver; and (iv) requesting adoption of his recommendations by Order of the Commission to be entered as soon as practicable.

On July 17, 2012, the Hearing Examiner issued his Report in which he recommended that the Joint Request be granted and the case be dismissed with prejudice. Additionally, the Hearing Examiner recommended that the comment period to his Report should be waived since the parties have agreed to a final disposition of the case.

NOW THE COMMISSION, upon consideration of the record herein and the Report of the Hearing Examiner, is of the opinion that the findings and recommendations of the Hearing Examiner should be adopted.

Accordingly, IT IS ORDERED THAT:

- (1) The Joint Request to Non-Suit Claims and Counterclaims and Dismiss Case is hereby GRANTED.
- (2) The remaining claims of the Special Deputy Receivers are hereby NON-SUITED WITH PREJUDICE.
- (3) The counterclaims of the Deputy Receiver of ROA are hereby NON-SUITED WITH PREJUDICE.
- (4) The case is DISMISSED, and the papers herein shall be placed in the file for ended causes.

Commissioner Jagdmann did not participate in this matter.

**CASE NO. INS-2006-00075
AUGUST 21, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

VESTA FIRE INSURANCE CORPORATION,
Defendant

FINAL ORDER

Vesta Fire Insurance Corporation ("Defendant"), a foreign corporation domiciled in the state of Texas, is licensed to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth").

By Order Suspending License ("Order") entered December 10, 2007, the Defendant was prohibited from issuing any new contracts or policies of insurance in the Commonwealth.

By affidavit of Craig A. Koenig, Special Deputy Receiver for the Defendant, in receivership, dated July 23, 2012, and received by the State Corporation Commission's ("Commission") Bureau of Insurance ("Bureau"), the Commission was advised that the Defendant wishes to withdraw its license to transact the business of insurance in the Commonwealth.

The withdrawal of the Defendant's license has been processed by the Bureau effective August 7, 2012.

In light of the foregoing the Bureau has recommended that the Order entered by the Commission be vacated and that this case be closed.

NOW THE COMMISSION, having considered the record herein and the recommendation of the Bureau, is of the opinion that the Order entered by the Commission should be vacated.

Accordingly, IT IS ORDERED THAT:

- (1) The Order Suspending License entered by the Commission on December 10, 2007, hereby is VACATED.
- (2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2007-00263
NOVEMBER 29, 2012**

PETITION OF
SENTARA HEALTHCARE

For review of Reciprocal of America and The Reciprocal Group Deputy Receiver's Determination of Appeal

FINAL ORDER

On January 29, 2003, in a case styled *Commonwealth of Virginia, ex rel. State Corporation Commission v. Reciprocal of America, The Reciprocal Group, and Jody M. Wagner, Treasurer of Virginia*, Cause No. CH03-135, the Circuit Court of the City of Richmond entered an order

appointing the State Corporation Commission ("Commission") as Receiver of The Reciprocal Group and Reciprocal of America ("ROA") (collectively, "Reciprocal Companies"). In addition, that order appointed Alfred W. Gross, Commissioner of the Commission's Bureau of Insurance, as Deputy Receiver and Melvin J. Dillon as Special Deputy Receiver of the Reciprocal Companies, in accordance with Title 38.2, Chapters 12 and 15 of the Code of Virginia.¹ Pursuant to his grant of authority, the Deputy Receiver, in his Sixth Directive of Deputy Receiver Adopting Amended Receivership Appeal Procedure, established appeal procedures for appeals or challenges of any decision made by the Deputy Receiver or Special Deputy Receiver with respect to claims against the Reciprocal Companies.

On August 16, 2007, Sentara Healthcare ("Sentara" or "Petitioner") filed a Petition for Review ("Petition") with the Commission contesting the Deputy Receiver's Determination of Appeal in Claim No. 001313. The Deputy Receiver advised the Petitioner that it owed approximately \$1.2 million in retrospective premiums on two (2) retrospective premium policies (WCVA007700 and WCVA007701) and deductibles on a general liability policy to ROA. Sentara disputed the Deputy Receiver's contention that monies are due from the Petitioner.

By Order dated August 27, 2007, the Commission docketed the Petition, assigned the matter to a Hearing Examiner, and directed the Deputy Receiver to file an answer or other responsive pleading to the Petition on or before October 5, 2007.

On November 8, 2007, Sentara filed a second Petition contesting subsequent determinations dated May 17, 2007 and May 18, 2007, which allowed certain Sentara claims but offset them against the amount due ROA, reducing ROA's net claim against Sentara from approximately \$1.2 million to approximately \$938,000. On December 7, 2007, upon motion by the Deputy Receiver, the two Petitions, which raise similar issues, relate generally to the same claims, and seek similar relief, were consolidated.² Additionally, the Deputy Receiver requested that the case be continued generally in light of ongoing settlement efforts and to promote judicial economy.

On September 11, 2012, the Deputy Receiver filed an Application for Order Approving Settlement Agreement ("Application") with the proposed Settlement Agreement attached as Exhibit A. In addition, the Deputy Receiver requested that the Commission schedule a contingent hearing for consideration of the Application to be held only in the event that written objections were timely filed pursuant to the procedure and schedule proposed in the Application. The Deputy Receiver represented to the Commission that all parties of record in this matter were being provided a copy of the Application.

No notices of objection were filed in this case; therefore, on November 15, 2012, the Chief Hearing Examiner filed her Report in which she cancelled the contingent hearing, found that the proposed Settlement Agreement was reasonable, and recommended to the Commission that it be approved.

NOW THE COMMISSION, upon consideration of the record herein and the Report of the Chief Hearing Examiner, is of the opinion that the findings and recommendations of the Chief Hearing Examiner should be adopted.

Accordingly, IT IS ORDERED THAT:

- (1) The Settlement Agreement presented by the Deputy Receiver is hereby APPROVED.
- (2) The case is dismissed, and the papers herein are passed to the file for ended causes.

Commissioner Jagdmann did not participate in this matter.

¹ On January 10, 2011, the Commission entered an Order appointing Jacqueline K. Cunningham as Deputy Receiver of the Reciprocal Companies. See *Commonwealth ex rel. State Corp. Comm'n v. Reciprocal of America and Reciprocal Group*, Case No. INS-2003-00024, 2011 S.C.C. Ann. Rept. 71, Order Appointing Jacqueline K. Cunningham as Deputy Receiver for Rehabilitation or Liquidation (Jan. 10, 2011).

² The second Petition was filed under a new case number, Case No. INS-2007-00337. The motion consolidated all filings into Case No. INS-2007-00263 and said motion was granted by the Hearing Examiner.

**CASE NO. INS-2008-00100
AUGUST 7, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
THE GLEBE, INC.,
Registrant

FINAL ORDER

By Consent Order ("Order") entered by the State Corporation Commission ("Commission") on May 9, 2008, The Glebe, Inc. ("Glebe"), a continuing care retirement community located in the Commonwealth of Virginia ("Commonwealth") and registered to provide continuing care in the Commonwealth and its parent company, Virginia Baptist Homes, Inc., agreed, effective as of the date of the Order, to cease collecting entrance fees from new residents until such time the Commission determined it was financially stable.¹

¹ In anticipation of default on its loan obligations, the Glebe met with the Bureau of Insurance ("Bureau") to discuss its financial condition. Glebe acknowledged that it was unable to meet its pro forma income and cash flow projections filed with the Bureau and agreed that until such time as the Commission found it financially stable, it would cease and desist from collecting entrance fees.

On August 16, 2011, Glebe, by counsel, filed a Petition to Vacate Consent Order ("Petition"). In its Petition, Glebe stated that on June 28, 2010, in seeking to restructure its prepetition loan, Glebe had filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code ("Bankruptcy Code") in the United States Bankruptcy Court for the Western District of Virginia, Roanoke Division ("Bankruptcy Court").² On July 19, 2011, Glebe filed an Amended Plan of Reorganization ("Amended Plan") that was subsequently approved by the Bankruptcy Court.³

The Bureau reviewed the Amended Plan and met with representatives of Glebe on June 13, 2011, to discuss the Amended Plan along with Glebe's projections of income and cash flows. The Bureau stated that the projections and assumptions in the Amended Plan were reasonable and appeared to place Glebe back into a position of financial stability, assuming that the Amended Plan, as presented, was approved by the Bankruptcy Court.⁴

Based upon Glebe's representations, the Bureau is of the opinion that, upon approval of the Amended Plan, Glebe would be capable of meeting its pro forma income and cash flow projections and would be in a position to emerge from bankruptcy. Glebe would therefore avoid the circumstances required for a determination of financial instability under § 38.2-4907 of the Code of Virginia⁵ and, as such, the Bureau does not object to the relief requested.

On July 27, 2012, Glebe filed with the Commission its Notice Regarding The Entry of Order Confirming The Glebe, Inc.'s Third Amended Plan of Reorganization, attaching the order entered by the Bankruptcy Court confirming its plan of reorganization as an exhibit.⁶

NOW THE COMMISSION, having considered the record herein and the recommendation of the Bureau, is of the opinion that the Petition to Vacate Consent Order should be granted.

Accordingly, IT IS ORDERED THAT:

- (1) The Glebe, Inc.'s Petition to Vacate Consent Order is hereby GRANTED.
- (2) The Consent Order entered by the State Corporation Commission on May 9, 2008, is hereby VACATED.
- (3) This case is DISMISSED, and the papers herein shall be placed in the file for ended causes.

² Glebe has continued in possession of its property and has continued to operate and manage its business as a debtor-in-possession pursuant to §§ 1107 (a) and 1108 of the Bankruptcy Code.

³ Glebe initially filed its Disclosure Statement and Plan of Reorganization with the Bankruptcy Court on June 10, 2011. The Amended Plan restructures the loans owed by Glebe by cancelling certain bonds and reissuing new bonds to be repaid on a schedule that Glebe claims is feasible and manageable and would make Glebe financially stable.

⁴ In reaching its conclusion, the Bureau noted, among other factors, that the Amended Plan provides for restructuring of debt and business operations, provides for issuance of new bonds with a feasible repayment schedule to meet obligations, provides for waiver of intercompany claims, projects increases in occupancy, and projects cash increases along with increases in Glebe's cash reserves.

⁵ Section 38.2-4907 of the Code of Virginia has been repealed and replaced with § 38.2-4925 of the Code of Virginia effective July 1, 2012. Both of these provisions contain the same standard for Glebe's financial stability.

⁶ The Bankruptcy Court approved a plan of reorganization filed by Glebe with that court on April 25, 2012 ("April 2012 Plan"). However, nothing in the April 2012 Plan altered the Amended Plan in such a way as to change the Bureau's opinion concerning Glebe's financial stability.

**CASE NO. INS-2009-00003
MARCH 19, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

STANDARD LIFE INSURANCE COMPANY OF INDIANA,
Defendant

FINAL ORDER

Standard Life Insurance Company of Indiana ("Defendant"), a foreign corporation domiciled in the State of Indiana, is licensed to transact the business of insurance in the Commonwealth of Virginia.

By Order Suspending License entered herein January 28, 2009, the Defendant was prohibited from issuing any new contracts or policies of insurance in Virginia.

By letter of Randolph D. Lamberjack, Special Deputy Rehabilitator for the Defendant, dated February 22, 2012, and received by the State Corporation Commission's ("Commission") Bureau of Insurance ("Bureau") on February 28, 2012, the Commission was advised that the Defendant wishes to withdraw its license to transact the business of insurance in Virginia. Additionally, the Defendant advised the Commission that all fixed or contingent liabilities of the Defendant to Virginia policyholders and other Virginia creditors have been terminated or assumed by Guggenheim Life and Annuity Company.

The withdrawal of the Defendant's license has been processed by the Bureau effective February 29, 2012.

In light of the foregoing the Bureau has recommended that the Order Suspending License entered by the Commission be vacated and this case be closed.

NOW THE COMMISSION, having considered the record herein and the recommendation of the Bureau, is of the opinion that the Order Suspending License entered by the Commission should be vacated.

Accordingly, IT IS ORDERED THAT:

- (1) The Order Suspending License entered by the Commission should be, and is hereby, VACATED;
- (2) This case shall be, and is hereby, CLOSED; and
- (3) The papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2009-00017
MARCH 5, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
ROBERTA L. GARCIA-GUAJARDO,
Defendant

FINAL ORDER

On April 27, 2009, the State Corporation Commission ("Commission") issued a Rule to Show Cause ("Rule") against the Defendant alleging violations of § 38.2-1809 of the Code of Virginia based upon information received from an investigation conducted by the Bureau of Insurance ("Bureau"). The Bureau alleged that the Defendant had continued to act as an insurance agent in the Commonwealth of Virginia subsequent to the surrender of her license on March 28, 2005. Additionally, the Rule alleged that the Defendant had failed to produce documents related to work she had performed on behalf of Sanibel & Lancaster Insurance Agency, LLC ("Sanibel & Lancaster") as required by a Commission subpoena issued on March 11, 2009, that required a response no later than April 6, 2009.

On May 19, 2009, counsel for the Defendant filed a Request for Extension stating that the Defendant and the Bureau needed additional time to continue their current efforts to resolve the issues of this matter. The Bureau did not object to the request. On May 21, 2009, the Hearing Examiner issued a Ruling granting the request, cancelling the hearing that had been scheduled in this matter, and continuing the matter generally.

In a separate but related case, the Commission issued a Rule to Show Cause ("2010 Rule") on March 18, 2010, in Case No. INS-2010-00019 against the Defendant, as well as Gary J. Hunter and Sanibel & Lancaster. The 2010 Rule alleged, among other things, that the Defendant continued to act as an insurance agent following the surrender of her license in 2005. Pleadings were filed, and a hearing was convened on June 24, 2010. On December 13, 2010, a Judgment Order was entered against the Defendant that, among other things, permanently enjoined her from transacting the business of insurance in the Commonwealth of Virginia.

On February 1, 2012, the Bureau filed a Motion to Dismiss in Case No. INS-2009-00017 requesting that the Commission vacate the Rule and dismiss the proceeding against the Defendant. The Bureau indicated that, given the injunctive relief obtained against the Defendant in Case No. INS-2010-00019, the Bureau did not consider it necessary to pursue further the matter that is the subject of Case No. INS-2009-00017.

On February 3, 2012, the Hearing Examiner filed his report ("Report") in Case No. INS-2009-00017. Based upon the pleadings in this matter, the Hearing Examiner recommended that the Bureau's Motion to Dismiss be granted.

On February 27, 2012, the Defendant filed comments to the Report.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the Hearing Examiner's findings and recommendations as detailed in his Report are reasonable and should be adopted.

Accordingly, IT IS ORDERED THAT:

- (1) The Bureau of Insurance's February 1, 2012 Motion to Dismiss is hereby GRANTED;
- (2) The Rule to Show Cause issued against the Defendant on April 27, 2009, is hereby VACATED; and
- (3) This case is dismissed from the Commission's docket, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2009-00032
MARCH 16, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION,
v.
SHENANDOAH LIFE INSURANCE COMPANY,
Defendant

ORDER ESTABLISHING SURPLUS NOTES LIQUIDATION FUND

By order entered in the Circuit Court of the City of Richmond on February 12, 2009, in Case No. CH-09-673, the State Corporation Commission ("Commission") was appointed the Receiver of Shenandoah Life Insurance Company ("Shenandoah"). On January 27, 2012, the Deputy Receiver in this matter filed her application ("Application") for the Commission's entry of an order establishing a Surplus Notes Liquidation Fund and resolving issues regarding certain Shenandoah Surplus Notes.

In her Application, the Deputy Receiver requested that the Commission enter an Order establishing, among other things, a "Surplus Notes Liquidation Fund" of \$4 million from which will be paid, to the extent possible, any claim that Wilmington Trust Company ("Trustee"), the Bank of New York ("Indenture Trustee"), or the investors in the Shenandoah Surplus Notes ("Noteholders") may assert under the Shenandoah Surplus Notes before the Bar Date established in the Deputy Receiver's Sixth Directive issued October 25, 2011. In the alternative, the Deputy Receiver proposed that she be authorized to transfer the Surplus Notes Liquidation Fund to the Trustee and Indenture Trustee as part of the Deputy Receiver's Rehabilitation Plan, in which case the Trustee and Indenture Trustee, as applicable, would be responsible for distributing the Surplus Notes Liquidation Fund to the Noteholders in accordance with their respective duties.

On February 6, 2012, the Commission entered an Order for Notice and Contingent Hearing ("Order for Notice"), which set a contingent hearing on the Application for March 27, 2012, and directed the Deputy Receiver to publish notice of the contingent hearing and provide notice to the Noteholders by first class mail or overnight delivery to the Trustee and Indenture Trustee. The Order for Notice directed any party objecting to the relief sought in the Application to file a Notice of Objection with the Commission no later than March 1, 2012. The Order for Notice provided that if no Notices of Objection were filed, then the Commission may, without holding a contingent hearing: (i) approve the Surplus Notes Liquidation Fund as the Trustees' and Noteholders' sole recourse in the rehabilitation of Shenandoah from which payments would be made (a) to the Trustee and Indenture Trustee or (b) on all approved claims filed by the Noteholders before the March 1, 2012, Bar Date; and (ii) approve all other relief sought in the Application.

On March 9, 2012, the Deputy Receiver provided proof of notice as required by the Order for Notice. No Notices of Objection were filed with the Commission.

NOW THE COMMISSION, having considered the Application, makes the following findings:

- (1) The Surplus Notes Liquidation Fund is a fair and equitable resolution of any interest that the Trustee, the Indenture Trustee, and the Noteholders may have in the assets and affairs of Shenandoah;
- (2) No valid claim against Shenandoah will exist with respect to the Surplus Notes following the payment of the Surplus Notes Liquidation Fund; and
- (3) Any claim held by the Trustee, the Indenture Trustee, or the Noteholders in connection with the Surplus Notes that has not been timely filed in accordance with the Sixth Directive and the Bar Date established therein is permanently barred.

Accordingly, IT IS ORDERED THAT:

- (1) The payment of the Surplus Notes Liquidation Fund to the Trustee and the Indenture Trustee or to the Noteholders in full satisfaction of all of Shenandoah's obligations and liabilities under the Surplus Notes is hereby APPROVED, such payment to be made at such time after the closing of the Rehabilitation Plan as the Deputy Receiver deems appropriate.
- (2) The implementation of the Rehabilitation Plan insofar as it affects the Surplus Notes is hereby APPROVED.
- (3) The contingent hearing scheduled for March 27, 2012, is hereby CANCELLED.
- (4) This case is continued.

**CASE NO. INS-2009-00063
MARCH 19, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
ACA ASSURANCE, INC.,
Defendant

FINAL ORDER

ACA Assurance, Inc. ("Defendant"), a foreign fraternal benefit society domiciled in the State of New Hampshire, is licensed to transact the business of a fraternal benefit society in the Commonwealth of Virginia.

By Order Suspending License entered herein May 13, 2009, the Defendant was prohibited from issuing any new contracts or policies of insurance in Virginia.

By letter of Angela Anglum, Esquire, on behalf of Peter A. Bengelsdorf, the Special Deputy Commissioner for ACA Assurance, Inc., in Rehabilitation, dated February 10, 2012, and received by the State Corporation Commission's ("Commission") Bureau of Insurance ("Bureau") on February 21, 2012, the Commission was advised that the Defendant wishes to withdraw its license to transact the business of insurance in Virginia. Additionally, the Defendant advised the Commission that the Defendant does not have any remaining Virginia policies.

The withdrawal of the Defendant's license has been processed by the Bureau effective February 21, 2012.

In light of the foregoing the Bureau has recommended that the Order Suspending License entered by the Commission be vacated and this case be closed.

NOW THE COMMISSION, having considered the record herein and the recommendation of the Bureau, is of the opinion that the Order Suspending License entered by the Commission should be vacated.

Accordingly, IT IS ORDERED THAT:

- (1) The Order Suspending License entered by the Commission should be, and is hereby, VACATED;
- (2) This case shall be, and is hereby CLOSED; and
- (3) The papers herein shall be placed in the file for ended causes

**CASE NO. INS-2009-00064
AUGUST 28, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
DIAMOND INSURANCE COMPANY,
Defendant

FINAL ORDER

Diamond Insurance Company ("Defendant"), a foreign corporation domiciled in the state of Illinois, is licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth").

By Order Suspending License ("Order") entered August 12, 2009, the Defendant was prohibited from issuing any new contracts or policies of insurance in the Commonwealth. The Order was entered due to the Defendant's failure to maintain the minimum capital and surplus required by § 38.2-1028 of the Code of Virginia.

The Defendant's May 31, 2012 Monthly Statement, filed with the Commission's Bureau of Insurance ("Bureau") indicates that the Defendant is in compliance with the statutory minimum capital and surplus requirement. The Bureau has recommended that the Defendant's license to transact the business of insurance be restored to good standing and that this case be closed.

NOW THE COMMISSION, having considered the record herein and the recommendation of the Bureau, is of the opinion that the Order entered by the Commission should be vacated.

Accordingly, IT IS ORDERED THAT:

- (1) The Order Suspending License entered by the Commission on August 12, 2009, is hereby VACATED;
- (2) This case is hereby CLOSED, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2009-00125
MARCH 19, 2012**

PETITION OF
JAMES M. HOWARD, ADMINISTRATOR OF THE ESTATE OF SANDRA ELIZABETH JONES, DECEASED

For review of Reciprocal of America and The Reciprocal Group Deputy Receiver's Determination of Appeal

FINAL ORDER

On January 29, 2003, the Circuit Court of the City of Richmond entered an order appointing the State Corporation Commission ("Commission") as Receiver of The Reciprocal Group and Reciprocal of America (collectively, the "Reciprocal Companies"). In addition, that order appointed Alfred W. Gross, Commissioner of Insurance, as Deputy Receiver and Melvin J. Dillon as Special Deputy Receiver of the Reciprocal Companies, in accordance with Title 38.2, Chapters 12 and 15 of the Code of Virginia.¹ Pursuant to his grant of authority, the Deputy Receiver in his Sixth Directive of Deputy Receiver Adopting Amended Receivership Appeal Procedure established appeal procedures for appeals or challenges of any decision made by the Deputy Receiver or Special Deputy Receiver with respect to claims against the Reciprocal Companies.

On May 28, 2009, James M. Howard, Administrator of the Estate of Sandra Elizabeth Jones, Deceased ("Petitioner"), filed a Petition for Review ("Petition") with the Commission contesting the Deputy Receiver's Determination of Appeal in Claim Nos. 001085 and 001086.

By Order dated June 9, 2009, the Commission docketed the Petition, assigned the matter to a Hearing Examiner, and directed the Deputy Receiver to file an Answer or other responsive pleading to the Petition on or before July 10, 2009.

On July 8, 2009, the Deputy Receiver, by counsel, filed an Agreed Motion to Stay Proceedings ("Motion") stating the parties were engaged in discussions to resolve the matter amicably and requested the proceedings be stayed indefinitely to allow the parties to continue to work towards resolution of the matter. By ruling dated July 8, 2009, the Motion was granted and the case was continued generally.

By letter dated January 11, 2012, counsel for the Deputy Receiver notified the Petitioner by letter of her intent to return the matter to the Commission's docket of active cases.

On February 2, 2012, the Petitioner, by counsel, filed a Notice of Withdrawal of Petition for Review ("Notice of Withdrawal") stipulating that the Commission's Order Granting Motion for Summary Judgment, entered on February 14, 2008, in Commission Case No. INS-2003-00092, is dispositive of the claims set out in the Petition. Accordingly, the Petitioner withdrew his Petition with prejudice to its refiling. Counsel for the Deputy Receiver joined in with the Petitioner's Notice of Withdrawal.

On February 29, 2012, the Hearing Examiner issued his Report in which he recommended that the Petitioner's Notice of Withdrawal be treated as a Motion to Dismiss and should be granted. Additionally, the Hearing Examiner found that since the Deputy Receiver and the Petitioner are in agreement, there is no need to allow an opportunity for comments to the Report.

NOW THE COMMISSION, upon consideration of the record herein and the Report of the Hearing Examiner, is of the opinion that the findings and recommendations of the Hearing Examiner should be adopted.

Accordingly, IT IS ORDERED THAT:

- (1) The Petitioner's Notice of Withdrawal is hereby GRANTED.
- (2) The Deputy Receiver's Determination of Appeal dated April 29, 2009, is hereby AFFIRMED.
- (3) The case is dismissed, and the papers herein shall be placed in the file for ended causes.

¹ On January 10, 2011, the Commission entered an Order appointing Jacqueline K. Cunningham as Deputy Receiver of the Reciprocal Companies.

**CASE NO. INS-2010-00075
JANUARY 19, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

SHENANDOAH LIFE INSURANCE COMPANY, in Receivership,
Respondents,

In Re Claim of SUPERIOR PERFORMERS, INC. d/b/a NATIONAL AGENTS ALLIANCE

FINAL ORDER

On February 12, 2009, the Circuit Court of the City of Richmond entered an order ("Order") appointing the State Corporation Commission ("Commission") as Receiver of Shenandoah Life Insurance Company ("Shenandoah"). In addition, on February 12, 2009, the Commission, by Order Appointing Deputy Receiver for Conservation and Rehabilitation ("Order Appointing Deputy Receiver"), appointed Alfred W. Gross, Commissioner for the

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Commission's Bureau of Insurance, as Deputy Receiver, in accordance with Title 38.2, Chapter 15 of the Code of Virginia.¹ Pursuant to his grant of authority, the Deputy Receiver, in his Second Directive of Deputy Receiver Adopting Receivership Appeal Procedures, established appeal procedures for appeals or challenges of any decision made by the Deputy Receiver with respect to claims made against Shenandoah ("RAP").

The Order Appointing Deputy Receiver enjoined all persons from maintaining or furthering any action at law against Shenandoah except in accordance with the instructions of the Deputy Receiver. On April 19, 2010, Superior Performers, Inc. d/b/a National Agents Alliance ("NAA"), by counsel, pursuant to the RAP, filed with the Clerk of the Commission a Petition for Review contesting the Deputy Receiver's denial of its request to modify the Order and allow NAA to proceed with mediation and/or complete the litigation against Shenandoah and Carolina Insurance Marketing in North Carolina Business Court ("Petition").

On June 8, 2010, the Deputy Receiver filed a Motion to Dismiss and Plea in Bar ("Motion"). In his Motion, the Deputy Receiver asserted that NAA's appeal should be dismissed with prejudice because it was not filed within the time period allowed by the RAP for an appeal to the Commission. In his Motion, the Deputy Receiver argued that his letter of April 22, 2009 ("Letter"), was a determination of appeal and that NAA had 30 days from April 22, 2009, to file a Notice of Appeal with the Commission. The Deputy Receiver concluded that because the appeal was not filed within 30 days of his Letter, NAA's appeal was time barred by the RAP. The Deputy Receiver further argued that NAA's Petition did not appeal the matters set forth in the Notice of Claim Determination issued by the Deputy Receiver on November 3, 2009, and that NAA has waived its right to appeal those matters decided in the Notice of Claim Determination.

On June 22, 2010, NAA filed an Opposition to Motion to Dismiss and Plea in Bar ("Opposition"). In support of its Opposition, NAA argued that there was no final appealable decision by the Deputy Receiver on April 22, 2009. NAA further argued that its Petition did appeal the merits of its claim against Shenandoah because it incorporated by reference NAA's letter of August 21, 2009, in which NAA requested that the Deputy Receiver consider the merits of its claim against Shenandoah.

On July 13, 2010, the Hearing Examiner issued a report in which he found that the Deputy Receiver's Letter was not a Notice of Claim Determination pursuant to the RAP because it did not contain the same language as the November 3, 2009, Notice of Claim Determination. The Hearing Examiner also found that NAA timely appealed the Notice of Claim Determination issued on November 3, 2009, which denied NAA's request to lift the stay to allow litigation pending in North Carolina to proceed and its claims for damages against Shenandoah. The Hearing Examiner denied the Deputy Receiver's Motion and, pursuant to Rule 5 VAC 5-20-120 B of the Commission's Rules of Practice and Procedure, certified his Ruling to the Commission for affirmation or reversal.

On July 19, 2010, the Deputy Receiver filed his Objections to the Hearing Examiner's Ruling and Certification to the Commission ("Objections"). In his Objections, the Deputy Receiver argued that his Letter constitutes a Notice of Claim Determination and that the Hearing Examiner's Ruling imposes a requirement upon the Deputy Receiver that is not found in the RAP. The Deputy Receiver further argued that the Petition did not appeal the denial of NAA's claim for damages from the receivership estate because the prayer for relief did not request that the denial of its claim be reversed.

On October 8, 2010, the Commission entered an Order affirming the Hearing Examiner's findings and recommendations and remanding the matter to the Hearing Examiner. By Hearing Examiner's ruling entered April 1, 2011, an evidentiary hearing was scheduled to begin July 11, 2011. Prior to July 11, 2011, the parties advised the Hearing Examiner that a settlement had been reached. In order to allow the parties to reduce their settlement to writing, the scheduled hearing was cancelled.

On December 27, 2011, the parties filed a Joint Motion for Approval of Settlement, together with a Full and Final Release and Settlement Agreement. On January 3, 2012, the Hearing Examiner issued his Report ("Report"). In his Report, the Hearing Examiner found that the Full and Final Release and Settlement Agreement is fair, reasonable, and in the public interest and found that the Joint Motion for Approval of Settlement should be granted.

The Hearing Examiner recommended that the Commission enter an order that: (1) adopts the findings and recommendations contained in his Report; (2) grants the Joint Motion for Approval of Settlement; (3) approves the Full and Final Release and Settlement Agreement; (4) grants to NAA a general creditor claim in the settlement amount of \$60,000, the payment of which is subject to the terms of the Full and Final Release and Settlement Agreement; and (5) passes the papers herein to the file for ended causes.

NOW THE COMMISSION, upon consideration of the record herein and the Report of the Hearing Examiner, is of the opinion that the findings and recommendations of the Hearing Examiner should be adopted.

Accordingly, IT IS ORDERED THAT:

- (1) The Hearing Examiner's findings and recommendations are hereby AFFIRMED; and
- (2) The papers herein shall be passed to the file for ended causes.

¹ Effective January 1, 2011, the Commission appointed Jacqueline K. Cunningham Deputy Receiver of Shenandoah.

**CASE NO. INS-2011-00002
NOVEMBER 13, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

JAMES STUART NESBIT,
Defendant

JUDGMENT ORDER

On February 16, 2012, the State Corporation Commission ("Commission") entered a Rule to Show Cause ("Rule") against James Stuart Nesbit ("Defendant") based upon allegations made by the Bureau of Insurance ("Bureau"). Specifically, the Bureau alleged that the Defendant violated: (1) § 38.2-1831 (10) of the Code of Virginia ("Code") by engaging in dishonest practices and demonstrating incompetence or untrustworthiness in the conduct of the business of insurance in the Commonwealth of Virginia; and (2) § 38.2-1812 F of the Code by sharing commissions with an entity not licensed for the same class of insurance.

In the Rule, the Commission directed the Defendant to file a responsive pleading on or before March 16, 2012, and scheduled a hearing for May 1, 2012. The Rule assigned the matter to a Hearing Examiner to conduct further proceedings on behalf of the Commission and to file a final report.

On March 16, 2012, the Defendant filed a Responsive Pleading and represented that he intended to appear at the hearing on May 1, 2012.

The evidentiary hearing on the Rule was convened as scheduled on May 1, 2012, in Richmond, Virginia. DeMarion P. Johnston, Esquire, and Gauhar R. Naseem, Esquire, appeared on behalf of the Bureau. Billy J. Seabolt, Esquire, appeared on behalf of the Defendant.

During the hearing the Bureau offered, and the Hearing Examiner accepted into evidence, numerous exhibits and the testimony of four witnesses, including the testimony and associated documents of: (1) the Bureau's senior investigator Charles Marshall; (2) Mark Hamby, President of Capitol Securities Management, Inc.; and (3) Commonwealth residents Otha Thomas Parker, III, and Nina Fentress Garris.¹ While the Defendant did not testify on his own behalf at the hearing, the Bureau offered, and the Hearing Examiner accepted into evidence, excerpts from his deposition that were taken in connection with this proceeding. The Defendant did not offer any rebuttal evidence during the hearing.

On July 11, 2012, the Hearing Examiner issued her report ("Report"), which thoroughly summarized the factual and procedural history of this case, as well as the evidence and arguments presented at the hearing. In her Report, the Hearing Examiner made the following findings and recommendations:

- (1) The Defendant committed eight (8) violations of § 38.2-1831 (10) of the Code.
- (2) The Defendant committed eight (8) violations of § 38.2-1812 F of the Code.
- (3) The Commission should assess a penalty against the Defendant in the amount of One Thousand Dollars (\$ 1,000) per violation, for a total penalty of Sixteen Thousand Dollars (\$16,000).²
- (4) The Commission should suspend the Defendant's insurance licenses for a period of two (2) years.³

The Hearing Examiner recommended that the Commission enter an order adopting the findings of her Report and dismissing the case from the Commission's docket of active cases.⁴ Comments to the Hearing Examiner's Report were due twenty-one (21) days from the date of the Report. On August 1, 2012, the Bureau filed comments in support of the Report and asked the Commission to adopt the Hearing Examiner's findings and recommendations. The Defendant did not file comments.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the Hearing Examiner's findings and recommendations are reasonable, are supported by the evidentiary record, and should be adopted.

Accordingly, IT IS ORDERED THAT:

- (1) The findings and recommendations of the July 11, 2012, Report of A. Ann Berkebile, Hearing Examiner, are hereby adopted.
- (2) Pursuant to § 38.2-218 B of the Code of Virginia, the Defendant is hereby penalized in the amount of One Thousand Dollars (\$ 1,000) per violation for a total penalty of Sixteen Thousand Dollars (\$16,000).
- (3) The insurance licenses of James Stuart Nesbit are hereby suspended for a period of two (2) years from the date of entry of this Order.

¹ Prior to presenting testimony, the Bureau introduced several stipulated documents: (1) bank records from TowneBank in Virginia Beach; and (2) Central Registration Depository records from the Financial Industry Regulatory Authority for Daryl Bank and the Defendant.

² In her Report, the Hearing Examiner concluded that the Bureau's requested monetary penalty of Twenty Thousand Dollars (\$20,000) was not supported by clear and convincing evidence that the Defendant's violations of the Code were willful.

³ Report at 14.

⁴ *Id.*

(4) The Commission shall retain jurisdiction in this matter for all purposes, including the institution of a show cause proceeding, or taking such other action it deems appropriate on account of the Defendant's failure to comply with the terms and undertakings of this Order.

CASE NO. INS-2011-00003
SEPTEMBER 25, 2012

PETITION OF
SALMONS SPECIALIZED HAULING, INC.

For review of a decision by the National Council on Compensation Insurance pursuant to §§ 38.2-1923 and 38.2-2018 of the Code of Virginia

ORDER

On January 4, 2011, Salmons Specialized Hauling, Inc. ("Salmons"),¹ filed with the Clerk of the State Corporation Commission ("Commission") a Petition for review of a decision by the National Council on Compensation Insurance ("NCCI") pursuant to §§ 38.2-1923 and 38.2-2018 of the Code of Virginia. In its Petition, Salmons appeals the decision by the NCCI to classify it as a grain elevator operation, Class Code 8304, rather than as a feed, fertilizer, hay, or grain dealer, Class Code 8215. This classification decision ultimately affects the cost of Salmons' workers' compensation insurance premiums.

By Order Scheduling Hearing entered January 13, 2011, the Commission, among other things, docketed the Petition, assigned the matter to a Hearing Examiner for further proceedings, and scheduled an evidentiary hearing.

On June 7, 2011, the hearing was convened. Salmons presented the testimony of Ronald Hurwitz, an independent consultant who provides managerial and accounting services to Salmons and its related companies. NCCI presented the testimony of Ronald Darna, a rules and classification manager for NCCI.

On August 3, 2012, the Chief Hearing Examiner issued her Report, which thoroughly summarized the factual and procedural history of this case, as well as the evidence and arguments presented at the hearing. The Chief Hearing Examiner recommended that the Commission enter an order (i) adopting the findings in her Report; (ii) affirming the NCCI classification of Salmons operations as Class Code 8304; (iii) directing NCCI to clarify the phraseology and scope of Class Code 8215; (iv) directing NCCI to re-assess the relative risk and decision to pool drivers with other grain elevator employees; and (v) dismissing the case.²

On August 17, 2012, Salmons filed comments to the Chief Hearing Examiner's Report in which it asserts that Code 8215 best describes the business of Salmons and that NCCI has collected no claims or loss data to perform the analyses necessary to support its classification and premium rate decisions. On August 24, 2012, NCCI filed its response to the Chief Hearing Examiner's Report, generally supporting the Chief Hearing Examiner's recommendations but raising practical concerns regarding the availability of data to perform a study regarding separate treatment for drivers who are grain elevator employees.

NOW THE COMMISSION, upon consideration of the record in its entirety, including the Petition, the evidence and exhibits presented at the hearing, the Chief Hearing Examiner's Report and comments thereon, and the applicable law, is of the opinion that the findings and recommendations of the Chief Hearing Examiner should be adopted with the exception of the recommendation directing NCCI to re-assess the relative risk and decision to pool drivers with other grain elevator employees. We note that NCCI has raised practical concerns regarding the availability of data to perform such a study.

Accordingly, IT IS ORDERED THAT:

- (1) The recommendations of the Chief Hearing Examiner's Report are ADOPTED IN PART, as noted above.
- (2) The Petition of Salmons Specialized Hauling, Inc., for review of a decision by the National Council on Compensation Insurance pursuant to §§ 38.2-1923 and 38.2-2018 of the Code of Virginia is hereby DENIED.
- (3) The classification of the National Council on Compensation Insurance of Salmons Specialized Hauling, Inc., as Class Code 8304 is hereby AFFIRMED.
- (4) The case is dismissed from the Commission's docket of active cases, and the papers herein shall be passed to the file for ended causes.

¹ Salmons Specialized Hauling, Inc., owns and operates a fleet of road tractors that are used to support the delivery of feed grain purchased and sold by Salmons, Inc. Parties agreed from the outset that both companies, Salmons Specialized Hauling, Inc. and Salmons, Inc., would be considered as one for purposes of this matter. They were not treated as separate entities for purposes of buying insurance and for the purpose of the decision of an NCCI review panel.

² Chief Hearing Examiner's Report at 13-14.

**CASE NO. INS-2011-00047
FEBRUARY 22, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

GROUP HOSPITALIZATION AND MEDICAL SERVICES, INC.,
Defendant

SETTLEMENT ORDER

Based on a target market conduct examination performed by the Bureau of Insurance, it is alleged that the Defendant, duly licensed by the State Corporation Commission ("Commission") to transact the business of a health services plan in the Commonwealth of Virginia, in certain instances, has violated §§ 38.2-316 B and 38.2-316 C 1 of the Code of Virginia by failing to comply with policy and form filing requirements; violated subsection 1 of § 38.2-502 and § 38.2-503 of the Code of Virginia, as well as 14 VAC 5-90-55 A, 14 VAC 5-90-55 B, 14 VAC 5-90-60 A 1, 14 VAC 5-90-60 A 2, 14 VAC 5-90-60 B 3, 14 VAC 5-90-60 B 4, 14 VAC 5-90-80 A, 14 VAC 5-90-100 A, 14 VAC 5-90-100 B, and 14 VAC 5-90-110 of the Rules Governing Advertisement of Accident and Sickness Insurance by failing to comply with advertising requirements; violated §§ 38.2-510 A 2, 38.2-510 A 3, 38.2-510 A 5, 38.2-510 A 6, and 38.2-510 A 15 of the Code of Virginia by failing to comply with claim settlement practices; violated § 38.2-610 A 2 of the Code of Virginia by failing to give to applicants for insurance written notice of an adverse underwriting decision in the form approved by the Commission; violated §§ 38.2-1812 A and 38.2-1833 A 1 of the Code of Virginia by failing to comply with agent licensing requirements; violated § 38.2-3407.1 B of the Code of Virginia by failing to pay interest at the legal rate of interest from the date of fifteen (15) working days from the Defendant's receipt of proof of loss to the date that the claim was paid; violated §§ 38.2-3407.14 A, 38.2-3407.14 B, 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 5, 38.2-3407.15 B 6, 38.2-3407.15 B 7, 38.2-3407.15 B 8, 38.2-3407.15 B 9, 38.2-3407.15 B 10, and 38.2-3407.15 B 11 of the Code of Virginia by failing to comply with premium notice requirements and ethics and fairness requirements for business practices; violated § 38.2-3542 C of the Code of Virginia by failing to provide adequate notice of termination of coverage; and violated § 38.2-5804 A of the Code of Virginia by failing to comply with complaint system requirements.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been advised of its right to a hearing in this matter, whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth of Virginia the sum of Fifty-three Thousand Dollars (\$53,000), waived its right to a hearing, agreed to the entry by the Commission of a cease and desist order from future violations of §§ 38.2-510 A 6, 38.2-3407.14 A, 38.2-3407.14 B or 38.2-5804 A of the Code of Virginia, and agreed to comply with the Corrective Action Plan contained in the Target Market Conduct Examination Report as of March 31, 2009.

The Bureau of Insurance has recommended that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau of Insurance, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The offer of the Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) The Defendant cease and desist from any future conduct that constitutes a violation of §§ 38.2-510 A 6, 38.2-3407.14 A, 38.2-3407.14 B or 38.2-5804 A of the Code of Virginia; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2011-00155
MAY 8, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION,

v.

SHENANDOAH LIFE INSURANCE COMPANY,
Defendant

**FINAL ORDER TERMINATING REHABILITATION PROCEEDING AND
PERMITTING THE COMPANY TO RESUME POSSESSION OF ITS
PROPERTY AND THE MANAGEMENT OF ITS AFFAIRS**

Before the State Corporation Commission ("Commission") is a notice ("Notice"), filed on May 8, 2012, by Jacqueline K. Cunningham, in her capacity as Deputy Receiver ("Deputy Receiver") of Shenandoah Life Insurance Company ("Shenandoah" or "Company"), as required by the Commission's

October 20, 2011 Final Order Approving Plan of Conversion, Rehabilitation Plan, and Acquisition of Control, and Granting Related Relief ("Order Approving Rehabilitation Plan").¹

PROCEDURAL HISTORY

1. The Circuit Court for the City of Richmond, Virginia ("Court"), found Shenandoah to be in a hazardous financial condition, placed the Company into receivership, and appointed the Commission as receiver of the Company (in such capacity, "Receiver") with all the powers and authority expressed or implied under the provisions of Title 38.2, Chapter 15 of the Code of Virginia and as set forth in the Court's Final Order Appointing Receiver for Rehabilitation or Liquidation, dated February 12, 2009 ("Receivership Order").²

2. Pursuant to the Receivership Order, the Receiver is authorized to take any and all actions that it deems advisable in connection with the liquidation or rehabilitation of the Company and is further authorized to act as the receivership court of record, to oversee the rehabilitation or liquidation of the Company, and to approve any other authorized steps that it considers advisable in connection with the affairs of the Company pursuant to § 38.2-1508 of the Code of Virginia and Article IX, § 3 of the Constitution of Virginia without need for further order of the Court.

3. The Receiver, in accordance with authority granted to it by the Court under the Receivership Order, pursuant to the Receiver's Order Appointing Deputy Receiver for Conservation and Rehabilitation,³ as amended by the Receiver's Amendment to Order Appointing Deputy Receiver for Conservation and Rehabilitation⁴ ("Order Appointing Deputy Receiver"), appointed the Deputy Receiver to act on behalf of the Commission in its capacity as Receiver for the period the Commission is the Receiver of the Company.

4. The Receivership Order, the Order Appointing Deputy Receiver, and applicable Virginia law vest title, both legal and equitable, in the Receiver to all of the Company's property, including its affairs, business, assets, records, and all other property of any kind or nature, and give the Receiver and the Deputy Receiver the sole right to conduct the business of the Company and each of its subsidiaries.

5. On June 24, 2011, the Deputy Receiver filed her Application for: (A) a Final Order Approving Rehabilitation Plan (Including Plan of Conversion) and Acquisition of Control, and Granting Related Relief; and (B) a Final Order Terminating Rehabilitation Proceeding ("Application"), reciting that the Deputy Receiver had determined that: (i) the proposed conversion of the Company from a domestic mutual life insurance company to a domestic stock life insurance company pursuant to a plan of conversion ("Plan of Conversion") and rehabilitation would be in the best interests of the Company, its members, policyholders ("Policyholders"), insureds, subscribers, creditors, and the public, and that in connection with the foregoing, she had adopted a plan of rehabilitation ("Rehabilitation Plan") on May 4, 2011; and (ii) the purposes of the rehabilitation proceeding would be accomplished under the Rehabilitation Plan, such that the Company would be able to safely and properly resume possession of its property and the conduct of its business in accordance with the Rehabilitation Plan.⁵

6. By Scheduling Order Setting Hearing and Approving Notice and Response Procedures dated June 27, 2011 ("Scheduling Order"), the Commission set a single hearing on the Rehabilitation Plan, the Plan of Conversion, United Prosperity Life Insurance Company's ("United Prosperity") Application for Approval of Control seeking the Commission's approval of the sale and change of control of the Company and included therein United Prosperity's Form A statement (collectively, "Form A"), and the termination of the rehabilitation proceeding pursuant to § 38.2-1519 (A) of the Code of Virginia, said hearing to be held on October 11, 2011 ("Hearing").

7. The Scheduling Order also approved the notice and response procedures proposed by the Deputy Receiver.

8. The Scheduling Order also provided for the manner in which any interested person could file a notice of objection ("Notice of Objection") to the Rehabilitation Plan (including the Plan of Conversion), the Form A, the proposed termination of the rehabilitation proceeding upon certain conditions set forth in the Application, or the requested related relief.

9. The Commission held the Hearing as scheduled.

10. As of the date of the Hearing, no Notices of Objection were pending.

11. Counsel made appearances at the Hearing on behalf of the Deputy Receiver and United Prosperity. Commissioner of Insurance Jacqueline K. Cunningham, Donald C. Beatty, and Edward A. Dinkel testified at the behest of the Deputy Receiver, and José Montemayor testified at the behest of United Prosperity. No other persons appeared or testified at the Hearing.

12. On October 20, 2011, the Commission entered the Order Approving Rehabilitation Plan, which found that, as of February 12, 2009, on a liquidation basis of accounting, Shenandoah was insolvent as that term is defined in § 38.2-1501 of the Code of Virginia and which granted all relief requested in the Application with the exception of a final order terminating the rehabilitation proceeding.

13. With respect to the proposed termination of the rehabilitation proceeding pursuant to § 38.2-1519 (A) of the Code of Virginia, the Order Approving Rehabilitation Plan found that upon the last to occur of the "Closing," expiration of the "Bar Date," and expiration or termination of any

¹ 2011 S.C.C. Ann. Rept. 163.

² Case No. CL09000673-00.

³ *Commonwealth of Virginia ex rel. State Corporation Commission v. Shenandoah Life Insurance Company*, Case No. INS-2009-00032, 2009 S.C.C. Ann. Rept. 110, Order Appointing Deputy Receiver for Conservation and Rehabilitation (Feb. 12, 2009).

⁴ *Commonwealth of Virginia ex rel. State Corporation Commission v. Shenandoah Life Insurance Company*, Case No. INS-2009-00032, 2011 S.C.C. Ann. Rept. 74, Amendment to Order Appointing Deputy Receiver for Conservation and Rehabilitation (Jan. 10, 2011).

⁵ Application at 7.

"Extension of Moratorium on Cash Withdrawals," as those three terms are defined in the Application, the purposes of the rehabilitation proceeding would be accomplished, and Shenandoah could safely and properly resume possession of its property and the conduct of its business.

14. Accordingly, the Order Approving Rehabilitation Plan directed that if United Prosperity elects not to invoke an Extension of Moratorium on Cash Withdrawals, the Deputy Receiver shall file notice with the Commission for purposes of this Order's findings with respect to § 38.2-1519 (A) of the Code of Virginia, advising that the Bar Date will have expired (with no extensions) and the Rehabilitation Plan will have been fully and successfully completed as of the Closing, whereupon the Commission will enter a final order terminating the rehabilitation proceeding and permitting the Company to resume possession of its property and the management and conduct of its affairs, on the condition that the Closing be effective within twenty-four (24) hours of the entry of said final order. The Deputy Receiver has notified the Commission that United Prosperity has elected not to invoke an Extension of Moratorium on Cash Withdrawals. The Order Approving Rehabilitation Plan further specified that if and when it becomes apparent to the Deputy Receiver and United Prosperity that the Closing and transactions as described in the Application cannot or will not be consummated (*e.g.*, in the event of an incurable and non-waived failure of a condition precedent), the Deputy Receiver and United Prosperity shall as soon as practicable jointly file notice with the Commission of that circumstance and seek appropriate relief.

15. On application of the Deputy Receiver, the Commission entered its Order Establishing Surplus Notes Liquidation Fund, which approved payment of the \$4 million Surplus Notes Liquidation Fund to Wilmington Trust Company in full satisfaction of all of Shenandoah's obligations and liabilities under the Surplus Notes,⁶ at such time after closing of the Rehabilitation Plan as the Deputy Receiver deems appropriate.⁷

DEPUTY RECEIVER'S NOTICE

16. Currently before the Commission is the Deputy Receiver's Notice filed on May 8, 2012. The Notice advises that on December 15, 2011, a special meeting of Shenandoah's Policyholders was convened, at which almost twenty-three thousand (23,000) votes of Policyholders present in person or by proxy were cast, with 97% in favor of the proposal to convert the Company from a mutual life insurance company to a stock insurance company through a statutory conversion, thereby satisfying the requirements of § 38.2-1005.1 of the Code of Virginia.

17. As noted above in the Notice, the Deputy Receiver also informs the Commission that United Prosperity elected not to invoke an Extension of Moratorium on Cash Withdrawals, such that upon Closing the Bar Date will have expired, the Rehabilitation Plan will have been fully and successfully completed, the purposes of the rehabilitation proceeding will have been accomplished, and Shenandoah will be able to safely and properly resume possession of its property and the conduct of its business.

Accordingly, IT IS ORDERED THAT pursuant to § 38.2-1519 (A) of the Code of Virginia, this rehabilitation proceeding and all moratoria are terminated, and Shenandoah is permitted to resume possession of its property and the management and conduct of its affairs on condition that the payment of the Purchase Price described in the Rehabilitation Plan is made by Purchaser identified in the Rehabilitation Plan within twenty-four (24) hours of this Order being entered.

⁶ For additional information on the Surplus Notes and the Surplus Notes Liquidation Fund, see the Deputy Receiver's January 27, 2012, Application for Order Establishing Surplus Notes Liquidation Fund, Doc. Con. Cen. No. 120120187, filed in Case No. INS-2009-00032.

⁷ *Commonwealth of Virginia ex rel. State Corporation Commission v. Shenandoah Life Insurance Company*, Case No. INS-2009-00032, Doc. Con. Cen. No. 120320056, Order Establishing Surplus Notes Liquidation Fund (Mar. 16, 2012).

CASE NO. INS-2011-00196 APRIL 30, 2012

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

WESTERN INSURANCE COMPANY,
Defendant

ORDER TO TAKE NOTICE

Pursuant to § 38.2-1040 of the Code of Virginia, the State Corporation Commission ("Commission") may revoke the license of any insurance company to transact the business of insurance in the Commonwealth of Virginia whenever the Commission finds that the company has been found insolvent by a court of any other state.

Western Insurance Company, a foreign corporation domiciled in the State of Utah ("Defendant"), is licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia.

On September 13, 2011, the Third Judicial District Court of Salt Lake County, State of Utah, issued a Liquidation Order, Declaration of Insolvency, and Restraining Orders against the Defendant. In addition, on September 19, 2011, the Commission entered an Impairment Order against the Defendant due to an impairment in the Defendant's surplus.

Now the Commission's Bureau of Insurance has recommended that the Defendant's license to transact the business of insurance in the Commonwealth of Virginia be revoked.

Accordingly, IT IS ORDERED that the Defendant TAKE NOTICE that the Commission shall enter an order subsequent to May 11, 2012, revoking the license of the Defendant to transact the business of insurance in the Commonwealth of Virginia unless on or before May 11, 2012, the

Defendant files with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, a request for a hearing before the Commission with respect to the proposed revocation of the Defendant's license.

**CASE NO. INS-2011-00196
MAY 29, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
WESTERN INSURANCE COMPANY,
Defendant

ORDER REVOKING LICENSE

In an Order to Take Notice ("Order") entered April 30, 2012, Western Insurance Company, a Utah domiciled insurer ("Defendant") licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia, was ordered to take notice that the Commission would enter an order subsequent to May 11, 2012, revoking the license of the Defendant to transact the business of insurance in the Commonwealth of Virginia unless on or before May 11, 2012, the Defendant filed with the Clerk of the Commission a request for a hearing before the Commission to contest the proposed revocation of the Defendant's license.

The Order was entered upon the recommendation of the Commission's Bureau of Insurance ("Bureau") based on a Liquidation Order, Declaration of Insolvency, and Restraining Order against the Defendant entered on September 13, 2011, by the Third Judicial District Court of Salt Lake County, State of Utah.

As of the date of this Order Revoking License the Defendant has not requested a hearing with regard to the proposed revocation of its license. The Bureau has recommended that the Defendant's license to transact the business of insurance in the Commonwealth of Virginia be revoked.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to § 38.2-1040 of the Code of Virginia, the license of the Defendant to transact the business of insurance in the Commonwealth of Virginia is hereby REVOKED;
- (2) The Defendant shall transact no further business in the Commonwealth of Virginia;
- (3) The Bureau of Insurance shall cause notice of the revocation of the Defendant's license to be published in the manner set forth in § 38.2-1043 of the Code of Virginia; and
- (4) The papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2011-00205
FEBRUARY 17, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
UNITED OF OMAHA LIFE INSURANCE COMPANY,
Defendant

SETTLEMENT ORDER

Based on an investigation conducted by the Bureau of Insurance, it is alleged that the Defendant, duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia, in certain instances, has violated § 38.2-610 of the Code of Virginia, as well as the Settlement Order entered in Case No. INS-2005-00136,¹ by failing to give to applicants for insurance written notice of an adverse underwriting decision in the form approved by the Commission.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been advised of its right to a hearing in this matter, whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth of Virginia the sum of Seven Thousand Five Hundred Dollars (\$7,500), waived its right to a hearing, and agreed to use Virginia's Prototype Adverse Underwriting Decision letter.²

¹ *Commonwealth of Virginia ex rel. State Corporation Commission v. United of Omaha Life Insurance Company*, Case No. INS-2005-00136, Settlement Order (Nov. 30, 2005).

² See Administrative Letter 1981-15, available at <http://www.scc.virginia.gov/boi/adminlets/81-15.pdf>.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Bureau of Insurance has recommended that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau of Insurance, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The offer of the Defendant in settlement of the matter set forth herein be, and it is hereby, accepted; and
- (2) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2011-00220
JANUARY 12, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

HOMELAND HEALTHCARE AGENCY, INC.,
Defendant

SETTLEMENT ORDER

Based on an investigation conducted by the Bureau of Insurance, it is alleged that the Defendant, duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia, violated §§ 38.2-1812 and 38.2-1822 of the Code of Virginia by paying a commission for services as an agent to a person who was not properly licensed and appointed, and by knowingly permitting a person to act as an insurance agent without such person first obtaining a license in the manner and form prescribed by the Commission.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been advised of its right to a hearing in this matter, whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth of Virginia the sum of Fifteen Thousand Dollars (\$15,000), waived its right to a hearing, agreed to the entry by the Commission of a cease and desist order, and agreed to comply with the Corrective Action Plan set forth in its letter to the Bureau of Insurance dated December 30, 2011.

The Bureau of Insurance has recommended that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau of Insurance, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The offer of the Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
 - (2) The Defendant cease and desist from any future conduct which constitutes a violation of § 38.2-1812 or § 38.2-1822 of the Code of Virginia;
- and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2011-00231
APRIL 11, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

HEALTH CARE SERVICE CORPORATION, A MUTUAL LEGAL RESERVE COMPANY,
Defendant

FINAL ORDER

Health Care Service Corporation, a Mutual Legal Reserve Company ("Defendant"), a foreign corporation domiciled in the State of Illinois, is licensed to transact the business of insurance in the Commonwealth of Virginia.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

By Order to Take Notice entered herein November 22, 2011, the Defendant was ordered to take notice that subsequent to December 18, 2011, the State Corporation Commission ("Commission") would enter an order suspending the Defendant's license to transact the business of insurance in the Commonwealth of Virginia unless on or before December 18, 2011, the Defendant requested a hearing with respect to the proposed suspension of its license. The Order to Take Notice was entered due to the Defendant's failure to obtain a certificate of quality assurance from the Virginia Department of Health as required by § 38.2-5801 of the Code of Virginia.

By letter dated December 15, 2011, the Defendant requested a hearing with respect to the proposed suspension of its license. By letter dated March 12, 2012, the Defendant informed the Bureau of Insurance that, effective March 5, 2012, the Office of Licensure and Certification of the Virginia Department of Health issued a certificate of quality assurance to the Defendant.

In light of the foregoing the Bureau of Insurance has recommended that the Order to Take Notice entered by the Commission in this matter be dismissed and this case be closed.

NOW THE COMMISSION, having considered the record herein and the recommendation of the Bureau of Insurance, is of the opinion that the Order to Take Notice entered by the Commission should be dismissed.

Accordingly, IT IS ORDERED THAT:

- (1) The Order to Take Notice entered by the Commission is hereby DISMISSED;
- (2) This case is hereby CLOSED; and
- (3) The papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2011-00233
SEPTEMBER 7, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
ROCCO DeLEONARDIS,
LAND TITLE, LLC,
LAND TITLE GROUP, LLC,
LAND TITLE SETTLEMENTS, LLC,
LAND TITLE AMERICA, LLC,
and
LAND TITLE MARYLAND, LLC,
Defendants

SETTLEMENT ORDER

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), the Bureau alleges as follows:

(1) Rocco DeLeonardis ("DeLeonardis"), Land Title, LLC ("Land Title"), Land Title Group, LLC ("LTG"), Land Title Settlements, LLC ("LTS"), Land Title America, LLC ("LTA"), and Land Title Maryland, LLC ("LTM") (collectively, "Defendants"), were duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth"). The Defendants were in the business of selling title insurance and conducting escrow, closing, or settlements on transactions involving the purchase of or lending on the security of real estate located in Virginia, Maryland, and the District of Columbia ("D.C.").

(2) The Defendants, on more than one occasion, violated §§ 55-525.24 B¹ of the Code of Virginia ("Code") by failing to distribute funds deposited in connection with an escrow, settlement or closing in a fiduciary capacity.

(3) The Defendants also violated § 55-525.27 of the Code, as well as 14 VAC 5-395-70, *Access to records*, of the Commission's Rules Governing Settlement Agents, 14 VAC 5-395-10 *et seq.*, by failing to retain records pertaining to each settlement handled for a minimum of five (5) years after the settlement is completed and by failing to make all escrow, closing or settlement records available promptly upon request for examination by the Bureau.

(4) DeLeonardis was the designated licensed producer for Land Title, LTG, LTS, LTA and LTM (collectively, "Defendant agencies"). As the designated licensed agent, he was responsible for the Defendant agencies' compliance with all the rules, regulations and laws governing insurance within the Commonwealth, which included acting as a fiduciary over all client funds held in escrow and maintaining all client files associated with transactions involving the purchase of or lending on the security of real estate located in Virginia. DeLeonardis delegated his responsibility for compliance to others but failed to properly supervise these individuals in the distribution of client funds and the production of books and records to the Bureau that resulted in the violations mentioned herein.

¹ The Real Estate Settlement Agents Act, § 55-525.16 *et seq.* of the Code ("RESA"), was formerly the Consumer Real Estate Settlement Protection Act ("CRESPA"), § 6.1-2.19 *et seq.* of the Code. The provisions of Title 6.1 were repealed effective October 1, 2010, and replaced with various provisions in Title 55 of the Code.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

(5) From 2002 through 2006, the Defendants entered into separate agreements with Chicago Title Insurance Company ("Chicago Title") to act as agents of Chicago Title for the purpose of issuing title insurance commitments, policies, and endorsements on real estate located in Virginia, Maryland, and D.C.. The Defendants also issued closing protection letters to mortgage lenders in conjunction with closing services they provided, placing liability on Chicago Title for resulting loss or damage incurred by its insureds due to any defects in closing resulting from the failure of the Defendants to properly disburse escrowed funds or to file or record necessary closing documents.

(6) The Defendants maintained various operating and escrow accounts with Alliance Bank. These escrow accounts were separate and established to segregate funds from closings performed on real property that was located in Virginia from settlement funds involving property located in Maryland or D.C. The Defendants maintained a fiduciary obligation over the funds in each of these accounts.

(7) As required by former § 6.1-2.21 of the Code (now codified at § 55-525.20), Chicago Title conducted annual audits of the Defendants' escrow accounts to determine whether funds deposited in escrow with the Defendant agencies were handled according to the provisions of CRESPA (now RESA) and the Commission's Rules Governing Settlement Agents, 14 VAC 5-395-10, *et seq.*

(8) During 2007, the Bureau received audit reports from Chicago Title informing the Bureau that the Defendants had ceased operations and that the agency bookkeeper was working on all of the escrow accounts to ensure remaining funds were properly disbursed. Because client funds had not been disbursed, the Defendants maintained positive balances in their Virginia escrow accounts, as well as their Maryland and D.C. escrow accounts. From October 2007, when the Defendant agencies ceased operating, until February 2009, the bookkeeper made progress in disbursing the remaining funds.

(9) In the fall of 2010, the bookkeeper advised the Bureau she was no longer involved with the Defendants and that there had been no activity or distributions made from the escrow accounts since February 2009. The Defendants subsequently delegated the responsibility for distribution to a third party. However, the Defendants made no further distributions to clients after this time period, and escrowed funds remained outstanding.

(10) Thereafter, the Bureau made several requests for the books, records and bank account statements of the client files associated with the real estate transactions at issue from both the Defendants and the third party in order to determine which individuals had outstanding funds owed to them. The Defendants ultimately failed to produce any books and records associated with the client files having outstanding escrowed funds, and the Bureau has not been able to determine whether client funds held in escrow have been properly disbursed. Nearly One Hundred Eighteen Thousand Dollars (\$118,000) in escrowed funds for Virginia individuals remain unaccounted for by the Defendants.

The Commission is authorized by §§ 38.2-218, 38.2-219, 38.2-1831, and 55-525.31 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendants' licenses upon a finding by the Commission, after notice and opportunity to be heard, that the Defendants have committed the aforesaid alleged violations.

The Defendants have been advised of their right to a hearing in this matter, whereupon the Defendants, admitting to the violations of Virginia law, have made an offer of settlement to the Commission wherein the Defendants will abide by and comply with the following terms and conditions:

(1) The Defendants shall pay to the Commonwealth the sum of Thirty Thousand Dollars (\$30,000) in penalties. The Defendants shall pay the sum of Three Thousand Dollars (\$3,000) on the date of entry of this Order. The remaining balance shall be paid by the Defendants within six (6) months from the date of entry of this Order.

(2) The Defendants are permanently enjoined from directly or indirectly transacting the business of insurance or any business related to insurance or the insurance industry in the Commonwealth.

The Bureau has recommended that the Commission accept the offer of settlement of the Defendants pursuant to the authority granted the Commission in § 12.1-15 of the Code. Further, the Hearing Examiner assigned to conduct proceedings related to these allegations issued a Report on July 10, 2012, recommending that the offer of settlement be accepted.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendants, and the recommendations of the Bureau and of the Hearing Examiner, is of the opinion that the Defendants' offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The findings and recommendations of the July 10, 2012 Hearing Examiner's Report are hereby adopted.
- (2) The offer of the Defendants in settlement of the matter set forth herein is hereby accepted.
- (3) The Defendants are enjoined from any conduct that constitutes a violation of §§ 55-525.24 or 55-525.27 of the Code.
- (4) This case is dismissed, and the papers filed herein shall be placed in the file for ended causes.

**CASE NO. INS-2011-00234
JANUARY 12, 2012**

COMMONWEALTH OF VIRGINIA
At the relation of the
STATE CORPORATION COMMISSION
v.
OPTIMUM CHOICE, INC.,
Defendant

SETTLEMENT ORDER

Based on an investigation conducted by the Bureau of Insurance, it is alleged that the Defendant, duly licensed by the State Corporation Commission ("Commission") to transact the business of a health maintenance organization in the Commonwealth of Virginia, in certain instances, has violated 14 VAC 5-211-90 B by failing to comply with copayment maximum recordkeeping and notification requirements.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-4316 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been advised of its right to a hearing in this matter, whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth of Virginia the sum of Seven Thousand Five Hundred Dollars (\$7,500), waived its right to a hearing, and agreed to comply with the Corrective Action Plan for the time period of January 1, 2004, through August 1, 2011, as outlined in its settlement letter to the Bureau dated December 21, 2011. Additionally, the Bureau of Insurance has reported to the Commission that the Defendant acted in good faith and proactively took prompt corrective action on this matter.

The Bureau of Insurance has recommended that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau of Insurance, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The offer of the Defendant in settlement of the matter set forth herein be, and it is hereby, accepted; and
- (2) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2011-00238
DECEMBER 14, 2012**

PETITION OF
JOHN J. FRANKO

For review of Shenandoah Life Insurance Company Deputy Receiver's Determination of Appeal

FINAL ORDER

On February 12, 2009, the Circuit Court of the City of Richmond in Cause No. CH-09-673, entered an order appointing the State Corporation Commission ("Commission") as Receiver of Shenandoah Life Insurance Company ("Shenandoah"). In addition, on February 12, 2009, the Commission, by Order Appointing Deputy Receiver for Conservation and Rehabilitation, appointed Alfred W. Gross, Commissioner for the Commission's Bureau of Insurance, as Deputy Receiver, in accordance with Title 38.2, Chapter 15 of the Code of Virginia.¹ Pursuant to his grant of authority, the Deputy Receiver, in his Second Directive of Deputy Receiver Adopting Receivership Appeal Procedure, established appeal procedures for appeals or challenges of any decision made by the Deputy Receiver with respect to claims made against Shenandoah.²

On October 31, 2011, John J. Franko ("Petitioner") filed a Petition for Review ("Petition") with the Commission contesting the Deputy Receiver's determination of his Hardship Request made in connection with Shenandoah Life Policy No. 1042139.

By Order dated December 21, 2011, the Commission docketed the Petition, assigned the matter to a Hearing Examiner, and directed the Deputy Receiver to file an Answer or other responsive pleading to the Petition on or before January 16, 2012.

¹ *Commonwealth ex rel. State Corp. Comm'n v. Shenandoah Life Ins. Co.*, Case No. INS-2009-00032, 2009 S.C.C. Ann. Rept. 110, Order Appointing Deputy Receiver for Conservation and Rehabilitation (Feb. 12, 2009). The Commission subsequently entered an Order appointing Jacqueline K. Cunningham as Deputy Receiver of Shenandoah. 2011 S.C.C. Ann. Rept. 74, Amendment to Order Appointing Deputy Receiver for Conservation and Rehabilitation (Jan. 10, 2011).

² This document is part of Case No. INS-2009-00032 and may be found at: <https://www.shenlife.com/home/wcm/ReceivershipDocuments.html>

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

On October 10, 2012, Shenandoah filed a Motion to Dismiss ("Motion") and Memorandum in Support of Motion to Dismiss. In support of its Motion, Shenandoah stated that it is no longer in receivership and that all policy owners, including the Petitioner, may now surrender their policies at any time. Shenandoah further stated that the Petitioner had been informed of this fact. Shenandoah claimed the Petition is moot and should be dismissed.

NOW THE COMMISSION, upon consideration of the record herein, is of the opinion that Shenandoah's Motion should be granted.

Accordingly, IT IS ORDERED THAT:

1. The Motion to Dismiss is hereby GRANTED.
2. The Petition for Review of John J. Franko is hereby DISMISSED.
3. The case is dismissed, and the papers herein shall be passed to the file for ended causes.

**CASE NO. INS-2011-00241
FEBRUARY 17, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

ALPHA PROPERTY & CASUALTY INSURANCE COMPANY,
Defendant

SETTLEMENT ORDER

Based on a market conduct examination performed by the Bureau of Insurance, it is alleged that the Defendant, duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia, violated § 38.2-502 of the Code of Virginia ("Code") by misrepresenting the benefits, advantages, conditions or terms of an insurance policy; violated § 38.2-610 A of the Code by failing to give to applicants for insurance written notice of an adverse underwriting decision in the form approved by the Commission; violated § 38.2-1906 D of the Code by making or issuing insurance contracts or policies not in accordance with the rate and supplementary rate information filings in effect for the Defendant; violated §§ 38.2-2208 A, 38.2-2208 B, 38.2-2212 E, and 38.2-2212 F of the Code by failing to properly terminate policies; and violated § 38.2-2220 of the Code by using forms that did not contain the precise language of the standard form filed and adopted by the Commission.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been advised of its right to a hearing in this matter, whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth of Virginia the sum of Fifteen Thousand Dollars (\$15,000), waived its right to a hearing, agreed to comply with the Corrective Action Plan set forth in its letter to the Bureau of Insurance dated December 5, 2011, and confirmed that restitution was made to seven (7) consumers in the amount of Eighty-nine Dollars and Sixty-one Cents (\$89.61).

The Bureau of Insurance has recommended that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau of Insurance, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The offer of the Defendant in settlement of the matter set forth herein be, and it is hereby, accepted; and
- (2) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2011-00242
JANUARY 24, 2012**

COMMONWEALTH OF VIRGINIA
At the relation of the
STATE CORPORATION COMMISSION
v.
GRANITE STATE INSURANCE COMPANY,
Defendant

SETTLEMENT ORDER

Based on a market conduct examination performed by the Bureau of Insurance, it is alleged that the Defendant, duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia, violated §§ 38.2-517 A 3, 38.2-604 B, 38.2-604.1 B, 38.2-1905 A, 38.2-2202 B, and 38.2-2230 of the Code of Virginia by failing to accurately provide the required notices to insureds; violated § 38.2-1906 D by making or issuing insurance contracts or policies not in accordance with the rate and supplementary rate information filings in effect for the Defendant; violated § 38.2-2201 B by failing to obtain authorization from the insureds prior to paying the medical provider; violated §§ 38.2-2208 B and 38.2-2212 F by failing to properly terminate policies; and violated § 38.2-510 A, as well as 14 VAC 5-400-30, 14 VAC 5-400-40 A, 14 VAC 5-400-60 B, 14 VAC 5-400-70 D, and 14 VAC 5-400-80 D, by failing to properly handle claims with such frequency as to indicate a general business practice.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been advised of its right to a hearing in this matter, whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth of Virginia the sum of Eighteen Thousand One Hundred Dollars (\$18,100), waived its right to a hearing, and confirmed that restitution was made to five consumers in the amount of One Thousand Four Hundred Sixty Dollars and Forty-two Cents (\$1,460.42).

The Bureau of Insurance has recommended that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau of Insurance, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The offer of the Defendant in settlement of the matter set forth herein be, and it is hereby, accepted; and
- (2) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2012-00001
FEBRUARY 22, 2012**

PETITION OF
ANTHEM HEALTH PLANS OF VIRGINIA, INC.
and
HEALTHKEEPERS, INC.

For approval to have contractors located outside of the United States conduct medical review of post service claims

FINAL ORDER

On January 19, 2012, Anthem Health Plans of Virginia, Inc., and HealthKeepers, Inc. (collectively, "Anthem" or "Petitioners"), filed a Petition ("Petition") under Rule 5 VAC 5-20-80, *Regulatory proceedings*, of the State Corporation Commission's ("Commission") Rules of Practice and Procedure, 5 VAC 5-20-10 *et seq.*, and the Final Order entered in Case No. INS-2007-00141 ("Final Order").¹ In the Final Order, the Commission continued the requirement that the Petitioners cause the following services to be provided from offices located in Virginia: claims processing and case management, customer service, quality management, provider services, medical management, and network development.² The Commission permitted the Petitioners to provide the following services from offices located outside of Virginia: actuarial, underwriting, marketing, community relations, distribution management, and sales.³ In its Final Order, the Commission also provided that if Anthem seeks to provide any of the aforementioned services currently required to be provided from offices located in Virginia from offices located outside of Virginia, it should file a petition with the Commission "setting forth a specific and

¹ *Petition of Anthem Health Plans of Virginia, Inc., Healthkeepers, Inc., Priority Health Care, Inc., Peninsula Health Care, Inc., WellPoint, Inc., Anthem Southeast, Inc., For Amendment of Final Order in Case No. INS-2002-00131, Case No. INS-2007-00141, 2007 S.C.C. Ann. Rept. 114, Final Order (Aug. 9, 2007).*

² *Id.* at 115-16.

³ *Id.* at 115.

detailed proposal for providing such services out of state, including specific and detailed information on *how* and *where* Anthem will provide such services, as well as safeguards for ensuring adequate levels of service."⁴

In the Petition, Anthem seeks approval to conduct medical reviews of post service claims from a location outside the United States. The Petitioners state that denials of claims that are the subject of this Petition will not be performed outside of Virginia, and claims requiring further review will be sent back on-shore for further processing. The Petitioners also assert that where telephone contact is required to complete a medical records review, such acts will also be undertaken by on-shore associates.⁵

On January 19, 2012, the Commission entered a Scheduling Order in which it provided a deadline of February 3, 2012, for interested persons to comment or to file a notice of participation as a respondent in this matter and for the Bureau of Insurance ("Bureau") to file a response to the Petition.

On February 3, 2012, the Division of Consumer Counsel, Office of the Attorney General ("Consumer Counsel"), filed comments ("Comments"). Consumer Counsel states that it believes that the Commission should require Petitioners to demonstrate that consolidation of services outside of Virginia is in the best interests of the policyholders, enrollees and the public, including health care providers, in Virginia.⁶

On January 30, 2012, the Bureau filed its Response to the Petition. The Bureau states that it does not oppose the relief requested by the Petitioners.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the Petition should be granted.

Accordingly, IT IS ORDERED THAT:

(1) Anthem's Petition is GRANTED.

(2) Anthem is permitted to utilize contractors outside of Virginia and the United States to perform reviews to determine medical necessity of services with respect to certain post service claims. All denials of claims must be done from offices located in Virginia, and further review of claims requiring such review must be performed from offices located in Virginia.

(3) The other provisions of the Final Order in Case No. INS-2007-00141 are not affected hereby, and Anthem shall continue to comply therewith.

(4) This matter is dismissed and the papers filed herein shall be placed in the file for ended causes.

⁴ *Id.* at 116, para. 4 (emphasis in original).

⁵ Petition at 2.

⁶ Comments at 3.

**CASE NO. INS-2012-00002
JANUARY 19, 2012**

COMMONWEALTH OF VIRGINIA
At the relation of the
STATE CORPORATION COMMISSION
v.
PETFIRST HEALTHCARE, LLC,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance, it is alleged that the Defendant, duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia, violated § 38.2-1826 C of the Code of Virginia by failing to report to the Commission within thirty (30) days administrative actions that were taken against it by the State of Florida and the State of Massachusetts.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been notified of its right to a hearing before the Commission in this matter by certified letter dated November 29, 2011, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

The Defendant, having been advised in the above manner of its right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau of Insurance.

The Bureau of Insurance, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth of Virginia as an insurance agent.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 C of the Code of Virginia by failing to report to the Commission within thirty (30) days administrative actions that were taken against it by the State of Florida and the State of Massachusetts.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED;
- (2) All appointments issued under said licenses are hereby VOID;
- (3) The Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) The Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order;
- (5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia; and
- (6) The papers herein be placed in the file for ended causes.

**CASE NO INS-2012-00002
FEBRUARY 9, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
PETFIRST HEALTHCARE, LLC,
Defendant

ORDER GRANTING RECONSIDERATION

On January 19, 2012, the State Corporation Commission ("Commission") issued an Order Revoking License in this docket. On February 3, 2012, the Defendant filed a Petition for Reconsideration requesting that the Commission reconsider the revocation of its Virginia insurance agent's license.

NOW THE COMMISSION, upon consideration of this matter, grants reconsideration for the purposes of continuing jurisdiction over this matter to consider the above-referenced request.

According, IT IS ORDERED THAT:

- (1) Reconsideration is granted for the purpose of continuing jurisdiction over this matter to consider the above-referenced request.
- (2) This matter is continued pending further order of the Commission.

**CASE NO. INS-2012-00002
FEBRUARY 22, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
PETFIRST HEALTHCARE, LLC,
Defendant

ORDER ON RECONSIDERATION

By Order Revoking License entered on January 19, 2012, the State Corporation Commission ("Commission") ordered, among other things, the revocation of the license of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia for violating § 38.2-1826 C of the Code of Virginia by failing to report to the Commission within thirty (30) days administrative actions that were taken against it by the State of Florida and the State of Massachusetts.

On February 3, 2012, the Defendant filed a Petition for Reconsideration in which it requested that its license be reinstated.

By Order entered on February 9, 2012, the Commission granted reconsideration for the purpose of continuing our jurisdiction over this matter and considering the Defendant's request.

The Defendant has subsequently made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth of Virginia the sum of Five Hundred Dollars (\$500) and waived its right to a hearing.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Bureau of Insurance has recommended that the Commission reinstate the Defendant's license, and it further recommends that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

NOW THE COMMISSION, upon further reconsideration of this matter and having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau of Insurance, is of the opinion that the Defendant's license should be reinstated and its offer of settlement accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The Defendant's request for reconsideration is hereby GRANTED;
- (2) The Order of January 19, 2012, is VACATED;
- (3) The Defendant's license is hereby REINSTATED;
- (4) The offer of the Defendant in settlement of the matter set forth herein be, and it is hereby, accepted; and
- (5) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2012-00003
JANUARY 25, 2012**

COMMONWEALTH OF VIRGINIA
At the relation of the
STATE CORPORATION COMMISSION
v.
RYAN ALLEN CAUDLE,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance, it is alleged that the Defendant, duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia, violated §§ 38.2-512, 38.2-1809, 38.2-1813, and 38.2-1826 of the Code of Virginia by making false or fraudulent statements or representations on or relative to an application or any document or communication relating to the business of insurance for the purpose of obtaining a fee, commission, money, or other benefit from any insurer, agent, broker, premium finance company, or individual; by failing to make records available promptly upon request for examination by the Commission or its employees; by failing to hold all premiums, return premiums, or other funds received by the Defendant in a fiduciary capacity; by failing to pay funds in the ordinary course of business to the insured or his assignee, insurer, insurance premium finance company or agent entitled to the payment; and by failing to report within thirty days to the Commission and to every insurer for which he is appointed a change in his residence address.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated November 30, 2011, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau of Insurance.

The Bureau of Insurance, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth of Virginia as an insurance agent.

THE COMMISSION is of the opinion and finds that the Defendant has violated §§ 38.2-512, 38.2-1809, 38.2-1813, and 38.2-1826 of the Code of Virginia by making false or fraudulent statements or representations on or relative to an application or any document or communication relating to the business of insurance for the purpose of obtaining a fee, commission, money, or other benefit from any insurer, agent, broker, premium finance company, or individual; by failing to make records available promptly upon request for examination by the Commission or its employees; by failing to hold all premiums, return premiums, or other funds received by the Defendant in a fiduciary capacity; by failing to pay funds in the ordinary course of business to the insured or his assignee, insurer, insurance premium finance company or agent entitled to the payment; and by failing to report within thirty days to the Commission and to every insurer for which he is appointed a change in his residence address.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED;
- (2) All appointments issued under said licenses are hereby VOID;
- (3) The Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;

(4) The Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order;

(5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia; and

(6) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2012-00004
JANUARY 30, 2012**

COMMONWEALTH OF VIRGINIA
At the relation of the
STATE CORPORATION COMMISSION

v.
DON RUSSELL HANDLEY, JR.,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance, it is alleged that the Defendant, duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia, violated § 38.2-1826 C of the Code of Virginia by failing to report to the Commission within thirty days administrative actions that were taken against him by the State of Oklahoma.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated January 10, 2012, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau of Insurance.

The Bureau of Insurance, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth of Virginia as an insurance agent.

THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 C of the Code of Virginia by failing to report to the Commission within thirty days administrative actions that were taken against him by the State of Oklahoma.

Accordingly, IT IS ORDERED THAT:

(1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED;

(2) All appointments issued under said licenses are hereby VOID;

(3) The Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;

(4) The Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order;

(5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia; and

(6) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2012-00006
JANUARY 19, 2012**

COMMONWEALTH OF VIRGINIA
At the relation of the
STATE CORPORATION COMMISSION
v.
MYRON P. UBL,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance, it is alleged that the Defendant, duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia, violated § 38.2-1826 C of the Code of Virginia by failing to report to the Commission within thirty (30) days an administrative action that was taken against him by the State of Massachusetts.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated December 14, 2011, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau of Insurance.

The Bureau of Insurance, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth of Virginia as an insurance agent.

THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 C of the Code of Virginia by failing to report to the Commission within thirty (30) days an administrative action that was taken against him by the State of Massachusetts.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED;
- (2) All appointments issued under said licenses are hereby VOID;
- (3) The Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) The Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order;
- (5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia; and
- (6) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2012-00007
JANUARY 19, 2012**

COMMONWEALTH OF VIRGINIA
At the relation of the
STATE CORPORATION COMMISSION
v.
BENJAMIN L. TINDAL,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance, it is alleged that the Defendant, duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia, violated § 38.2-1826 C of the Code of Virginia by failing to report to the Commission within thirty (30) days an administrative action that was taken against him by the State of Pennsylvania.

The Commission is authorized by §§ 38 .2-218, 38 .2-219, and 38 .2-1831 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated November 16, 2011, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau of Insurance.

The Bureau of Insurance, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth of Virginia as an insurance agent.

THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 C of the Code of Virginia by failing to report to the Commission within thirty (30) days an administrative action that was taken against him by the State of Pennsylvania.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED;
- (2) All appointments issued under said licenses are hereby VOID;
- (3) The Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) The Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order;
- (5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia; and
- (6) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2012-00010
JANUARY 25, 2012**

COMMONWEALTH OF VIRGINIA
At the relation of the
STATE CORPORATION COMMISSION
v.
DAVID C. JOHNSON,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance, it is alleged that the Defendant, duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia, violated § 38.2-1826 C of the Code of Virginia by failing to report to the Commission within thirty days an administrative action that was taken against him by the State of Alabama.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated November 29, 2011, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau of Insurance.

The Bureau of Insurance, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth of Virginia as an insurance agent.

THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 C of the Code of Virginia by failing to report to the Commission within thirty days an administrative action that was taken against him by the State of Alabama.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED;
- (2) All appointments issued under said licenses are hereby VOID;
- (3) The Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

(4) The Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order;

(5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia; and

(6) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2012-00013
JANUARY 31, 2012**

APPLICATION OF
NATIONAL STATES INSURANCE COMPANY

For approval of an assumption reinsurance agreement pursuant to § 38.2-136 C of the Code of Virginia

ORDER APPROVING APPLICATION

On January 23, 2012, National States Insurance Company, in liquidation ("Petitioner"), by its Liquidator, the Director of the Missouri Department of Insurance, Financial Institutions & Professional Registration, by and through counsel, filed with the State Corporation Commission ("Commission") an application requesting approval of an assumption reinsurance agreement among the Petitioner, the National Organization of Life and Health Insurance Guaranty Associations, and Family Life Insurance Company, a Texas-domiciled insurer licensed to transact the business of insurance in the Commonwealth of Virginia ("Family Life"), pursuant to § 38.2-136 C of the Code of Virginia.

On November 15, 2010, the Circuit Court of Cole County, Missouri, entered an order placing the Petitioner into rehabilitation. On April 5, 2011, the Commission entered an order revoking the Petitioner's Certificate of Authority as of March 31, 2011.

Effective June 30, 2011, Family Life entered into an assumption reinsurance agreement that provided for assuming certain life insurance policies from the Petitioner.

On July 15, 2011, the Circuit Court of Cole County, Missouri, approved the reinsurance agreement, ruling the agreement was in the best interest of the Petitioner, its policyholders and creditors.

Pursuant to § 38.2-136 C of the Code of Virginia, the Petitioner has requested that the Commission waive the policyholder consent to this transaction as required by § 38.2-136 B of the Code of Virginia by finding that the transfer of the policies to Family Life is in the best interest of policyholders.

The Bureau of Insurance, having reviewed the application to ensure that Virginia policyholders will not lose any rights or claims afforded under their original contracts pursuant to Chapter 17 of Title 38.2 of the Code of Virginia, has recommended that the application be approved.

NOW THE COMMISSION, having considered the application, the recommendation of the Bureau of Insurance that the application be approved, and the law applicable hereto, is of the opinion that the application should be approved.

Accordingly, IT IS ORDERED THAT the application of National States Insurance Company, in Liquidation, for the approval of the reinsurance agreement pursuant to § 38.2-136 C of the Code of Virginia be, and it is hereby, APPROVED.

**CASE NO. INS-2012-00014
JULY 26, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

Ex Parte: In the matter of adoption of adjusted prima facie rates for credit life and credit accident and sickness insurance pursuant to §§ 38.2-3725, 38.2-3726, 38.2-3727 and 38.2-3730 of the Code of Virginia

**ORDER ADOPTING ADJUSTED PRIMA FACIE RATES
FOR THE TRIENNIUM COMMENCING JANUARY 1, 2013**

Pursuant to an Order Scheduling Hearing entered May 30, 2012, after notice to all insurers licensed by the Bureau of Insurance ("Bureau") to transact the business of credit life insurance and credit accident and sickness insurance in the Commonwealth of Virginia, the State Corporation Commission ("Commission") conducted a hearing on July 12, 2012, for the purpose of determining the actual loss ratio for credit life insurance and credit accident and sickness insurance and adjusting the prima facie rates in accordance with §§ 38.2-3726 and 38.2-3727 of the Code of Virginia by applying the ratio of the actual loss ratio to the loss ratio standard set forth in § 38.2-3725 of the Code of Virginia to the prima facie rates. These rates are to be effective for the triennium commencing January 1, 2013.

Represented by its counsel, the Bureau, by its witness, appeared before the Commission in support of the proposed adjusted prima facie rates. No notices of participation were filed, no written comments were received, and no public witnesses appeared before the Commission.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

NOW THE COMMISSION, having considered the record, the recommendation of the Bureau and the law applicable to these issues, is of the opinion and finds and ORDERS:

(1) The adjusted prima facie rates for credit life insurance and credit accident and sickness insurance, as proposed by the Bureau, which are attached hereto and made a part hereof, should be, and they are hereby, ADOPTED pursuant to the provisions of Chapter 37.1 of Title 38.2 of the Code of Virginia and shall be effective for the triennium commencing January 1, 2013.

(2) This case is dismissed, and the papers filed herein shall be passed to the file for ended causes.

**CASE NO. INS-2012-00015
JANUARY 30, 2012**

COMMONWEALTH OF VIRGINIA
At the relation of the
STATE CORPORATION COMMISSION

v.
BROCK ALLEN CARTWRIGHT,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance, it is alleged that the Defendant, duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia, violated § 38.2-502 of the Code of Virginia by misrepresenting the benefits, advantages, conditions or terms of an insurance policy.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated December 5, 2011, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau of Insurance.

The Bureau of Insurance, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth of Virginia as an insurance agent.

THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-502 of the Code of Virginia by misrepresenting the benefits, advantages, conditions or terms of an insurance policy.

Accordingly, IT IS ORDERED THAT:

(1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED;

(2) All appointments issued under said licenses are hereby VOID;

(3) The Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;

(4) The Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order;

(5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia; and

(6) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2012-00017
JANUARY 30, 2012**

COMMONWEALTH OF VIRGINIA
At the relation of the
STATE CORPORATION COMMISSION
v.
ZAYAN TAKAFUL, LLC,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance, it is alleged that the Defendant, duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia, violated § 38.2-1826 C of the Code of Virginia by failing to report to the Commission within thirty days an administrative action that was taken against it by the State of Massachusetts.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

The Defendant has been notified of its right to a hearing before the Commission in this matter by certified letter dated January 4, 2012, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

The Defendant, having been advised in the above manner of its right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau of Insurance.

The Bureau of Insurance, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth of Virginia as an insurance agent.

THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 C of the Code of Virginia by failing to report to the Commission within thirty days an administrative action that was taken against it by the State of Massachusetts.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED;
- (2) All appointments issued under said licenses are hereby VOID;
- (3) The Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) The Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order;
- (5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia; and
- (6) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2012-00018
JANUARY 30, 2012**

COMMONWEALTH OF VIRGINIA
At the relation of the
STATE CORPORATION COMMISSION
v.
JAMES TIMOTHY SHELNUT,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance, it is alleged that the Defendant, duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia, violated § 38.2-1826 C of the Code of Virginia by failing to report to the Commission within thirty days an administrative action that was taken against him by the State of Washington.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated January 4, 2012, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau of Insurance.

The Bureau of Insurance, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth of Virginia as an insurance agent.

THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 C of the Code of Virginia by failing to report to the Commission within thirty days an administrative action that was taken against him by the State of Washington.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED;
- (2) All appointments issued under said licenses are hereby VOID;
- (3) The Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) The Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order;
- (5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia; and
- (6) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2012-00025
FEBRUARY 15, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
FIRST SEALORD SURETY, INC.,
Defendant

ORDER TO TAKE NOTICE

Section 38.2-1040 of the Code of Virginia ("Code") provides that the State Corporation Commission ("Commission") may suspend or revoke the license of any insurance company to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth") whenever the Commission finds that the company "is in a condition that any further transaction of business in this Commonwealth is hazardous to its policyholders, creditors and public in this Commonwealth."

Section 38.2-1038 of the Code provides that the Commission may order an insurer to take appropriate action whenever the Commission finds, after review of an insurer's financial condition, method of operation, or manner of doing business, that the company is in a condition that any further transaction of business in this Commonwealth is hazardous to its policyholders, creditors and public in the Commonwealth.

Chapter 290 of Title 14 of the Virginia Administrative Code provides standards that the Commission may use for identifying insurers in hazardous financial condition. Pursuant to Rule 14 VAC 5-290-30, *Standards*, if an insurer's operating loss over the last twelve (12) months, or any shorter period of time, is greater than 50% of the insurer's remaining surplus to policyholders in excess of the minimum required, or if an insurer's surplus to policyholders over and above the insurer's statutorily required surplus to policyholders has decreased by more than 50% in the preceding twelve (12) months, or any shorter period of time, the Commission may deem such condition to be hazardous to policyholders, creditors, and the general public.

First Sealord Surety, Inc., a foreign corporation domiciled in the state of Pennsylvania ("Defendant"), is licensed by the Commission to transact the business of insurance in the Commonwealth.

The Defendant timely filed its September 30, 2011, Quarterly Statement with the Bureau of Insurance ("Bureau"), reporting an operating loss of \$10,042,729. The operating loss is greater than 50% of the Defendant's remaining surplus to policyholders in excess of the minimum requirement of \$1,000,000 in capital and \$3,000,000 in surplus. The Defendant's September 30, 2011, Quarterly Statement further reveals that its surplus to policyholders decreased from \$10,112,401 at January 1, 2011, to \$5,132,765 at September 30, 2011. This decrease is greater than 50% of the Defendant's excess of surplus to policyholders over and above the minimum requirement.

The Bureau has recommended that, based on the foregoing, the license of the Defendant to transact the business of insurance in the Commonwealth be suspended.

Accordingly, IT IS ORDERED THAT the Defendant TAKE NOTICE that the Commission shall enter an order subsequent to February 27, 2012, suspending the license of the Defendant to transact new insurance business in the Commonwealth unless on or before February 27, 2012, the

Defendant files with Joel H. Peck, Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, a request for a hearing before the Commission with respect to the proposed suspension of the Defendant's license.

**CASE NO. INS-2012-00025
MARCH 20, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
FIRST SEALORD SURETY, INC.,
Defendant

ORDER SUSPENDING LICENSE

In an Order entered herein February 15, 2012, First Sealord Surety, Inc., a Pennsylvania corporation ("Defendant") licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia, was ordered to take notice that the Commission would enter an order subsequent to February 27, 2012, suspending the license of the Defendant to transact new insurance business unless on or before February 27, 2012, the Defendant filed with the Clerk of the Commission a request for a hearing before the Commission to contest the proposed suspension of the Defendant's license.

The Order to Take Notice was entered due to financial regulatory concerns.

As of the date of this Order, the Defendant has not filed a request to be heard before the Commission with respect to the proposed suspension of the Defendant's license.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to § 38.2-1040 of the Code of Virginia, the license of the Defendant to transact the business of insurance in the Commonwealth of Virginia is hereby **SUSPENDED**.
- (2) The Defendant shall issue no new contracts or policies of insurance in the Commonwealth of Virginia until further order of the Commission.
- (3) The appointments of the Defendant's agents to act on behalf of the Defendant in the Commonwealth of Virginia are hereby **SUSPENDED**.
- (4) The Defendant's agents shall transact no new insurance business on behalf of the Defendant in the Commonwealth of Virginia until further order of the Commission.
- (5) The Bureau of Insurance shall cause an attested copy of this Order to be sent to each of the Defendant's agents appointed to act on behalf of the Defendant in the Commonwealth of Virginia as notice of the suspension of such agent's appointment.
- (6) The Bureau of Insurance shall cause notice of the suspension of the Defendant's license to be published in the manner set forth in § 38.2-1043 of the Code of Virginia.

**CASE NO. INS-2012-00025
APRIL 19, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
FIRST SEALORD SURETY, INC.,
Defendant

ORDER TO TAKE NOTICE

Pursuant to § 38.2-1040 of the Code of Virginia, the State Corporation Commission ("Commission") may revoke the license of any insurance company to transact the business of insurance in the Commonwealth of Virginia whenever the Commission finds that the company has been found insolvent by a court of any other state.

First Sealord Surety, Inc. ("Defendant"), a foreign corporation domiciled in the Commonwealth of Pennsylvania, is licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia.

On February 8, 2012, the Commonwealth Court of Pennsylvania issued an Order of Liquidation against the Defendant. In addition, on March 20, 2012, the Commission suspended the Defendant's license to transact the business of insurance in the Commonwealth of Virginia because of financial regulatory concerns.

The Commission's Bureau of Insurance has recommended that the Defendant's license to transact the business of insurance in the Commonwealth of Virginia be revoked.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Accordingly, IT IS ORDERED that the Defendant TAKE NOTICE that the Commission shall enter an order subsequent to April 30, 2012, revoking the license of the Defendant to transact the business of insurance in the Commonwealth of Virginia, unless on or before April 30, 2012, the Defendant files with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, a request for a hearing before the Commission with respect to the proposed revocation of the Defendant's license.

**CASE NO. INS-2012-00025
JUNE 11, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

FIRST SEALORD SURETY, INC.,
Defendant

ORDER REVOKING LICENSE

In an Order to Take Notice ("Order") entered April 19, 2012, First Sealord Surety, Inc., a Pennsylvania domiciled insurer ("Defendant") licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth"), was ordered to take notice that the Commission would enter an order subsequent to April 30, 2012, revoking the license of the Defendant to transact the business of insurance in the Commonwealth unless on or before April 30, 2012, the Defendant filed with the Clerk of the Commission a request for a hearing before the Commission to contest the proposed revocation of the Defendant's license.

The Order was entered upon the recommendation of the Commission's Bureau of Insurance ("Bureau") based on an Order of Liquidation against the Defendant entered on February 8, 2012, by the Commonwealth Court of Pennsylvania.

As of the date of this Order the Defendant has not requested a hearing regarding the proposed revocation of its license. The Commission's Bureau has recommended that the Defendant's license to transact the business of insurance in the Commonwealth be revoked.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to § 38.2-1040 of the Code of Virginia ("Code"), the license of the Defendant to transact the business of insurance in the Commonwealth is hereby REVOKED.
- (2) The Defendant shall transact no further business in the Commonwealth.
- (3) The Bureau shall cause notice of the revocation of the Defendant's license to be published in the manner set forth in § 38.2-1043 of the Code.
- (4) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00026
MARCH 20, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

PERMANENT GENERAL ASSURANCE CORPORATION,
and
PERMANENT GENERAL ASSURANCE CORPORATON OF OHIO,
Defendants

SETTLEMENT ORDER

Based on a market conduct examination performed by the Bureau of Insurance, it is alleged that the Defendants, duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia, violated § 38.2-305 A of the Code of Virginia by failing to include accurate information in policies; violated § 38.2-310 of the Code by charging or collecting fees for the procurement of insurance that were not included in the premium or stated in the policies; violated § 38.2-502 of the Code by misrepresenting the benefits, advantages, conditions or terms of policies; violated §§ 38.2-604 B, 38.2-604 C, 38.2-604.1 B, 38.2-610 A, 38.2-1905 A, 38.2-2230, and 38.2-2234 of the Code by failing to provide proper notice to insureds; violated §§ 38.2-1812, 38.2-1822 A, and 38.2-1833 of the Code by paying commissions for services as an agent to persons who were not properly licensed and appointed; violated §§ 38.2-1906 A and 38.2-1906 D of the Code by making or issuing insurance contracts or policies not in accordance with the rate and supplementary rate information filings in effect for the Defendants; violated § 38.2-2204 of the Code by failing to allow permissive use of insured vehicles; violated §§ 38.2-2208 A, 38.2-2208 B, 38.2-2212 D, 38.2-2212 E, and 38.2-2212 F of the Code by failing to properly terminate insurance policies; violated § 38.2-2220 of the Code by using forms that did not contain the precise language of the standard forms filed and adopted by the Commission; and violated §§ 38.2-510 A 1, 38.2-510 A 3, and 38.2-510 D of the Code, as well as Rules 14 VAC 5-400-40 A, 14 VAC 5-400-70 D, and 14 VAC 5-400-80 D, *Rules Governing Unfair Claim Settlement Practices*, by failing to properly handle claims with such frequency as to indicate a general business practice.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendants' licenses upon a finding by the Commission, after notice and opportunity to be heard, that the Defendants have committed the aforesaid alleged violations.

The Defendants have been advised of their right to a hearing in this matter, whereupon the Defendants, without admitting any violation of Virginia law, have made an offer of settlement to the Commission wherein the Defendants have tendered to the Commonwealth of Virginia the sum of Forty-five Thousand Dollars (\$45,000), waived their right to a hearing, confirmed that restitution was made to thirty-five (35) consumers in the amount of Seven Thousand Seven Hundred Ten Dollars and Seventy Cents (\$7,710.70), and agreed to comply with the Corrective Action Plan set forth in their letters to the Bureau of Insurance dated October 13, 2011, and December 16, 2011.

The Bureau of Insurance has recommended that the Commission accept the offer of settlement of the Defendants pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendants, and the recommendation of the Bureau of Insurance, is of the opinion that the Defendants' offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The offer of the Defendants in settlement of the matter set forth herein be, and it is hereby, accepted; and
- (2) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2012-00027
MARCH 20, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

FARMERS INSURANCE EXCHANGE and MID-CENTURY INSURANCE COMPANY,
Defendants

SETTLEMENT ORDER

Based on a market conduct examination performed by the Bureau of Insurance, it is alleged that the Defendants, duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia, violated § 38.2-305 A of the Code of Virginia ("Code") by failing to provide the information required by statute in insurance policies; violated § 38.2-502 of the Code by misrepresenting the benefits, advantages, conditions or terms of policies; violated §§ 38.2-1906 A and 38.2-1906 D of the Code by making or issuing insurance contracts or policies not in accordance with the rate and supplementary rate information filings in effect for the Defendants; violated § 38.2-2234 B of the Code by using credit information from a consumer report for tier placement or rating renewal policies of motor vehicle insurance issued in the Commonwealth without updating the credit information at least once every three (3) years; violated §§ 38.2-304 and 38.2-2112 A of the Code by using a binder in excess of sixty (60) days; violated §§ 38.2-2113 A, 38.2-2113 C, 38.2-2114 A, 38.2-2114 B, 38.2-2114 C, 38.2-2114 E, 38.2-2208 A, 38.2-2208 B, 38.2-2212 D, 38.2-2212 E, and 38.2-2212 F of the Code by failing to properly terminate insurance policies; violated § 38.2-317 A of the Code by delivering or issuing for delivery insurance policies or endorsements without having filed such policy forms or endorsements with the Commission at least thirty (30) days prior to their effective date; violated § 38.2-2223 of the Code by using broadenings of standard forms without obtaining approval prior to use; violated §§ 38.2-517 A 3, 38.2-610 A, 38.2-1905 A, 38.2-2118, 38.2-2126 A, 38.2-2210 A, and 38.2-2234 A of the Code by failing to include accurate information in its notices; violated § 38.2-1318 C of the Code by failing to provide the Bureau of Insurance with convenient access to the Defendants' files, documents, and records; violated § 38.2-511 of the Code by failing to maintain a complete complaint register; and violated §§ 38.2-510 A 1 and 38.2-510 A 10 of the Code, as well as Rules 14 VAC 5-400-30, 14 VAC 5-400-50 C, 14 VAC 5-400-70 D, and 14 VAC 5-400-80 D, *Rules Governing Unfair Claim Settlement Practices*, by failing to properly handle claims with such frequency as to indicate a general business practice.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendants' licenses upon a finding by the Commission, after notice and opportunity to be heard, that the Defendants have committed the aforesaid alleged violations.

The Defendants have been advised of their right to a hearing in this matter, whereupon the Defendants, without admitting any violation of Virginia law, have made an offer of settlement to the Commission wherein the Defendants have tendered to the Commonwealth of Virginia the sum of One Hundred Seventy-four Thousand Two Hundred Dollars (\$174,200), waived their right to a hearing, confirmed that restitution was made to ten thousand one hundred ninety (10,190) consumers in the amount of Three Hundred Eighty Thousand Nine Hundred Thirty Dollars and Six Cents (\$380,930.06), and agreed to comply with the Corrective Action Plan set forth in their letter to the Bureau of Insurance dated December 2, 2011.

The Bureau of Insurance has recommended that the Commission accept the offer of settlement of the Defendants pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendants, and the recommendation of the Bureau of Insurance, is of the opinion that the Defendants' offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The offer of the Defendants in settlement of the matter set forth herein be, and it is hereby, accepted; and
- (2) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2012-00030
FEBRUARY 22, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
AMANDA MICHELLE LUNDE,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance, it is alleged that the Defendant, duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia, violated § 38.2-1826 C of the Code of Virginia by failing to report to the Commission within thirty (30) days an administrative action that was taken against her by the State of Minnesota.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

The Defendant has been notified of her right to a hearing before the Commission in this matter by certified letter dated January 18, 2012, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

The Defendant, having been advised in the above manner of her right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau of Insurance.

The Bureau of Insurance, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth of Virginia as an insurance agent.

NOW THE COMMISSION, having considered the record herein and the recommendation of the Bureau of Insurance, is of the opinion and finds that the Defendant has violated § 38.2-1826 C of the Code of Virginia by failing to report to the Commission within thirty (30) days an administrative action that was taken against her by the State of Minnesota.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED;
- (2) All appointments issued under said licenses are hereby VOID;
- (3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) The Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order;
- (5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia; and
- (6) The papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00031
FEBRUARY 22, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
CARL JONES BAKER II,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance, it is alleged that the Defendant, duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia, violated § 38.2-1826 C and

subsection I of § 38.2-1831 of the Code of Virginia by failing to report to the Commission "Within thirty (30) days an administrative action that was taken against him by the State of Wisconsin and by providing materially incorrect, misleading, incomplete or untrue information in his license application filed with the Commission.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated January 23, 2012, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau of Insurance.

The Bureau of Insurance, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth of Virginia as an insurance agent.

NOW THE COMMISSION, having considered the record herein and the recommendation of the Bureau of Insurance, is of the opinion and finds that the Defendant has violated § 38.2-1826 C and subsection 1 of § 38.2-1831 of the Code of Virginia by failing to report to the Commission within thirty (30) days an administrative action that was taken against him by the State of Wisconsin and by providing materially incorrect, misleading, incomplete or untrue information in his license application filed with the Commission.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED;
- (2) All appointments issued under said licenses are hereby VOID;
- (3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) The Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order;
- (5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia; and
- (6) The papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00033
MARCH 20, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
BUILDING INDUSTRY INSURANCE ASSOCIATION, INC.,
Defendant

SETTLEMENT ORDER

Based on an investigation conducted by the Bureau of Insurance, it is alleged that the Defendant, duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia, violated § 38.2-1331 A of the Code of Virginia by failing to obtain the Commission's written approval prior to making investments in affiliated companies.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

The Defendant has been advised of its right to a hearing in this matter, whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth of Virginia the sum of Five Thousand Dollars (\$5,000), waived its right to a hearing, and agreed to the entry by the Commission of a cease and desist order.

The Bureau of Insurance has recommended that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau of Insurance, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The offer of the Defendant in settlement of the matter set forth herein is hereby accepted;
- (2) The Defendant cease and desist from any conduct that constitutes a violation of § 38.2-1331 A of the Code of Virginia; and
- (3) The papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00038
JUNE 8, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
LAWYERS ADVANTAGE TITLE GROUP, INC.,
Defendant

SETTLEMENT ORDER

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Lawyers Advantage Title Group, Inc. ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth"), violated §§ 38.2-1813, 55-525.11, 55-525.24, and 55-525.27 of the Code of Virginia ("Code"), as well as 14 VAC 5-395-70, *Access to records*, of the Commission's Rules Governing Settlement Agents, 14 VAC 5-395-10 *et seq.*, by failing to pay funds in the ordinary course of business to the insured or his assignee, insurer, insurance premium finance company or agent entitled to the payment; by failing to record the deed, the deed of trust, or mortgage, or other documents required to be recorded within two business days of settlement; by failing to disburse settlement proceeds within two business days of settlement; by failing to deposit funds received in connection with an escrow, settlement, or closing by the close of the second business day; by failing to disburse funds pursuant to a written instruction or agreement specifying how and to whom such funds may be disbursed; by failing to maintain funds received in connection with an escrow, settlement or closing in a fiduciary capacity; by failing to maintain all settlement records for a minimum of five (5) years after the settlement is completed; by failing to maintain sufficient records of its affairs; and by failing to make all escrow, closing, or settlement records available promptly upon request for examination by the Bureau.

The Commission is authorized by § 55-525.31 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Commission is also authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been advised of its right to a hearing in this matter, whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth the sum of Five Thousand Dollars (\$5,000), waived its right to a hearing, and agreed to the entry by the Commission of a cease and desist order.

The Bureau has recommended that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The offer of the Defendant in settlement of the matter set forth herein be, and it is hereby, accepted.
- (2) The Defendant shall cease and desist from any conduct which constitutes a violation of §§ 38.2-1813, 55-525.11, 55-525.24, or 55-525.27 of the Code of Virginia, or 14 VAC 5-395-70.
- (3) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00042
APRIL 19, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

AMERICAN EQUITY INVESTMENT LIFE INSURANCE COMPANY,
Defendant

SETTLEMENT ORDER

Based on a market analysis performed by the Bureau of Insurance, it is alleged that the Defendant, duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia, in certain instances, has violated §§ 38.2-316 A and 38.2-316 C 1 of the Code of Virginia by failing to comply with policy and form filing requirements; has violated subsection 1 of § 38.2-508 of the Code of Virginia by unfairly discriminating or permitting any unfair discrimination between individuals of the same class; and has violated §§ 38.2-510 A 1, 38.2-510 A 6 and 38.2-510 A 8 of the Code of Virginia, as well as 14 VAC 5-400-40 A and 14 VAC 5-400-70 D of the Commission's Rules Governing Unfair Claim Settlement Practices by failing to properly handle claims.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been advised of its right to a hearing in this matter, whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth of Virginia the sum of Five Thousand Dollars (\$5,000), waived its right to a hearing, and agreed to comply with the Corrective Action Plan set forth in its letter to the Bureau of Insurance dated March 6, 2012.

The Bureau of Insurance has recommended that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau of Insurance, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The offer of the Defendant in settlement of the matter set forth herein be, and it is hereby, accepted; and
- (2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00043
MARCH 16, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

COMMERCIAL TRAVELERS MUTUAL INSURANCE COMPANY,
Defendant

IMPAIRMENT ORDER

Commercial Travelers Mutual Insurance Company, a New York domestic corporation ("Defendant") licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia, is required to maintain a minimum surplus of \$4 million.

Section 38.2-1036 of the Code of Virginia provides that if the Commission finds an impairment of the required minimum surplus of any foreign mutual insurer, the Commission may order the insurer to eliminate the impairment and restore the minimum surplus to the amount required by law and may prohibit the insurer from issuing any new policies in the Commonwealth of Virginia while the impairment exists.

The Annual Statement of the Defendant, dated December 31, 2011, and filed with the Commission's Bureau of Insurance, indicates a surplus of \$3,522,928, an impairment in surplus of \$477,072.

Accordingly, IT IS ORDERED THAT:

- (1) On or before June 14, 2012, the Defendant eliminate the impairment in its surplus and restore the same to at least \$4 million and advise the Commission of the accomplishment thereof by affidavit of the Defendant's president or other authorized officer.
- (2) The Defendant shall issue no new contracts or policies of insurance in the Commonwealth of Virginia while the impairment of the Defendant's surplus exists and until further order of the Commission.

**CASE NO. INS-2012-00043
MAY 29, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

COMMERCIAL TRAVELERS MUTUAL INSURANCE COMPANY,
Defendant

FINAL ORDER

Commercial Travelers Mutual Insurance Company ("Defendant"), a foreign corporation domiciled in the State of New York, is licensed to transact the business of insurance in the Commonwealth of Virginia.

By Impairment Order entered in this case on March 16, 2012, the Defendant was ordered to eliminate the impairment in its surplus, restore the same to at least \$4 million, and advise the State Corporation Commission ("Commission") of the accomplishment thereof by affidavit of the Defendant's president or other authorized officer on or before June 14, 2012.

The Defendant was also ordered not to issue any new contracts or policies of insurance in the Commonwealth of Virginia while the impairment of the Defendant's surplus exists and until further order of the Commission.

By affidavit dated April 26, 2012, the Defendant advised the Commission of the elimination of its impairment in surplus.

In light of the foregoing, the Commission's Bureau of Insurance has recommended that the Impairment Order entered by the Commission be vacated and this case be closed.

NOW THE COMMISSION, having considered the record herein and the recommendation of the Bureau of Insurance, is of the opinion that the Impairment Order entered by the Commission should be vacated.

Accordingly, IT IS ORDERED THAT:

- (1) The Impairment Order entered by the Commission is hereby VACATED;
- (2) This case is hereby DISMISSED; and
- (3) The papers herein shall be placed in the file for ended causes

**CASE NO. INS-2012-00044
MARCH 30, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

Ex Parte: In the matter of Amending the Rules Governing Advertisement of Life Insurance and Annuities

ORDER TO TAKE NOTICE

Section 12.1-13 of the Code of Virginia provides that the State Corporation Commission ("Commission") shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction, and § 38.2-223 of the Code of Virginia provides that the Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of Title 38.2 of the Code of Virginia.

The rules and regulations issued by the Commission pursuant to § 38.2-223 of the Code of Virginia are set forth in Title 14 of the Virginia Administrative Code.

The Bureau of Insurance ("Bureau") has submitted to the Commission a proposal to amend the Rules Governing Advertisement of Life Insurance and Annuities at Chapter 41 of Title 14 of the Virginia Administrative Code, specifically set forth at 14 VAC 5-41-40, *General disclosure requirements*.

A request for clarification of the amendments to subsection H of 14 VAC 5-41-40 was made by a group of life insurance companies that do business primarily in the final expenses market. After the Bureau promulgated new rules at 14 VAC 5-41, which became effective July 1, 2011, this group of companies questioned the applicability of the disclosure language in subsection H to certain policies, as well as the length of required disclosure, and asked the Bureau for clarification. The Bureau has revised the language to meet the Bureau's goals as well as to address the concerns of these companies.

NOW THE COMMISSION is of the opinion that amendments to Section 40 of Chapter 41 of Title 14 of the Virginia Administrative Code should be considered for adoption.

Accordingly, IT IS ORDERED THAT:

- (1) The proposal to amend Chapter 41 of Title 14 of the Virginia Administrative Code, specifically 14 VAC 5-41-40, *General disclosure requirements*, is attached hereto and made a part hereof.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

(2) All interested persons who desire to comment in support of or in opposition to, or request a hearing to oppose amending Section 40 in Chapter 41 of Title 14 of the Virginia Administrative Code, shall file such comments or hearing request on or before May 4, 2012, with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Interested persons desiring to submit comments electronically may do so by following the instructions at the Commission's website: <http://www.scc.virginia.gov/caseinfo.htm>. All comments shall refer to Case No. INS-2012-00044.

(3) If no written request for a hearing on the proposal to amend 14 VAC 5-41-40 is received on or before May 4, 2012, the Commission, upon consideration of any comments submitted in support of or in opposition to the proposal, may amend 14 VAC 5-41-40.

(4) AN ATTESTED COPY hereof, together with a copy of the proposal to amend rules, shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Althelia P. Battle, who forthwith shall give further notice of the proposal to amend rules by mailing a copy of this Order, together with the proposal, to all companies licensed by the Commission to write life insurance or annuities in the Commonwealth of Virginia, as well as all interested parties.

(5) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, together with the proposal to amend rules, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the *Virginia Register of Regulations*.

(6) The Commission's Division of Information Resources shall make available this Order and the attached proposed amendments to the rules on the Commission's website: <http://www.scc.virginia.gov/case>.

(7) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of Ordering Paragraph (4) above.

NOTE: A copy of Attachment A entitled "Rules Governing Advertisement of Life Insurance and Annuities" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

CASE NO. INS-2012-00044
JUNE 11, 2012

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

Ex Parte: In the matter of Amending the Rules Governing Advertisement of Life Insurance and Annuities

ORDER ADOPTING RULES

By Order to Take Notice entered March 30, 2012, all interested persons were ordered to take notice that subsequent to May 4, 2012, the State Corporation Commission ("Commission") would consider the entry of an order to adopt amendments to the Commission's Rules Governing Advertisement of Life Insurance and Annuities, 14 VAC 5-41-10 *et seq.*, specifically set forth at 14 VAC 5-41-40, *General disclosure requirements*. These amendments were proposed by the Bureau of Insurance ("Bureau"). The Order to Take Notice required that on or before May 4, 2012, any person objecting to the amendments to 14 VAC 5-41-40 shall have filed a request for hearing with the Clerk of the Commission ("Clerk").

The Order to Take Notice also required all interested persons to file their comments in support of or in opposition to the amendments to 14 VAC 5-41-40 on or before May 4, 2012.

No request for a hearing was filed with the Clerk. Comments in support of the proposed amendments to 14 VAC 5-41-40 were timely filed by Settlers Life Insurance Company, National Guardian Life Insurance Company, Atlantic Coast Life Insurance Company, and Great Western Life Insurance Company. Comments in opposition to the proposed amendments to 14 VAC 5-41-40 were timely filed by the American Council of Life Insurers. The Bureau filed a Statement of Position concerning the filed comments with the Clerk on May 31, 2012.¹

The Bureau recommends that the Commission adopt the amendments to 14 VAC 5-41-40 as proposed. The amendments to subsection H of 14 VAC 5-41-40 are necessary to clarify that the disclosure requirements contained in this subsection only apply to an advertisement of a life policy or annuity that includes a listing, summary, description or comparison of actual or estimated costs of funeral goods or services. Advertisements for policies used to fund a preneed funeral contract are exempt from this requirement.

NOW THE COMMISSION, having considered this matter and the Bureau's recommendation to amend 14 VAC 5-41-40, is of the opinion that the amendments to 14 VAC 5-41-40 should be adopted as proposed, effective July 1, 2012.

Accordingly, IT IS ORDERED THAT:

(1) The amendments to Chapter 41 of Title 14 of the Virginia Administrative Code entitled Rules Governing Advertisement of Life Insurance and Annuities specifically set forth at 14 VAC 5-41-40, which are attached hereto and made a part hereof, are hereby ADOPTED effective July 1, 2012.

¹ The Statement of Position represents that the American Council of Life Insurers acknowledged and understood the Bureau staff's position and explanation regarding the proposed amendments and was satisfied with the Bureau staff's response to its concerns. Statement of Position at 2.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

(2) AN ATTESTED COPY hereof, together with a copy of the adopted amendments to 14 VAC 5-41-40, shall be sent by the Clerk of the Commission to Althelia P. Battle, Deputy Commissioner, Bureau of Insurance, State Corporation Commission, who forthwith shall give further notice of the adopted amendments to 14 VAC 5-41-40 by mailing a copy of this Order, including a clean copy of the amendments to 14 VAC 5-41-40, to all companies licensed by the Commission to write life insurance or annuities in the Commonwealth of Virginia, as well as all interested parties.

(3) The Commission's Division of Information Resources shall cause a copy of this Order, together with the adopted amendments to 14 VAC 5-41-40, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the *Virginia Register of Regulations*.

NOTE: A copy of Attachment A entitled "Rules Governing Advertisement of Life Insurance and Annuities" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. INS-2012-00046
MARCH 27, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
PREMIER BROKERS, INC.,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance, it is alleged that the Defendant, duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia, violated §§ 38.2-512, 38.2-1809, 38.2-1812, 38.2-1812.2, 38.2-1813, and 38.2-1822 of the Code of Virginia by making false or fraudulent statements or representations on or relative to an application or any document or communication relating to the business of insurance for the purpose of obtaining a fee, commission, money, or other benefit from any insurer, agent, broker, premium finance company, or individual; by causing or allowing to be affixed the signature of any other person to any document pertaining to the business of insurance without the written authorization of the person whose signature appears on such document; by failing to make records available promptly upon request for examination by the Commission or its employees; by paying a commission for services as an agent to a person who was not properly licensed and appointed; by charging an applicant for insurance fees for rendering services in addition to the premium for the policy; by using an improper consent form when charging an administrative fee in addition to the premium; by failing to hold all premiums, return premiums, or other funds received by the Defendant in a fiduciary capacity; by failing to pay funds in the ordinary course of business to the insured or his assignee, insurer, insurance premium finance company or agent entitled to the payment; and by knowingly permitting a person to act as an insurance agent without such person first obtaining a license in the manner and form prescribed by the Commission.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been notified of its right to a hearing before the Commission in this matter by certified letter dated February 13, 2012, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

The Defendant, having been advised in the above manner of its right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau of Insurance.

The Bureau of Insurance, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth of Virginia as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated §§ 38.2-512, 38.2-1809, 38.2-1812, 38.2-1812.2, 38.2-1813, and 38.2-1822 of the Code of Virginia by making false or fraudulent statements or representations on or relative to an application or any document or communication relating to the business of insurance for the purpose of obtaining a fee, commission, money, or other benefit from any insurer, agent, broker, premium finance company, or individual; by causing or allowing to be affixed the signature of any other person to any document pertaining to the business of insurance without the written authorization of the person whose signature appears on such document; by failing to make records available promptly upon request for examination by the Commission or its employees; by paying a commission for services as an agent to a person who was not properly licensed and appointed; by charging an applicant for insurance fees for rendering services in addition to the premium for the policy; by using an improper consent form when charging an administrative fee in addition to the premium; by failing to hold all premiums, return premiums, or other funds received by the Defendant in a fiduciary capacity; by failing to pay funds in the ordinary course of business to the insured or his assignee, insurer, insurance premium finance company or agent entitled to the payment; and by knowingly permitting a person to act as an insurance agent without such person first obtaining a license in the manner and form prescribed by the Commission.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED;
- (2) All appointments issued under said licenses are hereby VOID;
- (3) The Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;

(4) The Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to five (5) years from the date of this Order;

(5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia; and

(6) The papers herein shall be placed in the file for ended causes

**CASE NO. INS-2012-00048
MARCH 27, 2012**

IN THE MATTER OF
PRUDENTIAL INSURANCE COMPANY OF AMERICA,
PRUCO LIFE INSURANCE COMPANY,
PRUDENTIAL RETIREMENT INSURANCE AND ANNUITY COMPANY, AND
PRUDENTIAL ANNUITIES LIFE ASSURANCE CORPORATION,

Ex Parte: In the matter of Approval of a Multi-State Regulatory Settlement Agreement between Prudential Insurance Company of America, Pruco Life Insurance Company, Prudential Retirement Insurance and Annuity Company, and Prudential Annuities Life Assurance Corporation, and the Florida Office of Insurance Regulation, the New Jersey Department of Banking and Insurance, the California Department of Insurance, the North Dakota Insurance Department, the Illinois Department of Insurance, the Pennsylvania Insurance Department, and the New Hampshire Insurance Department for and on behalf of the Virginia Bureau of Insurance and the Insurance Regulators of the remaining states, districts and territories of the United States

ORDER APPROVING SETTLEMENT AGREEMENT

ON THIS DAY came the Bureau of Insurance ("Bureau"), by counsel, and requested: (i) State Corporation Commission ("Commission") approval and acceptance of a multi-state Regulatory Settlement Agreement ("Agreement"), a copy of which is attached hereto and made a part hereof, by and between the commissioners of insurance for the States of Florida, New Jersey, California, North Dakota, Illinois, Pennsylvania, and New Hampshire, and Prudential Insurance Company of America, domiciled in New Jersey and licensed to transact the business of insurance in the Commonwealth of Virginia, Pruco Life Insurance Company, domiciled in Arizona and licensed to transact the business of insurance in the Commonwealth of Virginia, Prudential Retirement Insurance and Annuity Company, domiciled in Connecticut and licensed to transact the business of insurance in the Commonwealth of Virginia, and Prudential Annuities Life Assurance Corporation (formerly American Skandia Life Assurance Corporation), domiciled in Connecticut and licensed to transact the business of insurance in the Commonwealth of Virginia¹; and (ii) authority to execute any documents attendant to the Agreement necessary to evidence the Commission's acceptance of the Agreement.

NOW THE COMMISSION, having considered the terms of the Agreement together with the recommendation of the Bureau that the Commission approve and accept the Agreement, is of the opinion, finds, and ORDERS that: (i) the Agreement be, and it is hereby, APPROVED AND ACCEPTED and (ii) the Commissioner of Insurance be, and she is hereby, authorized to execute any attendant documents necessary to evidence the Commission's approval and acceptance of the Agreement.

NOTE: A copy of Attachment A entitled "Regulatory Settlement Agreement" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

¹ The Agreement also includes Pruco Life Insurance Company of New Jersey. Pruco Life Insurance Company of New Jersey is not licensed to transact the business of insurance in the Commonwealth of Virginia; therefore, this Order does not include this company.

**CASE NO. INS-2012-00049
APRIL 19, 2012**

PETITION OF
ANTHEM HEALTH PLANS OF VIRGINIA, INC.,
and
HEALTHKEEPERS, INC.

For approval to have associates located outside of Virginia conduct outbound calls to Anthem's Virginia Medicaid managed care and FAMIS members and providers

FINAL ORDER

On March 15, 2012, Anthem Health Plans of Virginia Inc. and HealthKeepers, Inc., (collectively, "Anthem" or "Petitioners"), filed a Petition pursuant to 5 VAC 5-20-80, *Regulatory proceedings*, of the State Corporation Commission's ("Commission") Rules of Practice and Procedure,

5 VAC 5-20-10 *et seq.*, and the Final Order entered in Case No. INS-2007-00141.¹ In the 2007 Final Order, the Commission continued the requirement that Anthem cause the following services to be provided from offices located in Virginia: claims processing and case management, customer service, quality management, provider services, medical management, and network development. The Commission permitted Anthem to provide the following services from offices located outside of Virginia: actuarial, underwriting, marketing, community relations, distribution management, and sales. In the 2007 Final Order, the Commission also provided that if Anthem seeks to provide any of the aforementioned services currently required to be provided from offices located in Virginia from offices located outside of Virginia, it should file a petition with the Commission "setting forth a specific and detailed proposal for providing such services out of state, including specific and detailed information on *how* and *where* Anthem will provide such services, as well as safeguards for ensuring adequate levels of service."²

In this Petition, the Petitioners are asking for relief, in part, from the requirements in the 2007 Final Order that quality management services for HealthKeepers, Inc.'s State Sponsored Business (*i.e.*, Medicaid managed care members and Family Access to Medical Insurance Security (FAMIS) members) in Virginia must be provided from a location in Virginia.³ The Petitioners represent that an advance draft of the Petition has been provided to the Office of the Attorney General's Division of Consumer Counsel ("Consumer Counsel") and to the Medical Society of Virginia ("MSV") and that MSV has authorized the Petitioners to represent that it does not object to the Petition.⁴

On March 22, 2012, the Commission entered a Scheduling Order in which it provided a deadline of April 6, 2012, for interested persons to comment or to file a notice of participation as a respondent in this matter and for the Bureau of Insurance ("Bureau") to file a response to the Petition.

On April 5, 2012, the Bureau filed its response to the Petition. The Bureau stated that it does not oppose the relief requested by the Petitioners.

On April 6, 2012, Consumer Counsel filed comments. Consumer Counsel stated that it does not object to Anthem's request.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the Petition should be granted.

Accordingly, IT IS ORDERED THAT:

(1) Anthem's Petition is GRANTED.

(2) Anthem is permitted to utilize Anthem associates located outside of Virginia, but within the United States, to perform outbound calls to assist Anthem's Virginia State Sponsored Business newly enrolled members with selecting providers, scheduling initial needed healthcare assessment appointments for prenatal and postnatal visits, well-baby and well-child check-ups, and necessary adult screenings for diabetes and cancer. Anthem is further permitted to utilize Anthem associates located outside of Virginia, but within the United States, to make outbound calls to follow up with Virginia State Sponsored Business members who have requested smoking cessation tips, to encourage Virginia State Sponsored Business members taking anti-depressant medication to continue taking it as directed by their physician, and to make outbound calls to Virginia State Sponsored Business members to address gaps in care from a HEDIS⁵ perspective and to assist with scheduling healthcare appointments to close these gaps.

(3) The other provisions of the Final Order in Case No. INS-2007-00141 are not affected hereby, and Anthem shall continue to comply therewith.

(4) This matter is dismissed, and the papers filed herein shall be placed in the file for ended causes.

¹ *Petition of Anthem Health Plans of Virginia, Inc., et al., For Amendment of Final Order in Case No. INS-2002-00131*, Case No. INS-2007-00141, 2007 S.C.C. Ann. Rept. 114, Final Order (Aug. 9, 2007) (hereinafter "2007 Final Order").

² *Id.* at 116, para. 4.

³ Petition at 2.

⁴ Petition at 4.

⁵ The Healthcare Effectiveness Data and Information Set, or HEDIS, is a tool developed and maintained by the National Committee for Quality Assurance and is used by health plans to measure performance on important health issues. The results from HEDIS are used to make improvements in the quality of care and service to help consumers select the best health plan for their needs.

**CASE NO. INS-2012-00050
MARCH 27, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
ELVIN S. TAYLOR, JR.,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance, it is alleged that the Defendant, duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia, violated § 38.2-1809 of the Code of Virginia by failing to make records available promptly upon request for examination by the Commission or its employees.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated February 28, 2012, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau of Insurance.

The Bureau of Insurance, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth of Virginia as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1809 of the Code of Virginia by failing to make records available promptly upon request for examination by the Commission or its employees.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED;
- (2) All appointments issued under said licenses are hereby VOID;
- (3) The Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) The Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to five (5) years from the date of this Order;
- (5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia; and
- (6) The papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00052
JULY 20, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

CHRISTOPHER MATTHEW CUNNINGHAM,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Christopher Matthew Cunningham ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-1826 C of the Code of Virginia ("Code") by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the Financial Industry Regulatory Authority.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated June 11, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 C of the Code by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the Financial Industry Regulatory Authority.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED.

- (2) All appointments issued under said licenses are hereby VOID.
- (3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent.
- (4) The Defendant shall not apply to the State Corporation Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order.
- (5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.
- (6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00054
APRIL 3, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
MILLERS FIRST INSURANCE COMPANY,
Defendant

IMPAIRMENT ORDER

Millers First Insurance Company, an Illinois domestic company ("Defendant") licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia, is required by § 38.2-1028 of the Code of Virginia ("Code") to maintain minimum capital of \$1 million and minimum surplus of \$3 million.

Section 38.2-1036 of the Code provides that if the Commission finds an impairment of the required minimum surplus of any foreign insurer, the Commission may order the insurer to eliminate the impairment and restore the minimum surplus to the amount required by law and may prohibit the insurer from issuing any new policies in the Commonwealth of Virginia while the impairment of the insurer's surplus exists.

The Annual Statement of the Defendant, dated December 31, 2011, and filed with the Commission's Bureau of Insurance, indicates capital of \$2.5 million and surplus of \$1,612,117, an impairment in surplus of \$1,387,883.

Accordingly, IT IS ORDERED THAT:

- (1) On or before July 3, 2012, the Defendant shall eliminate the impairment in its surplus, restore the same to at least \$3 million, and advise the Commission of the accomplishment thereof by affidavit of the Defendant's president or other authorized officer.
- (2) The Defendant shall issue no new contracts or policies of insurance in the Commonwealth of Virginia while the impairment of the Defendant's surplus exists and until further order of the Commission.

**CASE NO. INS-2012-00054
JUNE 25, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
MILLERS FIRST INSURANCE COMPANY,
Defendant

FINAL ORDER

Millers First Insurance Company ("Defendant"), a foreign corporation domiciled in the state of Illinois, is licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth").

By Impairment Order ("Order") entered April 3, 2012, the Defendant was ordered to eliminate the impairment in its surplus, restore the same to at least \$3 million, and advise the Commission of the accomplishment thereof by affidavit of the Defendant's president or other authorized officer on or before July 3, 2012.

By letter of S.L. Berg, Senior Vice President for the Defendant, dated May 31, 2012, and received by the Commission on June 5, 2012, the Commission was advised that the Defendant wishes to withdraw its license to transact the business of insurance in the Commonwealth.

The withdrawal of the Defendant's license has been processed by the Bureau of Insurance ("Bureau") effective May 31, 2012.

In light of the foregoing, the Bureau has recommended that the Order entered by the Commission be vacated and this case be closed.

NOW THE COMMISSION, having considered the record herein and the recommendation of the Bureau, is of the opinion that the Order entered by the Commission should be vacated.

Accordingly, IT IS ORDERED THAT:

- (1) The Impairment Order entered by the State Corporation Commission on April 3, 2012, is hereby VACATED.
- (2) This case is hereby DISMISSED.
- (3) The papers herein shall be placed in the file for ended causes

**CASE NO. INS-2012-00057
APRIL 11, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
THOMAS JOSEPH SPELLMAN III,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Thomas Joseph Spellman III ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia, violated §§ 38.2-1809 and 38.2-1826 B of the Code of Virginia by failing to make records available promptly upon request for examination by the Commission or its employees and by failing to report to the Commission within thirty (30) days a felony conviction.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated February 13, 2012, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau of Insurance.

The Bureau of Insurance, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth of Virginia as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated §§ 38.2-1809 and 38.2-1826 B of the Code of Virginia by failing to make records available promptly upon request for examination by the Commission or its employees and by failing to report to the Commission within thirty (30) days a felony conviction.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED;
- (2) All appointments issued under said licenses are hereby VOID;
- (3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) The Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to five (5) years from the date of this Order;
- (5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia; and
- (6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00058
APRIL 3, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

Ex Parte: In the matter of Adopting Revisions to the Rules Governing Credit for Reinsurance

ORDER TO TAKE NOTICE

Section 12.1-13 of the Code of Virginia provides that the State Corporation Commission ("Commission") shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction, and § 38.2-223 of the Code of Virginia provides that the Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of Title 38.2 of the Code of Virginia.

The rules and regulations issued by the Commission pursuant to § 38.2-223 of the Code of Virginia are set forth in Title 14 of the Virginia Administrative Code. A copy may also be found at the Commission's website: <http://www.scc.virginia.gov/case>.

The Bureau of Insurance ("Bureau") has submitted to the Commission proposed revisions to rules set forth in Chapter 300 of Title 14 of the Virginia Administrative Code entitled Rules Governing Credit For Reinsurance, which amend the Rules at 14 VAC 5-300-10, 14 VAC 5-300-30, 14 VAC 5-300-40, 14 VAC 5-300-60 through 14 VAC 5-300-90, and 14 VAC 5-300-100 through 14 VAC 5-300-160; adopt new Rules at 14 VAC 5-300-95 and 14 VAC 5-300-170; and repeal the Rules at 14 VAC 5-300-20 and 14 VAC 5-300-50 ("Rules").

The proposed revisions to the regulations are necessary due to the passage of House Bill 1139 during the 2012 General Assembly Session, which amends and reenacts §§ 38.2-1316.1, 38.2-1316.2, 38.2-1316.4, and 38.2-1316.8; and repeals §§ 38.2-1316.3, 38.2-1316.5, and 38.2-1316.6 of the Code of Virginia, effective July 1, 2012. The proposed revisions incorporate the revisions made by the National Association of Insurance Commissioners ("NAIC") to its Credit for Reinsurance Model Regulation, and provides the Commission with the authority to (i) certify reinsurers or to recognize the certification issued by another NAIC-accredited state, (ii) evaluate a reinsurer that applies for certification and assign a rating based on that evaluation, (iii) require that certified reinsurers post collateral in an amount that corresponds with its assigned rating in order for a United States ceding insurer to be allowed full credit for the reinsurance ceded, and (iv) require ceding insurers to take steps to manage their concentration risk and to diversify their reinsurance programs.

NOW THE COMMISSION is of the opinion that the proposed revisions submitted by the Bureau amending the Rules at 14 VAC 5-300-10, 14 VAC 5-300-30, 14 VAC 5-300-40, 14 VAC 5-300-60 through 14 VAC 5-300-90, and 14 VAC 5-300-100 through 14 VAC 5-300-160, adopting new Rules at 14 VAC 5-300-95 and 14 VAC 5-300-170, and repealing the Rules at 14 VAC 5-300-20 and 14 VAC 5-300-50, should be considered for adoption with an effective date of January 1, 2013.

Accordingly, IT IS ORDERED THAT:

(1) The proposed revisions to Rules Governing Credit For Reinsurance, which amend the Rules at 14 VAC 5-300-10, 14 VAC 5-300-30, 14 VAC 5-300-40, 14 VAC 5-300 60 through 14 VAC 5-300-90, and 14 VAC 5-300-100 through 14 VAC 5-300-160, adopt new Rules at 14 VAC 5-300-95 and 14 VAC 5-300-170, and repeal the Rules at 14 VAC 5-300-20 and 14 VAC 5-300-50 be attached and be made a part hereof.

(2) All interested persons who desire to comment in support of or in opposition to, or to request a hearing to oppose the adoption of the proposed new rules shall file such comments or hearing request on or before June 22, 2012, in writing, with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, and shall refer to Case No. INS-2012-00058. Interested persons desiring to submit comments electronically may do so by following the instructions available at the Commission's website: <http://www.scc.virginia.gov/case>.

(3) If no written request for a hearing on the proposed new rules is filed on or before June 22, 2012, the Commission, upon consideration of any comments submitted in support of or in opposition to the proposed revisions to the Rules, may adopt the revised Rules.

(4) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, together with the proposed revisions to the Rules, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the *Virginia Register of Regulations* and shall make available this Order and the attached proposed revisions to the Rules on the Commission's website: <http://www.scc.virginia.gov/case>.

(5) AN ATTESTED COPY hereof, together with a copy of the proposed revised Rules, shall be sent by the Clerk of the Commission to the Bureau in care of Deputy Commissioner Douglas C. Stolte, who forthwith shall give further notice of the proposed adoption of the revised Rules by mailing a copy of this Order, together with the proposed revised Rules, to all licensed insurers, burial societies, fraternal benefit societies, health services plans, risk retention groups, home protection companies, joint underwriting associations, group self-insurance pools, and group self-insurance associations licensed by the Commission, qualified reinsurers and certain interested parties designated by the Bureau.

(6) The Bureau shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of Ordering Paragraph (5) above.

NOTE: A copy of Attachment A entitled "Rules Governing Credit for Reinsurance" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. INS-2012-00058
JULY 5, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

Ex Parte: In the matter of Adopting Revisions to the Rules Governing Credit for Reinsurance

ORDER TO TAKE NOTICE OF REVISED PROPOSED RULES

By Order to Take Notice ("Order") entered April 3, 2012, all interested persons were ordered to take notice that subsequent to June 22, 2012, the State Corporation Commission ("Commission") would consider the entry of an order adopting amendments to rules set forth in Chapter 300 of Title 14 of the Virginia Administrative Code entitled Rules Governing Credit for Reinsurance, 14 VAC 5-300-10 *et seq.* ("Rules"), which specifically amend the Rules at 14 VAC 5-300-10, *Purpose*; 14 VAC 5-300-30, *Applicability and scope*; 14 VAC 5-300-40, *Definitions*; 14 VAC 5-300-60, *Credit for reinsurance; reinsurer licensed in this Commonwealth*; 14 VAC 5-300-70, *Credit for reinsurance; accredited reinsurers*; 14 VAC 5-300-80, *Credit for reinsurance; reinsurer domiciled and licensed in another state, and neither licensed nor accredited in Virginia*; 14 VAC 5-300-90, *Credit for reinsurance; reinsurers maintaining trust funds*; 14 VAC 5-300-100, *Credit for reinsurance required by law*; 14 VAC 5-300-110, *Reduction from liability for reinsurance ceded to an assuming insurer not meeting the requirements of § 38.2-1316.2 or 38.2-1316.3*; 14 VAC 5-300-120, *Trust agreements qualified under 14 VAC 5-300-110 and subdivision 2 of § 38.2-1316.4 of the Act*; 14 VAC 5-300-130, *Letters of credit qualifying for § 38.2-1316.4 credit under 14 VAC 5-300-110*; 14 VAC 5-300-140, *Other security*; 14 VAC 5-300-150, *Reinsurance contract*; and 14 VAC 5-300-160, *Contracts affected*; as well as propose new Rules at 14 VAC 5-300-95, *Credit for reinsurance; certified reinsurers*; and 14 VAC 5-300-170, *Severability*; and repeal the Rules at 14 VAC 5-300-20, *Severability*; and 14 VAC 5-300-50, *Credit for reinsurance generally*; unless on or before June 22, 2012, any person objecting to the adoption of the amendments to the Rules filed a request for a hearing with the Clerk of the Commission ("Clerk").

The Order also required all interested persons to file their comments in support of or in opposition to the proposed amendments to the Rules with the Clerk on or before June 22, 2012.

Allstate Insurance Company and Underwriters at Lloyd's, London timely filed comments with the Clerk to which the Commission's Bureau of Insurance ("Bureau") provided a response in the form of a Statement of Position filed with the Clerk on June 29, 2012. The Bureau also received comments from the Reinsurance Association of America which the Bureau responded to in its Statement of Position.

As a result of these comments, the Bureau recommends that the proposed amendments to the Rules be further revised as follows:

- (1) Amend the new rule at 14 VAC 5-300-95 at subsection A 4 to clarify that the deferral for posting collateral after a catastrophic event should be granted only in those instances where the catastrophic event is likely to result in significant insured losses.
- (2) Amend the new rule at 14 VAC 5-300-95 at subsection A 5 to provide that the Rules do not apply retroactively unless the retroactive application is agreed to by both parties to the reinsurance contract.
- (3) Amend the rule at 14 VAC 5-300-90 at subsection E to correct a citation reference.
- (4) Amend the rule at 14 VAC 5-300-150 to include (1) language providing that an assuming insurer will submit to a court of competent jurisdiction, and (2) requirements for trust agreements in instances when a trust becomes insolvent.

The Bureau recommends that the proposed amendments to the Rules and the revisions outlined above be exposed for additional comment until August 13, 2012.

NOW THE COMMISSION, having considered the comments, the Bureau's response to the comments and recommendation, and the proposed amendments to the Rules, is of the opinion that the revised proposed Rules should be exposed for further comment until August 13, 2012.

Accordingly, IT IS ORDERED THAT:

(1) The revised proposed Rules Governing Credit For Reinsurance, 14 VAC 5-300-10 *et seq.*, which specifically amend the Rules at 14 VAC 5-300-10, 14 VAC 5-300-30, 14 VAC 5-300-40, 14 VAC 5-300-60, 14 VAC 5-300-70, 14 VAC 5-300-80, 14 VAC 5-300-90, 14 VAC 5-300-100, 14 VAC 5-300-110, 14 VAC 5-300-120, 14 VAC 5-300-130, 14 VAC 5-300-140, 14 VAC 5-300-150, and 14 VAC 5-300-160; propose new Rules at 14 VAC 5-300-95 and 14 VAC 5-300-170; and repeal the Rules at 14 VAC 5-300-20 and 14 VAC 5-300-50, be attached hereto and be made a part hereof.

(2) All interested persons who desire to comment in support of or in opposition to, or request a hearing to oppose the adoption of the revised proposed Rules shall file such comments or hearing request on or before August 13, 2012, in writing, with Joel H. Peck, Clerk, State Corporation Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, and shall refer to Case No. INS-2012-00058. Interested persons desiring to submit comments electronically may do so by following the instructions available at the Commission's website: <http://www.scc.virginia.gov/case>.

(3) If no written request for a hearing on the revised proposed Rules is filed on or before August 13, 2012, the Commission, upon consideration of any comments submitted in support of or in opposition to the revised proposed Rules, may adopt the revised Rules as proposed by the Bureau.

(4) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, together with the revised proposed Rules, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the *Virginia Register of Regulations* and shall make available this Order and the attached revised proposed Rules on the Commission's website, <http://www.scc.virginia.gov/case>.

(5) AN ATTESTED COPY hereof, together with a copy of the revised proposed Rules, shall be sent by the Clerk of the Commission to the Bureau in care of Deputy Commissioner Douglas C. Stolte, who forthwith shall give further notice of the proposed adoption of the revised Rules by mailing

a copy of this Order, together with the revised proposed Rules, to all licensed insurers, burial societies, fraternal benefit societies, health services plans, risk retention groups, home protection companies, joint underwriting associations, group self-insurance pools, and group self-insurance associations licensed by the Commission, qualified reinsurers and certain interested parties designated by the Bureau.

(6) The Bureau shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of Ordering Paragraph (5) above.

NOTE: A copy of Attachment A entitled "Rules Governing Credit for Reinsurance" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

CASE NO. INS-2012-00058
SEPTEMBER 19, 2012

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

Ex Parte: In the matter of Adopting Revisions to the Rules Governing Credit for Reinsurance

ORDER ADOPTING RULES

By Order to Take Notice ("Order") entered April 3, 2012, all interested persons were ordered to take notice that subsequent to June 22, 2012, the State Corporation Commission ("Commission") would consider the entry of an order adopting amendments to rules set forth in Chapter 300 of Title 14 of the Virginia Administrative Code entitled Rules Governing Credit for Reinsurance, 14 VAC 5-300-10 *et seq.* ("Rules"), which specifically amend the Rules at 14 VAC 5-300-10, 14 VAC 5-300-30, 14 VAC 5-300-40, 14 VAC 5-300-60, 14 VAC 5-300-70, 14 VAC 5-300-80, 14 VAC 5-300-90, 14 VAC 5-300-100, 14 VAC 5-300-110, 14 VAC 5-300-120, 14 VAC 5-300-130, 14 VAC 5-300-140, 14 VAC 5-300-150, and 14 VAC 5-300-160; propose new Rules at 14 VAC 5-300-95 and 14 VAC 5-300-170; and repeal the Rules at 14 VAC 5-300-20 and 14 VAC 5-300-50, unless on or before June 22, 2012, any person objecting to the adoption of the amendments to the Rules filed a request for a hearing with the Clerk of the Commission ("Clerk").

The Order also required all interested persons to file with the Clerk, on or before June 22, 2012, their comments in support of or in opposition to the proposed amendments to the Rules.

Allstate Insurance Company and Underwriters at Lloyd's, London timely filed comments with the Clerk to which the Commission's Bureau of Insurance ("Bureau") provided a response in the form of a Statement of Position filed with the Clerk on June 29, 2012. The Bureau also received comments from the Reinsurance Association of America, which the Bureau responded to in its Statement of Position.

As a result of these comments, the Bureau recommended that the proposed amendments to the Rules be further revised as follows:

- (1) Amend the new rule at 14 VAC 5-300-95 at subsection A 4 to clarify that the deferral for posting collateral after a catastrophic event should be granted only in those instances where the catastrophic event is likely to result in significant insured losses.
- (2) Amend the new rule at 14 VAC 5-300-95 at subsection A 5 to provide that the Rules do not apply retroactively unless the retroactive application is agreed to by both parties to the reinsurance contract.
- (3) Amend the rule at 14 VAC 5-300-90 at subsection E to correct a citation reference.
- (4) Amend the rule at 14 VAC 5-300-150 to include (1) language providing that an assuming insurer will submit to a court of competent jurisdiction, and (2) requirements for trust agreements in instances when a trust becomes insolvent.

The Bureau also recommended that the proposed amendments to the Rules and the revisions outlined above be exposed for additional comment until August 13, 2012.

On July 5, 2012, the Commission entered an Order to Take Notice of Revised Proposed Rules¹ in which it exposed the revised proposed amendments to the Rules for additional comments until August 13, 2012. No comments were filed regarding the revised proposed amendments to the Rules.

The Bureau has recommended technical amendments to the rule at 14 VAC 5-300-70 to provide for electronic filing of the annual statement and to the rules at 14 VAC 5-300-90 and 14 VAC 5-300-95 to correct typographical errors.

NOW THE COMMISSION, having considered the comments, the Bureau's response to the comments, the Bureau's recommendations, and the proposed amendments to the Rules, is of the opinion that the revised proposed amendments to the Rules should be adopted as amended, effective January 1, 2013.

Accordingly, IT IS ORDERED THAT:

(1) The amendments to the Rules Governing Credit For Reinsurance, 14 VAC 5-300-10 *et seq.*, which specifically amend the Rules at 14 VAC 5-300-10, 14 VAC 5-300-30, 14 VAC 5-300-40, 14 VAC 5-300-60, 14 VAC 5-300-70, 14 VAC 5-300-80, 14 VAC 5-300-90, 14 VAC 5-300-100, 14 VAC 5-300-110, 14 VAC 5-300-120, 14 VAC 5-300-130, 14 VAC 5-300-140, 14 VAC 5-300-150, and 14 VAC 5-300-160; propose new Rules at

¹ Doc. Con. Cen. No. 120710179.

14 VAC 5-300-95 and 14 VAC 5-300-170; and repeal the Rules at 14 VAC 5-300-20 and 14 VAC 5-300-50, which are attached hereto and made a part hereof, are hereby ADOPTED effective January 1, 2013.

(2) AN ATTESTED COPY hereof, together with a copy of the adopted amended Rules, shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Douglas C. Stolte, who forthwith shall give further notice of the adoption of the amended Rules by mailing a copy of this Order, together with the amended Rules, to all licensed insurers, burial societies, fraternal benefit societies, health services plans, risk retention groups, home protection companies, joint underwriting associations, group self-insurance pools, and group self-insurance associations licensed by the State Corporation Commission, qualified reinsurers and certain interested parties designated by the Bureau of Insurance.

(3) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, together with the amended Rules, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the *Virginia Register of Regulations* and shall make available this Order and the attached amended Rules on the State Corporation Commission's website, <http://www.scc.virginia.gov/case>.

(4) The Bureau of Insurance shall file with the Clerk of the State Corporation Commission an affidavit of compliance with the notice requirements of Ordering Paragraph (2) above.

NOTE: A copy of Attachment A entitled "Rules Governing Credit for Reinsurance" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. INS-2012-00059
MAY 30, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
MYSTY LEIGH REYNA,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Mysty Leigh Reyna ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated §§ 38.2-512, 38.2-1809, 38.2-1812, 38.2-1812.2, 38.2-1813, and 38.2-1822 of the Code of Virginia ("Code") by making false or fraudulent statements or representations on or relative to an application or any document or communication relating to the business of insurance for the purpose of obtaining a fee, commission, money, or other benefit from any insurer, agent, broker, premium finance company, or individual; by causing or allowing to be affixed the signature of any other person to any document pertaining to the business of insurance without the written authorization of the person whose signature appears on such document; by failing to make records available promptly upon request for examination by the Commission or its employees; by directly or indirectly sharing commissions or other valuable consideration with a person who was not properly licensed and appointed; by using an improper consent form when charging an administrative fee in addition to the premium; by failing to obtain a signed consent form from an applicant or policyholder who has been charged an administrative fee in addition to the premium; by failing to hold all premiums, return premiums, or other funds received by the Defendant in a fiduciary capacity; by failing to pay funds in the ordinary course of business to the insured or his assignee, insurer, insurance premium finance company or agent entitled to the payment; by failing to maintain an accurate record and itemization of funds deposited into a separate fiduciary account; by commingling business or personal funds with funds required to be maintained in a separate fiduciary account; by knowingly permitting unlicensed individuals to act as agents on behalf of the company; and by conducting the business of insurance under an assumed or fictitious name without notifying the Bureau.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been notified of her right to a hearing before the Commission in this matter by certified letter dated May 2, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of her right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

THE COMMISSION is of the opinion and finds that the Defendant has violated §§ 38.2-512, 38.2-1809, 38.2-1812, 38.2-1812.2, 38.2-1813, and 38.2-1822 of the Code by making false or fraudulent statements or representations on or relative to an application or any document or communication relating to the business of insurance for the purpose of obtaining a fee, commission, money, or other benefit from any insurer, agent, broker, premium finance company, or individual; by causing or allowing to be affixed the signature of any other person to any document pertaining to the business of insurance without the written authorization of the person whose signature appears on such document; by failing to make records available promptly upon request for examination by the Commission or its employees; by directly or indirectly sharing commissions or other valuable consideration with a person who was not properly licensed and appointed; by using an improper consent form when charging an administrative fee in addition to the premium; by failing to obtain a signed consent form from an applicant or policyholder who has been charged an administrative fee in addition to the premium; by failing to hold all premiums, return premiums, or other funds received by the Defendant in a fiduciary capacity; by failing to pay funds in the ordinary course of business to

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the insured or his assignee, insurer, insurance premium finance company or agent entitled to the payment; by failing to maintain an accurate record and itemization of funds deposited into a separate fiduciary account; by commingling business or personal funds with funds required to be maintained in a separate fiduciary account; by knowingly permitting unlicensed individuals to act as agents on behalf of the company; and by conducting the business of insurance under an assumed or fictitious name without notifying the Bureau.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth are hereby REVOKED;
- (2) All appointments issued under said licenses are hereby VOID;
- (3) The Defendant shall transact no further business in the Commonwealth as an insurance agent;
- (4) The Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth prior to five (5) years from the date of this Order;
- (5) The Bureau shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth; and
- (6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00059
JUNE 19, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
MYSTY LEIGH REYNA,
Defendant

ORDER ON RECONSIDERATION

By Order Revoking License entered on May 30, 2012, the State Corporation Commission ("Commission") ordered, among other things, the revocation of the license of Mysty Leigh Reyna ("Defendant") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth") for violating §§ 38.2-512, 38.2-1809, 38.2-1812, 38.2-1812.2, 38.2-1813, and 38.2-1822 of the Code of Virginia ("Code").

On June 4, 2012, the Defendant filed a Petition for Reconsideration in which she requested that her license be reinstated. The Defendant admitted that she had failed to timely respond to the Bureau of Insurance ("Bureau") after having been notified of her right to a hearing before the Commission; however, she requested that her license be reinstated and that she be given the opportunity to settle this matter by paying a monetary penalty of Five Thousand Dollars (\$5,000).

On June 18, 2012, the Defendant tendered to the Commonwealth the sum of Five Thousand Dollars (\$5,000), waived her right to a hearing, and agreed to be placed on probation for a period of three (3) years from the date of entry of this Order.

The Bureau has recommended that the Commission vacate the Order Revoking License, reinstate the Defendant's license, and accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, upon further reconsideration of this matter and having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau, is of the opinion that the Defendant's license should be reinstated and her offer of settlement accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The Defendant's request for reconsideration is hereby GRANTED.
- (2) The Order Revoking License dated May 30, 2012, is VACATED.
- (3) The Defendant's license is hereby REINSTATED.
- (4) The offer of the Defendant in settlement of the matter set forth herein be, and it is hereby, accepted.
- (5) The Defendant is placed on probation for a period of three (3) years from the date of entry of this Order.
- (6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

CASE NO. INS-2012-00060
JUNE 12, 2012

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

ROBERT W. PIERCE
and

ROBERT W. PIERCE INSURANCE AGENCY, INC.,
Defendants

SETTLEMENT ORDER

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Robert W. Pierce ("Pierce") and Robert W. Pierce Insurance Agency, Inc. ("Agency") (collectively, "Defendants"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as insurance agents in the Commonwealth of Virginia ("Commonwealth"), violated §§ 38.2-1812, 38.2-1822 A, and 38.2-1822 B of the Code of Virginia ("Code"), by paying commissions for services as an agent to persons who were not properly licensed and appointed; by knowingly permitting unlicensed individuals to act as agents of an insurer licensed to transact the business of insurance in the Commonwealth without first obtaining a license in a manner and in a form prescribed by the Commission; and acting as agents on behalf of a business entity in the transaction of insurance when they were not licensed as agents and appointed, if appointment is required by statute.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendants' licenses upon a finding by the Commission, after notice and opportunity to be heard, that the Defendants have committed the aforesaid alleged violations.

The Defendants have been advised of their right to a hearing in this matter, whereupon the Defendants, without admitting any violation of Virginia law, have made an offer of settlement to the Commission as follows: (i) within sixty (60) days of the entry of this Order, the Defendants will pay to the Treasurer of the Commonwealth the amount of Thirty Thousand Dollars (\$30,000); (ii) the Defendants have waived their right to a hearing; (iii) Defendant Pierce agrees to surrender his individual insurance agent license no later than one (1) year from the date of entry of this Order or the first business day following the sale of Defendant Agency, whichever event occurs first; (iv) Defendant Agency will be placed on probation for a period of five (5) years from the date of the entry of this Order. As a condition of probation, Defendant Agency has agreed to comply with all provisions of Title 38.2 of the Code. If, during the period of probation, the Bureau has good cause to believe that the Defendant Agency has violated the terms and conditions of the probation, the Bureau will initiate formal administrative action to permanently revoke the Defendant Agency's insurance agent license; and (v) Defendant Agency will fully implement all remedial steps identified in its letter to the Bureau dated March 19, 2012.

The Bureau has recommended that the Commission accept the offer of settlement of the Defendants pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendants, and the recommendation of the Bureau, is of the opinion that the Defendants' offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The offer of the Defendants in settlement of the matter set forth herein be, and it is hereby, accepted.
- (2) The Defendants shall fully comply with the aforesaid terms and undertakings of this settlement.
- (3) The Commission shall retain jurisdiction in this matter for all purposes, including the initiation of a formal administrative action to revoke permanently the Defendant Agency's insurance agent license, on account of the Defendants' failure to comply with the terms and undertakings of the settlement.

CASE NO. INS-2012-00061
APRIL 23, 2012

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

RUSSELL LEE TAYLOR,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance, it is alleged that the Defendant, duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia, violated §§ 38.2-502, 38.2-503, and 38.2-512 of the Code of Virginia by misrepresenting the benefits, advantages, conditions or terms of insurance policies; by making, publishing, disseminating, circulating, or placing before the public an advertisement, announcement or statement containing an assertion, representation or statement relating to the business of insurance which was untrue, deceptive or misleading; and by making or causing or allowing to be made false statements or representations on or relative to an application for an insurance policy for the purpose of obtaining a fee, commission, or other benefit.

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The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated February 13, 2012, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau of Insurance.

The Bureau of Insurance, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth of Virginia as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated §§ 38.2-502, 38.2-503, and 38.2-512 of the Code of Virginia by misrepresenting the benefits, advantages, conditions or terms of insurance policies; by making, publishing, disseminating, circulating, or placing before the public an advertisement, announcement or statement containing an assertion, representation or statement relating to the business of insurance which was untrue, deceptive or misleading; and by making or causing or allowing to be made false statements or representations on or relative to an application for an insurance policy for the purpose of obtaining a fee, commission, or other benefit.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED;
- (2) All appointments issued under said licenses are hereby VOID;
- (3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) The Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order;
- (5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia; and
- (6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00062
MAY 1, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
TOM HAMSHER,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance, it is alleged that the Defendant, duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia, violated §§ 38.2-1826 A and 38.2-1826 C of the Code of Virginia ("Code") by failing to report within thirty (30) calendar days to the Commission and to every insurer for which he is appointed a change in his residence address and by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the Financial Industry Regulatory Authority.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated March 9, 2012, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau of Insurance.

The Bureau of Insurance, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance as an insurance agent in the Commonwealth of Virginia.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated §§ 38.2-1826 A and 38.2-1826 C of the Code by failing to report within thirty (30) calendar days to the Commission and to every insurer for which he is appointed a change in his residence address and by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the Financial Industry Regulatory Authority.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED;
- (2) All appointments issued under said licenses are hereby VOID;
- (3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) The Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order;
- (5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia; and
- (6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00071
APRIL 23, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

VESPERS FINANCIAL, LLC,
Defendant

ORDER TO TAKE NOTICE

Pursuant to § 38.2-6002 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") may suspend or revoke the license of any viatical settlement provider to act as a viatical settlement provider in the Commonwealth of Virginia whenever the Commission finds that the viatical settlement provider no longer meets the requirements for licensure as a viatical settlement provider in the Commonwealth of Virginia. Section 38.2-6002 of the Code also provides that the Commission may suspend or revoke the license of any viatical settlement provider when the viatical settlement provider has violated any provisions of Chapter 60 of Title 38.2 of the Code.

Section 38.2-6002 of the Code requires that prior to the issuance of a license to act as a viatical settlement provider the Commission must find that the applicant, if it is a nonresident limited liability company, has furnished proof of its authority to transact business in the Commonwealth of Virginia. In addition, § 38.2-6004 of the Code provides that a licensed viatical settlement provider must, on or before March 1 of each year, file with the Commission an annual report and anti-fraud certification.

Vespers Financial, LLC, a nonresident limited liability corporation domiciled in Washington, D.C. ("Defendant"), is licensed by the Commission to act as a viatical settlement provider. On January 31, 2012, the Defendant's certificate of authority to transact business in Virginia was cancelled. In addition, the Defendant has failed to timely file its 2011 annual report and anti-fraud certification with the Commission.

The Bureau of Insurance has recommended that, based on the foregoing, the license of the Defendant to act as a viatical settlement provider in the Commonwealth of Virginia be suspended.

Accordingly, IT IS ORDERED that the Defendant TAKE NOTICE that the Commission shall enter an order subsequent to May 4, 2012, suspending the license of the Defendant to act as a viatical settlement provider in the Commonwealth of Virginia unless on or before May 4, 2012, the Defendant files with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, a request for a hearing before the Commission with respect to the proposed suspension of the Defendant's license.

**CASE NO. INS-2012-00071
JUNE 14, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

VESPERS FINANCIAL, LLC,
Defendant

ORDER SUSPENDING LICENSE

In an Order to Take Notice entered April 23, 2012, Vespers Financial, LLC, a Washington, D.C., limited liability corporation ("Defendant") licensed by the State Corporation Commission ("Commission") to act as a viatical settlement provider in the Commonwealth of Virginia ("Commonwealth") was ordered to take notice that the Commission would enter an order subsequent to May 4, 2012, suspending the license of the Defendant to act as a viatical settlement provider unless on or before May 4, 2012, the Defendant filed with the Clerk of the Commission a request for a hearing before the Commission to contest the proposed suspension of the Defendant's license.

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The Order to Take Notice was entered due to the cancellation of the Defendant's certificate of authority to transact business in the Commonwealth and the Defendant's failure to timely file its 2011 annual report and anti-fraud certification with the Commission.

As of the date of this Order, the Defendant has not filed a request to be heard before the Commission with respect to the proposed suspension of the Defendant's license.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to § 38.2-6002 of the Code of Virginia, the license of the Defendant to act as a viatical settlement provider in the Commonwealth is hereby SUSPENDED.

(2) The Defendant shall not act as a viatical settlement provider in the Commonwealth until further order of the Commission.

**CASE NO. INS-2012-00072
MAY 1, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

360 SETTLEMENT AND TITLE SERVICES OF VIRGINIA BEACH, LLC,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance, it is alleged that the Defendant, duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia, violated § 55-525.27 of the Code of Virginia ("Code"), as well as 14 VAC 5-395-70, *Access to records*, of the Commission's Rules Governing Settlement Agents, 14 VAC 5-395-10 *et seq.*, by failing to maintain sufficient records of its affairs and by failing to make all escrow, closing, or settlement records available promptly upon request for examination by the Bureau of Insurance.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been notified of its right to a hearing before the Commission in this matter by certified letter dated March 6, 2012, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

The Defendant, having been advised in the above manner of its right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau of Insurance.

The Bureau of Insurance, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth of Virginia as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 55-525.27 of the Code, as well as 14 VAC 5-395-70, *Access to records*, of the Commission's Rules Governing Settlement Agents, 14 VAC 5-395-10 *et seq.*, by failing to maintain sufficient records of its affairs and by failing to make all escrow, closing, or settlement records available promptly upon request for examination by the Bureau of Insurance.

Accordingly, IT IS ORDERED THAT:

(1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED;

(2) All appointments issued under said licenses are hereby VOID;

(3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent;

(4) The Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order;

(5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia; and

(6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00073
MAY 29, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

LITITZ MUTUAL INSURANCE COMPANY,
Defendant

SETTLEMENT ORDER

Based on a market conduct examination performed by the Bureau of Insurance ("Bureau"), it is alleged that Lititz Mutual Insurance Company ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-305 A of the Code of Virginia ("Code") by failing to accurately provide the required notices to insureds; violated § 38.2-317 A of the Code by delivering or issuing for delivery insurance policies or endorsements without having filed such policy forms or endorsements with the Commission at least thirty (30) days prior to their effective date; violated §§ 38.2-604 B, 38.2-604.1 B, 38.2-610 A, 38.2-2118, 38.2-2125, and 38.2-2126 A of the Code by failing to accurately provide the required notices to insureds; violated §§ 38.2-1906 A and 38.2-1906 D of the Code by making or issuing insurance contracts or policies not in accordance with the rate and supplementary rate information filings in effect for the Defendant; violated § 38.2-2114 A of the Code by failing to properly terminate insurance policies; and violated §§ 38.2-510 A 1 and 38.2-510 A 3 of the Code, as well as subsection D of 14 VAC 5-400-70, *Standards for prompt, fair and equitable settlement of claims applicable to all insurers*, of the Commission's Rules Governing Unfair Claim Settlement Practices, 14 VAC 5-400-10 *et seq.*, by failing to properly handle claims with such frequency as to indicate a general business practice.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been advised of its right to a hearing in this matter, whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth the sum of Fifteen Thousand Two Hundred Dollars (\$15,200); waived its right to a hearing; agreed to comply with the Corrective Action Plan set forth in its letter to the Bureau dated January 13, 2012; and confirmed that restitution was made to fifteen consumers in the amount of Eight Thousand One Hundred Fifty-one Dollars and Forty Cents (\$8,151.40).

The Bureau has recommended that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The offer of the Defendant in settlement of the matter set forth herein be, and it is hereby, accepted; and
- (2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00074
JUNE 11, 2012**

PETITION OF
WILLIAM B. PITCOCK

For review of Shenandoah Life Insurance Company Deputy Receiver's Determination of Appeal

FINAL ORDER

On February 12, 2009, the Circuit Court of the City of Richmond entered an order appointing the State Corporation Commission ("Commission") as Receiver of Shenandoah Life Insurance Company ("Shenandoah" or "Company"). In addition, on February 12, 2009, the Commission, by Order Appointing Deputy Receiver for Conservation and Rehabilitation, appointed Alfred W. Gross, Commissioner for the Commission's Bureau of Insurance, as Deputy Receiver in accordance with Title 38.2, Chapter 15 of the Code of Virginia.¹ Pursuant to his grant of authority, the Deputy Receiver in his Second Directive of Deputy Receiver Adopting Receivership Appeal Procedure established appeal procedures for appeals or challenges of any decision made by the Deputy Receiver with respect to claims made against Shenandoah.

On April 30, 2012, William B. Pitcock ("Petitioner") filed a Petition for Review ("Petition") with the Commission contesting the Deputy Receiver's determination of his "Hardship Request" made in connection with Shenandoah Life Policy Nos. 000990008 and 002085996.

By Order Docketing Case, Appointing Hearing Examiner, and Setting Date for Filing Answer, dated May 3, 2012, the Commission docketed the Petition, assigned the matter to a Hearing Examiner, and directed the Deputy Receiver to file an answer or other responsive pleading to the Petition on or before May 25, 2012.

¹ On January 10, 2011, the Commission entered an Order appointing Jacqueline K. Cunningham as Deputy Receiver of Shenandoah.

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On May 23, 2012, Shenandoah filed a Motion to Dismiss and Memorandum in Support of Motion to Dismiss. In support of its Motion to Dismiss, Shenandoah stated that it is no longer in receivership and all funds requested by the Petitioner have been paid to him. Shenandoah asserted that the Petition is therefore moot and should be dismissed.

On May 29, 2012, the Hearing Examiner issued his Report in which he recommended that the Deputy Receiver's Motion to Dismiss be granted. Additionally, the Hearing Examiner found that the comment period on his Report should be waived as the Petitioner has received the relief requested.

NOW THE COMMISSION, upon consideration of the record herein and the Report of the Hearing Examiner, is of the opinion that the findings and recommendations of the Hearing Examiner should be adopted.

Accordingly, IT IS ORDERED THAT:

- (1) The Deputy Receiver's Motion to Dismiss is hereby GRANTED.
- (2) The Petition of William B. Pitcock for review of Deputy Receiver's Determination of Appeal is hereby DISMISSED.
- (3) The case is dismissed, and the papers herein are passed to the file for ended causes.

**CASE NO. INS-2012-00077
MAY 29, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
DAVID BRIAN RUTSTEIN,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that David Brian Rutstein ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-1826 C of the Code of Virginia ("Code") by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the State of North Carolina.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated March 26, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 C of the Code by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the State of North Carolina.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth are hereby REVOKED;
- (2) All appointments issued under said licenses are hereby VOID;
- (3) The Defendant shall transact no further business in the Commonwealth as an insurance agent;
- (4) The Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth prior to sixty (60) days from the date of this Order;
- (5) The Bureau shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth; and
- (6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00078
MAY 29, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

JOHN E. BURKE II,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that John E. Burke II ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-1826 C of the Code of Virginia ("Code") by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the Financial Industry Regulatory Authority.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated March 26, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 C of the Code by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the Financial Industry Regulatory Authority.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth are hereby REVOKED;
- (2) All appointments issued under said licenses are hereby VOID;
- (3) The Defendant shall transact no further business in the Commonwealth as an insurance agent;
- (4) The Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth prior to sixty (60) days from the date of this Order;
- (5) The Bureau shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth; and
- (6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00079
MAY 14, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

MARK PATRICK SANTOS,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Mark Patrick Santos ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-1826 C of the Code of Virginia ("Code") by failing to report to the Commission within thirty (30) calendar days administrative actions that were taken against him by the State of Kansas.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated April 10, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

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The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 C of the Code by failing to report to the Commission within thirty (30) calendar days administrative actions that were taken against him by the State of Kansas.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth are hereby REVOKED;
- (2) All appointments issued under said licenses are hereby VOID;
- (3) The Defendant shall transact no further business in the Commonwealth as an insurance agent;
- (4) The Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth prior to sixty (60) days from the date of this Order;
- (5) The Bureau shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth; and
- (6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00080
MAY 14, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
JULIO CESAR FONSECA,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Julio Cesar Fonseca ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-1826 C of the Code of Virginia ("Code") by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the State of New Jersey.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated April 11, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 C of the Code by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the State of New Jersey.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth are hereby REVOKED;
- (2) All appointments issued under said licenses are hereby VOID;
- (3) The Defendant shall transact no further business in the Commonwealth as an insurance agent;
- (4) The Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth prior to sixty (60) days from the date of this Order;

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(5) The Bureau shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth; and

(6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00081
MAY 29, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

JOHN KIMBERLY RICHARD,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that John Kimberly Richard ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated subsection 10 of § 38.2-1831 of the Code of Virginia ("Code") by using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, or untrustworthiness in the conduct of business in this Commonwealth or elsewhere, or demonstrating financial irresponsibility in the handling of applicant, policyholder, agency, or insurance company funds.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated March 26, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated subsection 10 of § 38.2-1831 of the Code by using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, or untrustworthiness in the conduct of business in this Commonwealth or elsewhere, or demonstrating financial irresponsibility in the handling of applicant, policyholder, agency, or insurance company funds.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth are hereby REVOKED;
- (2) All appointments issued under said licenses are hereby VOID;
- (3) The Defendant shall transact no further business in the Commonwealth as an insurance agent;
- (4) The Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth prior to sixty (60) days from the date of this Order;
- (5) The Bureau shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth; and
- (6) This case is dismissed, and the papers herein shall be placed in the file for ended causes

**CASE NO. INS-2012-00082
MAY 29, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

JUAN RAMOS MONTERMOSO,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Juan Ramos Montermoso ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia

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("Commonwealth"), violated § 38.2-1826 C of the Code of Virginia ("Code") by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the Financial Industry Regulatory Authority.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated March 9, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 C of the Code by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the Financial Industry Regulatory Authority.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth are hereby REVOKED;
- (2) All appointments issued under said licenses are hereby VOID;
- (3) The Defendant shall transact no further business in the Commonwealth as an insurance agent;
- (4) The Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth prior to sixty (60) days from the date of this Order;
- (5) The Bureau shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth; and
- (6) This case is dismissed, and the papers herein shall be placed in the file for ended causes

**CASE NO. INS-2012-00083
MAY 29, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
CARLO JOHN PENNELLA III,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Carlo John Pennella III ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-1809 of the Code of Virginia ("Code") by failing to make records available promptly upon request for examination by the Commission or its employees.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated May 13, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1809 of the Code by failing to make records available promptly upon request for examination by the Commission or its employees.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth are hereby REVOKED;

- (2) All appointments issued under said licenses are hereby VOID;
- (3) The Defendant shall transact no further business in the Commonwealth as an insurance agent;
- (4) The Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth prior to sixty (60) days from the date of this Order;
- (5) The Bureau shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth; and
- (6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00084
MAY 29, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

ROY MILLER SMITH,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Roy Miller Smith ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-1826 C and subsection 1 of § 38.2-1831 of the Code of Virginia ("Code") by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the State of Florida and by providing materially incorrect, misleading, incomplete or untrue information in his license application filed with the Commission.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated April 11, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 C and subsection 1 of § 38.2-1831 of the Code by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the State of Florida and by providing materially incorrect, misleading, incomplete or untrue information in his license application filed with the Commission.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth are hereby REVOKED;
- (2) All appointments issued under said licenses are hereby VOID;
- (3) The Defendant shall transact no further business in the Commonwealth as an insurance agent;
- (4) The Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth prior to sixty (60) days from the date of this Order;
- (5) The Bureau shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth; and
- (6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00085
MAY 29, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
STEVEN GEORGE KNEZ,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Steven George Knez ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-1826 C of the Code of Virginia ("Code") by failing to report to the Commission within thirty (30) calendar days administrative actions that were taken against him by the State of Kansas.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated April 11, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 C of the Code by failing to report to the Commission within thirty (30) calendar days administrative actions that were taken against him by the State of Kansas.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth are hereby REVOKED;
- (2) All appointments issued under said licenses are hereby VOID;
- (3) The Defendant shall transact no further business in the Commonwealth as an insurance agent;
- (4) The Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth prior to sixty (60) days from the date of this Order;
- (5) The Bureau shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth; and
- (6) This case is dismissed, and the papers herein shall be placed in the file for ended causes

**CASE NO. INS-2012-00089
JUNE 26, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
DOUGLAS R. BISHOP,
Defendant

SETTLEMENT ORDER

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Douglas R. Bishop ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated §§ 38.2-512, 38.2-1822 A, and 38.2-1822 B of the Code of Virginia ("Code") by causing or allowing to be affixed the signature of any other person to any document pertaining to the business of insurance without the written authorization of the person whose signature appears on such document; by knowingly permitting unlicensed individuals to act as agents on behalf of the company; and by acting as an agent of an insurer without first obtaining a license in the manner and form prescribed by the Commission.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

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The Defendant has been advised of his right to a hearing in this matter, whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth the sum of Five Thousand Dollars (\$5,000) and waived his right to a hearing.

The Bureau has recommended that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The offer of the Defendant in settlement of the matter set forth herein be, and it is hereby, accepted.
- (2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00092
JULY 3, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
WARREN T. ELLSWORTH,
Defendant

SETTLEMENT ORDER

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Warren T. Ellsworth ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated §§ 38.2-512, 38.2-1822 A, and 38.2-1822 B of the Code of Virginia ("Code") by causing or allowing to be affixed the signature of any other person to any document pertaining to the business of insurance without the written authorization of the person whose signature appears on such document, by knowingly permitting persons to act as agents of an insurer licensed to transact the business of insurance in the Commonwealth without first obtaining a license in a manner and in a form prescribed by the Commission, and by acting as an agent of an insurer without first obtaining a license in the manner and form prescribed by the Commission.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been advised of his right to a hearing in this matter, whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth the sum of Five Thousand Dollars (\$5,000) and waived his right to a hearing.

The Bureau has recommended that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The offer of the Defendant in settlement of the matter set forth herein be, and it is hereby, accepted.
- (2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00101
JULY 19, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
CHRISTINE MARY O'CONNOR,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Christine Mary O'Connor ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia

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("Commonwealth"), violated §§ 38.2-512, 38.2-1812, and 38.2-1822 of the Code of Virginia ("Code") by causing or allowing to be affixed the signature of any other person to any document pertaining to the business of insurance without the written authorization of the person whose signature appears on such document; by receiving commissions from an insurer for services as an agent prior to becoming licensed and appointed; by acting as an agent of an insurer without first obtaining a license in the manner and form prescribed by the Commission; and by knowingly permitting persons to act as agents of an insurer licensed to transact the business of insurance in the Commonwealth without first obtaining a license in a manner and in a form prescribed by the Commission.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been notified of her right to a hearing before the Commission in this matter by certified letter dated June 19, 2012, and mailed to the Defendant's counsel.

The Defendant, having been advised in the above manner of her right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION, is of the opinion and finds that the Defendant has violated §§ 38.2-512, 38.2-1812, and 38.2-1822 of the Code by causing or allowing to be affixed the signature of any other person to any document pertaining to the business of insurance without the written authorization of the person whose signature appears on such document; by receiving commissions from an insurer for services as an agent prior to becoming licensed and appointed; by acting as an agent of an insurer without first obtaining a license in the manner and form prescribed by the Commission; and by knowingly permitting persons to act as agents of an insurer licensed to transact the business of insurance in the Commonwealth without first obtaining a license in a manner and in a form prescribed by the Commission.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED.
- (2) All appointments issued under said licenses are hereby VOID.
- (3) The Defendant transact no further business in the Commonwealth as an insurance agent.
- (4) The Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth prior to one (1) year from the date of this Order.
- (5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth.
- (6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00107
JUNE 8, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
GENATT ASSOCIATES, INC.,
Defendant

ORDER REVOKING LICENSE

Based on an investigation by the Bureau of Insurance ("Bureau"), it is alleged that Genatt Associates, Inc. ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent and a surplus lines broker in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-4809 A 2 of the Code of Virginia ("Code") by failing to file the Annual Gross Premium Tax Report for 2011 on or before March 1, 2012.

The Commission is authorized by §§ 38.2-218, 38.2-219, 38.2-1831, and 38.2-1857.7 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's licenses upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid violation.

The Defendant has been notified of its right to a hearing in this matter by certified letter dated May 1, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of its right to a hearing in this matter, failed to request a hearing.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent and a surplus lines broker.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-4809 A 2 of the Code by failing to file the Annual Gross Premium Tax Report for 2011 on or before March 1, 2012.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent and a surplus lines broker in the Commonwealth are hereby REVOKED.
- (2) All appointments issued under said insurance licenses are hereby VOID.
- (3) The Defendant shall transact no further business in the Commonwealth as an insurance agent or a surplus lines broker.
- (4) The Bureau of Insurance shall cause a copy of this Order to be sent to every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.
- (5) The papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00108
JUNE 8, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
PACIFIC WHOLESALE INSURANCE BROKERS, LLC,
Defendant

ORDER REVOKING LICENSE

Based on an investigation by the Bureau of Insurance ("Bureau"), it is alleged that Pacific Wholesale Insurance Brokers, LLC ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent and a surplus lines broker in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-4809 A 2 of the Code of Virginia ("Code") by failing to file the Annual Gross Premium Tax Report for 2011 on or before March 1, 2012.

The Commission is authorized by §§ 38.2-218, 38.2-219, 38.2-1831, and 38.2-1857.7 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's licenses upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid violation.

The Defendant has been notified of its right to a hearing in this matter by certified letter dated May 1, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of its right to a hearing in this matter, failed to request a hearing.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent and a surplus lines broker.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-4809 A 2 of the Code by failing to file the Annual Gross Premium Tax Report for 2011 on or before March 1, 2012.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent and a surplus lines broker in the Commonwealth are hereby REVOKED.
- (2) All appointments issued under said insurance licenses are hereby VOID.
- (3) The Defendant shall transact no further business in the Commonwealth as an insurance agent or a surplus lines broker.
- (4) The Bureau of Insurance shall cause a copy of this Order to be sent to every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.
- (5) The papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00109
JUNE 8, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
ALPHA RISK MANAGEMENT, LLC,
Defendant

ORDER REVOKING LICENSE

Based on an investigation by the Bureau of Insurance ("Bureau"), it is alleged that Alpha Risk Management, LLC ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent and a surplus lines broker in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-4809 A 2 of the Code of Virginia ("Code") by failing to file the Annual Gross Premium Tax Report for 2011 on or before March 1, 2012.

The Commission is authorized by §§ 38.2-218, 38.2-219, 38.2-1831, and 38.2-1857.7 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's licenses upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid violation.

The Defendant has been notified of its right to a hearing in this matter by certified letter dated May 1, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of its right to a hearing in this matter, failed to request a hearing.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent and a surplus lines broker.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-4809 A 2 of the Code by failing to file the Annual Gross Premium Tax Report for 2011 on or before March 1, 2012.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent and a surplus lines broker in the Commonwealth are hereby REVOKED.
- (2) All appointments issued under said insurance licenses are hereby VOID.
- (3) The Defendant shall transact no further business in the Commonwealth as an insurance agent or a surplus lines broker.
- (4) The Bureau of Insurance shall cause a copy of this Order to be sent to every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.
- (5) The papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00110
JUNE 8, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
CAROL A. THORNHILL,
Defendant

ORDER REVOKING LICENSE

Based on an investigation by the Bureau of Insurance ("Bureau"), it is alleged that Carol A. Thornhill ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent and a surplus lines broker in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-4809 A 2 of the Code of Virginia ("Code") by failing to file the Annual Gross Premium Tax Report for 2011 on or before March 1, 2012.

The Commission is authorized by §§ 38.2-218, 38.2-219, 38.2-1831, and 38.2-1857.7 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's licenses upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid violation.

The Defendant has been notified of her right to a hearing in this matter by certified letter dated May 1, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of her right to a hearing in this matter, failed to request a hearing.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent and a surplus lines broker.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-4809 A 2 of the Code by failing to file the Annual Gross Premium Tax Report for 2011 on or before March 1, 2012.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent and a surplus lines broker in the Commonwealth are hereby REVOKED.
- (2) All appointments issued under said insurance licenses are hereby VOID.
- (3) The Defendant shall transact no further business in the Commonwealth as an insurance agent or a surplus lines broker.
- (4) The Bureau of Insurance shall cause a copy of this Order to be sent to every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.
- (5) The papers herein shall be placed in the file for ended causes

**CASE NO. INS-2012-00111
JUNE 8, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
STEPHEN A. GENATT,
Defendant

ORDER REVOKING LICENSE

Based on an investigation by the Bureau of Insurance ("Bureau"), it is alleged that Stephen A. Genatt ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent and a surplus lines broker in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-4809 A 2 of the Code of Virginia ("Code") by failing to file the Annual Gross Premium Tax Report for 2011 on or before March 1, 2012.

The Commission is authorized by §§ 38.2-218, 38.2-219, 38.2-1831, and 38.2-1857.7 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's licenses upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid violation.

The Defendant has been notified of his right to a hearing in this matter by certified letter dated May 1, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, failed to request a hearing.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent and a surplus lines broker.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-4809 A 2 of the Code by failing to file the Annual Gross Premium Tax Report for 2011 on or before March 1, 2012.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent and a surplus lines broker in the Commonwealth are hereby REVOKED.
- (2) All appointments issued under said insurance licenses are hereby VOID.
- (3) The Defendant shall transact no further business in the Commonwealth as an insurance agent or a surplus lines broker.
- (4) The Bureau of Insurance shall cause a copy of this Order to be sent to every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.
- (5) The papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00113
JUNE 8, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
MICHAEL J. LEAMANCZYK,
Defendant

ORDER REVOKING LICENSE

Based on an investigation by the Bureau of Insurance ("Bureau"), it is alleged that Michael J. Leamanczyk ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent and a surplus lines broker in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-4809 A 2 of the Code of Virginia ("Code") by failing to file the Annual Gross Premium Tax Report for 2011 on or before March 1, 2012.

The Commission is authorized by §§ 38.2-218, 38.2-219, 38.2-1831, and 38.2-1857.7 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's licenses upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid violation.

The Defendant has been notified of his right to a hearing in this matter by certified letter dated May 1, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, failed to request a hearing.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent and a surplus lines broker.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-4809 A 2 of the Code by failing to file the Annual Gross Premium Tax Report for 2011 on or before March 1, 2012.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent and a surplus lines broker in the Commonwealth are hereby REVOKED.
- (2) All appointments issued under said insurance licenses are hereby VOID.
- (3) The Defendant shall transact no further business in the Commonwealth as an insurance agent or a surplus lines broker.
- (4) The Bureau of Insurance shall cause a copy of this Order to be sent to every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.
- (5) The papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00114
JUNE 8, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
MARC JOSEPH BISHARA,
Defendant

ORDER REVOKING LICENSE

Based on an investigation by the Bureau of Insurance ("Bureau"), it is alleged that Marc Joseph Bishara ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent and a surplus lines broker in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-4809 A 2 of the Code of Virginia ("Code") by failing to file the Annual Gross Premium Tax Report for 2011 on or before March 1, 2012.

The Commission is authorized by §§ 38.2-218, 38.2-219, 38.2-1831, and 38.2-1857.7 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's licenses upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid violation.

The Defendant has been notified of his right to a hearing in this matter by certified letter dated May 1, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, failed to request a hearing.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent and a surplus lines broker.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-4809 A 2 of the Code by failing to file the Annual Gross Premium Tax Report for 2011 on or before March 1, 2012.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent and a surplus lines broker in the Commonwealth are hereby REVOKED.
- (2) All appointments issued under said insurance licenses are hereby VOID.
- (3) The Defendant shall transact no further business in the Commonwealth as an insurance agent or a surplus lines broker.
- (4) The Bureau of Insurance shall cause a copy of this Order to be sent to every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.
- (5) The papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00115
JUNE 11, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
RYAN ALAN HORST,
Defendant

ORDER REVOKING LICENSE

Based on an investigation by the Bureau of Insurance ("Bureau"), it is alleged that Ryan Alan Horst ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent and a surplus lines broker in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-4809 A 2 of the Code of Virginia ("Code") by failing to file the Annual Gross Premium Tax Report for 2011 on or before March 1, 2012.

The Commission is authorized by §§ 38.2-218, 38.2-219, 38.2-1831, and 38.2-1857.7 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's licenses upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid violation.

The Defendant has been notified of his right to a hearing in this matter by certified letter dated May 1, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, failed to request a hearing.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent and a surplus lines broker.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-4809 A 2 of the Code by failing to file the Annual Gross Premium Tax Report for 2011 on or before March 1, 2012.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent and a surplus lines broker in the Commonwealth are hereby REVOKED.
- (2) All appointments issued under said insurance licenses are hereby VOID.
- (3) The Defendant shall transact no further business in the Commonwealth as an insurance agent or a surplus lines broker.
- (4) The Bureau of Insurance shall cause a copy of this Order to be sent to every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.
- (5) The papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00116
JUNE 11, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
MICHAEL PATRICK DUGAN,
Defendant

ORDER REVOKING LICENSE

Based on an investigation by the Bureau of Insurance ("Bureau"), it is alleged that Michael Patrick Dugan ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent and a surplus lines broker in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-4809 A 2 of the Code of Virginia ("Code") by failing to file the Annual Gross Premium Tax Report for 2011 on or before March 1, 2012.

The Commission is authorized by §§ 38.2-218, 38.2-219, 38.2-1831, and 38.2-1857.7 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's licenses upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid violation.

The Defendant has been notified of his right to a hearing in this matter by certified letter dated May 1, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, failed to request a hearing.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent and a surplus lines broker.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-4809 A 2 of the Code by failing to file the Annual Gross Premium Tax Report for 2011 on or before March 1, 2012.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent and a surplus lines broker in the Commonwealth are hereby REVOKED.
- (2) All appointments issued under said insurance licenses are hereby VOID.
- (3) The Defendant shall transact no further business in the Commonwealth as an insurance agent or a surplus lines broker.
- (4) The Bureau of Insurance shall cause a copy of this Order to be sent to every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.
- (5) The papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00117
JUNE 11, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
BRADFORD ALEXANDER BOYD,
Defendant

ORDER REVOKING LICENSE

Based on an investigation by the Bureau of Insurance ("Bureau"), it is alleged that Bradford Alexander Boyd ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent and a surplus lines broker in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-4809 A 2 of the Code of Virginia ("Code") by failing to file the Annual Gross Premium Tax Report for 2011 on or before March 1, 2012.

The Commission is authorized by §§ 38.2-218, 38.2-219, 38.2-1831, and 38.2-1857.7 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's licenses upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid violation.

The Defendant has been notified of his right to a hearing in this matter by certified letter dated May 1, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, failed to request a hearing.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent and a surplus lines broker.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-4809 A 2 of the Code by failing to file the Annual Gross Premium Tax Report for 2011 on or before March 1, 2012.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent and a surplus lines broker in the Commonwealth are hereby REVOKED.
- (2) All appointments issued under said insurance licenses are hereby VOID.
- (3) The Defendant shall transact no further business in the Commonwealth as an insurance agent or a surplus lines broker.
- (4) The Bureau of Insurance shall cause a copy of this Order to be sent to every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.
- (5) The papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00124
JUNE 14, 2012**

IN THE MATTER OF
METROPOLITAN LIFE INSURANCE COMPANY,
NEW ENGLAND LIFE INSURANCE COMPANY,
METLIFE INSURANCE COMPANY OF CONNECTICUT,
GENERAL AMERICAN LIFE INSURANCE COMPANY,
METROPOLITAN TOWER LIFE INSURANCE COMPANY,
METLIFE INVESTORS INSURANCE COMPANY,
METLIFE INVESTORS USA INSURANCE COMPANY, AND
DELAWARE AMERICAN LIFE INSURANCE COMPANY

Ex Parte: In the matter of Approval of a Multi-State Regulatory Settlement Agreement between Metropolitan Life Insurance Company, New England Life Insurance Company, Metlife Insurance Company of Connecticut, General American Life Insurance Company, Metropolitan Tower Life Insurance Company, Metlife Investors Insurance Company, Metlife Investors USA Insurance Company, and Delaware American Life Insurance Company, and the Florida Office of Insurance Regulation, the California Department of Insurance, the North Dakota Insurance Department, the Illinois Department of Insurance, the Pennsylvania Insurance Department, and the New Hampshire Insurance Department for and on behalf of the Virginia Bureau of Insurance and the Insurance Regulators of the remaining states, districts and territories of the United States

ORDER APPROVING SETTLEMENT AGREEMENT

ON THIS DAY came the Bureau of Insurance ("Bureau"), by counsel, and requested: (i) State Corporation Commission ("Commission") approval and acceptance of a multi-state Regulatory Settlement Agreement ("Agreement"), a copy of which is attached hereto and made a part hereof, by and between the commissioners of insurance for the States of Florida, California, North Dakota, Illinois, Pennsylvania, and New Hampshire, and Metropolitan Life Insurance Company, domiciled in New York and licensed to transact the business of insurance in the Commonwealth of Virginia, New England Life Insurance Company, domiciled in Massachusetts and licensed to transact the business of insurance in the Commonwealth of Virginia, Metlife Insurance Company of Connecticut, domiciled in Connecticut and licensed to transact the business of insurance in the Commonwealth of Virginia, General American Life Insurance Company, domiciled in Missouri and licensed to transact the business of insurance in the Commonwealth of Virginia, Metropolitan Tower Life Insurance Company, domiciled in Delaware and licensed to transact the business of insurance in the Commonwealth of Virginia, Metlife Investors Insurance Company, domiciled in Missouri and licensed to transact the business of insurance in the Commonwealth of Virginia, Metlife Investors USA Insurance Company, domiciled in Delaware and licensed to transact the business of insurance in the Commonwealth of Virginia, and Delaware American Life Insurance Company, domiciled in Delaware and licensed to transact the business of insurance in the Commonwealth of Virginia¹; and (ii) authority to execute any documents attendant to the Agreement necessary to evidence the Commission's acceptance of the Agreement;

NOW THE COMMISSION, having considered the terms of the Agreement together with the recommendation of the Bureau that the Commission approve and accept the Agreement, is of the opinion, finds, and ORDERS that: (i) the Agreement be, and it is hereby, APPROVED AND ACCEPTED, and (ii) the Commissioner of Insurance be, and she is hereby, authorized to execute any attendant documents necessary to evidence the Commission's approval and acceptance of the Agreement.

NOTE: A copy of Attachment A entitled "Participating Regulator Adoption" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

¹ The Agreement also includes First Metlife Investors Insurance Company. First Metlife Investors Insurance Company is not licensed to transact the business of insurance in Virginia; therefore, this Order does not include this company.

**CASE NO. INS-2012-00127
JUNE 26, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
DANIELLE S. BYRD,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Danielle S. Byrd ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-1826 C of the Code of Virginia ("Code") by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against her by the state of Missouri.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

The Defendant has been notified of her right to a hearing before the Commission in this matter by certified letters dated April 11, 2012, and May 8, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of her right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 C of the Code by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against her by the state of Missouri.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED.
- (2) All appointments issued under said licenses are hereby VOID.
- (3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent.
- (4) The Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order.
- (5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.
- (6) This case is dismissed, and the papers herein shall be placed in the file for ended causes

**CASE NO. INS-2012-00128
JUNE 27, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
WILLIAM R. LAWRENCE,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that William R. Lawrence ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-1826 C of the Code of Virginia ("Code") by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the state of New Jersey.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated May 14, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 C of the Code by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the state of New Jersey.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED.
- (2) All appointments issued under said licenses are hereby VOID.
- (3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent.
- (4) The Defendant shall not apply to the State Corporation Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order.
- (5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.
- (6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00130
JULY 12, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

COMMERCE & INDUSTRY INSURANCE COMPANY,
Defendant

SETTLEMENT ORDER

Based on a market conduct examination performed by the Bureau of Insurance ("Bureau"), it is alleged that Commerce & Industry Insurance Company ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth"), violated §§ 38.2-305 A and 38.2-305 B of the Code of Virginia ("Code") by failing to provide the information required by the statute in the insurance policy; violated § 38.2-502 of the Code by misrepresenting the benefits, advantages, conditions or terms of an insurance policy; violated §§ 38.2-517 A, 38.2-604 A, 38.2-604.1 B, 38.2-610 A, 38.2-2202 A, 38.2-2202 B, 38.2-2234 A, and 38.2-2234 B of the Code by failing to accurately provide the required notices to insureds; violated § 38.2-1318 of the Code by failing to provide convenient access to files, documents and records; violated § 38.2-1812, 38.2-1822, and 38.2-1833 of the Code by paying commissions to agents and/or agencies that were not properly licensed and/or appointed; violated § 38.2-1906 D of the Code by making or issuing insurance contracts or policies not in accordance with the rate and supplementary rate information filings in effect for the Defendant; violated §§ 38.2-2208 A, 38.2-2208 B, 38.2-2212 D, 38.2-2212 E, and 38.2-2212 F of the Code by failing to properly terminate insurance policies; violated § 38.2-2220 of the Code by using standard automobile forms not in the precise language approved for use by the Commission; violated § 38.2-2223 of the Code by using broadenings of the standard forms without obtaining approval prior to use; and violated §§ 38.2-510 A 3 and 38.2-510 A 10 of the Code, as well as subsection D of 14 VAC 5-390-40, *Cancellation of insurance*, of the Commission's Rules Governing Insurance Premium Finance Companies, 14 VAC 5-390-10 *et seq.*, by improperly terminating premium financed policies, subsection D of 14 VAC 5-400-70, *Standards for prompt, fair and equitable settlement of claims applicable to all insurers*, and subsection D of 14 VAC 5-400-80, *Standards for prompt, fair and equitable settlements applicable to automobile insurance*, of the Commission's Rules Governing Unfair Claim Settlement Practices, 14 VAC 5-400-10 *et seq.*, by failing to handle claims properly with such frequency as to indicate a general business practice.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been advised of its right to a hearing in this matter, whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth the sum of Thirty-seven Thousand Three Hundred Dollars (\$37,300), waived its right to a hearing, agreed to comply with the Corrective Action Plan set forth in its letters to the Bureau dated December 15, 2011, March 8, 2012, and April 26, 2012, and confirmed that restitution was made to 27 consumers in the amount of Seven Thousand Two Hundred Eighteen Dollars and Sixty-eight Cents (\$7,218.68).

The Bureau has recommended that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The offer of Commerce & Industry Insurance Company in settlement of the matter set forth herein be, and it is hereby, accepted.
- (2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00131
JULY 12, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

RESPONSE INSURANCE COMPANY

and

RESPONSE WORLDWIDE DIRECT AUTO INSURANCE COMPANY,
Defendants

SETTLEMENT ORDER

Based on a market conduct examination performed by the Bureau of Insurance ("Bureau"), it is alleged that Response Insurance Company and Response Worldwide Direct Auto Insurance Company ("Defendants"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-305 A of the Code of Virginia ("Code") by failing to provide the information required by the statute in the insurance policy; violated § 38.2-502 of the Code by misrepresenting the benefits, advantages, conditions or terms of an insurance policy; violated §§ 38.2-604 B, 38.2-604 C, 38.2-610 A, 38.2-1905 A, 38.2-2202 B, 38.2-2210 A, and 38.2-2234 A of the Code by failing to accurately provide the required notices to insureds; violated §§ 38.2-1906 A and 38.2-1906 D of the Code by making or issuing insurance contracts or policies not in accordance with the rate and supplementary rate information filings in effect for the Defendants; violated §§ 38.2-2208 A, 38.2-2208 B, 38.2-2212 D, 38.2-2212 E, and 38.2-2212 F of the Code by failing to properly terminate insurance policies; and violated §§ 38.2-510 A 1 and 38.2-510 C of the Code, as well as subsection A of 14 VAC 5-400-40, *Misrepresentation of policy provisions*, subsection D of 14 VAC 5-400-70, *Standards for prompt, fair and equitable settlement of claims applicable to all insurers*, and subsection D of 14 VAC 5-400-80, *Standards for prompt, fair and equitable settlements applicable to automobile insurance*, of the Commission's Rules Governing Unfair Claim Settlement Practices, 14 VAC 5-400-10 *et seq.*, by failing to properly handle claims with such frequency as to indicate a general business practice.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendants' licenses upon a finding by the Commission, after notice and opportunity to be heard, that the Defendants have committed the aforesaid alleged violations.

The Defendants have been advised of their right to a hearing in this matter, whereupon the Defendants, without admitting any violation of Virginia law, have made an offer of settlement to the Commission wherein the Defendants have tendered to the Commonwealth the sum of Thirty-two Thousand Two Hundred Dollars (\$32,200), waived their right to a hearing, agreed to comply with the Corrective Action Plan set forth in their letters to the Bureau dated April 3, 2012, and May 7, 2012, and confirmed that restitution was made to 1,836 consumers in the amount of Three Hundred Twenty-five Thousand Four Hundred Forty Dollars and Forty-eight Cents (\$325,440.48).

The Bureau has recommended that the Commission accept the offer of settlement of the Defendants pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendants, and the recommendation of the Bureau, is of the opinion that the Defendants' offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The offer of Response Insurance Company and Response Worldwide Direct Auto Insurance Company in settlement of the matter set forth herein be, and it is hereby, accepted.
- (2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00132
JUNE 21, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

PROGRESSIVE CAPITAL SOLUTIONS, LLC,
Defendant

ORDER TO TAKE NOTICE

Pursuant to § 38.2-6002 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") may suspend or revoke the license of any viatical settlement provider to act as a viatical settlement provider in the Commonwealth of Virginia ("Commonwealth") whenever the Commission finds that the viatical settlement provider no longer meets the requirements for licensure as a viatical settlement provider in the Commonwealth.

Section 38.2-6002 of the Code requires that prior to the issuance of a license to act as a viatical settlement provider the Commission must find that the applicant, if it is a nonresident limited liability company, has furnished proof of its authority to transact business in the Commonwealth. Section 38.2-6002 of the Code also requires that, on or before March 1 of each year, a licensed viatical settlement provider shall submit its renewal application form to the Commission. In addition, § 38.2-6004 of the Code provides that a licensed viatical settlement provider must, on or before March 1 of each year, file with the Commission an annual report and anti-fraud certification.

Progressive Capital Solutions, LLC, a nonresident limited liability corporation domiciled in the state of New York ("Defendant"), is licensed by the Commission to act as a viatical settlement provider in the Commonwealth. As of April 1, 2012, the Defendant's certificate of authority to transact business in the Commonwealth is not in good standing. In addition, the Defendant has failed to timely file its 2011 renewal application, annual report, and anti-fraud certification with the Commission.

The Bureau of Insurance has recommended that, based on the foregoing, the license of the Defendant to act as a viatical settlement provider in the Commonwealth be suspended.

Accordingly, IT IS ORDERED THAT the Defendant TAKE NOTICE that the Commission shall enter an order subsequent to June 27, 2012, suspending the license of the Defendant to act as a viatical settlement provider in the Commonwealth of Virginia unless on or before June 27, 2012, the Defendant files with Joel H. Peck, Clerk, State Corporation Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, a request for a hearing before the Commission with respect to the proposed suspension of the Defendant's license.

**CASE NO. INS-2012-00132
JULY 30, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

PROGRESSIVE CAPITAL SOLUTIONS, LLC,
Defendant

ORDER SUSPENDING LICENSE

In an Order to Take Notice entered June 21, 2012, Progressive Capital Solutions, LLC, a nonresident limited liability corporation domiciled in the state of New York ("Defendant"), licensed by the State Corporation Commission ("Commission") to act as a viatical settlement provider in the Commonwealth of Virginia ("Commonwealth"), was ordered to take notice that the Commission would enter an order subsequent to June 27, 2012, suspending the license of the Defendant to act as a viatical settlement provider unless on or before June 27, 2012, the Defendant filed with the Clerk of the Commission a request for a hearing before the Commission to contest the proposed suspension of the Defendant's license.

The Order to Take Notice was entered due to the Defendant's failing to maintain its certificate of authority to transact business in the Commonwealth in good standing and the Defendant's failure to file timely its 2011 renewal application, annual report, and anti-fraud certification with the Commission.

As of the date of this Order, the Defendant has not filed a request to be heard before the Commission with respect to the proposed suspension of the Defendant's license.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to § 38.2-6002 of the Code of Virginia, the license of the Defendant to act as a viatical settlement provider in the Commonwealth of Virginia is hereby SUSPENDED.

(2) The Defendant shall not act as a viatical settlement provider in the Commonwealth of Virginia until further order of the Commission.

**CASE NO. INS-2012-00138
AUGUST 22, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

ANTHEM HEALTH PLANS OF VIRGINIA, INC.,
Defendant

SETTLEMENT ORDER

Based on a target market conduct examination performed by the Bureau of Insurance ("Bureau"), it is alleged that Anthem Health Plans of Virginia, Inc. ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth"), in certain instances, violated § 38.2-502 (1) of the Code of Virginia ("Code") by misrepresenting the benefits, advantages, conditions or terms of an insurance policy; violated § 38.2-503 of the Code by making, publishing, disseminating, circulating, or placing before the public an advertisement, announcement or statement containing an assertion, representation or statement relating to the business of insurance which was untrue, deceptive or misleading; violated § 38.2-508 (2) of the Code by failing to comply with practices to prevent unfair discrimination; violated §§ 38.2-510 A 5, 38.2-510 A 15, and 38.2-3407.1 B of the Code by failing to comply with claim settlement practices; violated § 38.2-514 B of the Code by failing to make proper disclosures; violated § 38.2-610 B of the Code by failing to accurately provide the required notices to insureds; violated § 38.2-3405 A of the Code by allowing provisions for subrogation of any person's right to recovery for personal injuries from a third person in contracts for insurance; violated §§ 38.2-3407.4 A and 38.2-3407.4 B of the Code by failing to comply with explanation of benefits practices; violated § 38.2-3407.14 B of the Code by failing to comply with the requirements regarding notice of premium increases; violated §§ 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 5, 38.2-3407.15 B 6, 38.2-3407.15 B 7, 38.2-3407.15 B 8, 38.2-3407.15 B 9, 38.2-3407.15 B 10, and 38.2-3407.15 B 11 of the Code by failing to comply with ethics and fairness requirements for business practices; violated § 38.2-5804 A of the Code by failing to comply with procedures to establish and maintain a complaint system for each of its Managed Care Health Insurance Plans (MCHIPs); violated the provisions of the Commission's Rules Governing Advertisement of Accident and Sickness Insurance, 14 VAC 5-90-10 *et seq.*, specifically 14 VAC 5-90-40 and 14 VAC 5-90-60 A 1; violated the provisions of the Commission's Rules Governing Unfair Claim Settlement Practices, 14 VAC 5-400-10 *et seq.*, specifically 14 VAC 5-400-30, 14 VAC 5-400-40 A, 14 VAC 5-400-50 A, 14 VAC 5-400-60 A, 14 VAC 5-400-60 B, 14 VAC 5-400-70 B, and 14 VAC 5-400-70 D.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been advised of its right to a hearing in this matter, whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth the sum of One Hundred Twenty-nine Thousand Dollars (\$129,000), waived its right to a hearing, agreed to cease and desist from any future violations of §§ 38.2-508 (2), 38.2-510 A 5, 38.2-514 B, 38.2-3405 A, 38.2-3407.1 B, 38.2-3407.4 A, 38.2-3407.4 B, 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 5, 38.2-3407.15 B 6, 38.2-3407.15 B 7, 38.2-3407.15 B 8, 38.2-3407.15 B 9, 38.2-3407.15 B 10, or 38.2-3407.15 B 11 of the Code, or 14 VAC 5-400-40 A, 14 VAC 5-400-50 A, 14 VAC 5-400-60 A, or 14 VAC 5-400-70 B, and agreed to comply with the Corrective Action Plan contained in the Target Market Conduct Examination Report as of June 30, 2008.

The Bureau has recommended that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The offer of Anthem Health Plans of Virginia, Inc., in settlement of the matter set forth herein be, and it is hereby, accepted.
- (2) Anthem Health Plans of Virginia, Inc., shall cease and desist from any future violations of §§ 38.2-508 (2), 38.2-510 A 5, 38.2-514 B, 38.2-3405 A, 38.2-3407.1 B, 38.2-3407.4 A, 38.2-3407.4 B, 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 5, 38.2-3407.15 B 6, 38.2-3407.15 B 7, 38.2-3407.15 B 8, 38.2-3407.15 B 9, 38.2-3407.15 B 10, or 38.2-3407.15 B 11 of the Code of Virginia, or 14 VAC 5-400-40 A, 14 VAC 5-400-50 A, 14 VAC 5-400-60 A, or 14 VAC 5-400-70 B.
- (3) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00139
AUGUST 22, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

PRIORITY HEALTH CARE, INC.,
Defendant

SETTLEMENT ORDER

Based on a target market conduct examination performed by the Bureau of Insurance ("Bureau"), it is alleged that Priority Health Care, Inc. ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as a health maintenance organization in the Commonwealth of Virginia ("Commonwealth"), in certain instances, violated § 38.2-502 (1) of the Code of Virginia ("Code") by misrepresenting the benefits, advantages, conditions or terms of an insurance policy; violated § 38.2-503 of the Code by making, publishing, disseminating, circulating, or placing before the public an advertisement, announcement or statement containing an assertion, representation or statement relating to the business of insurance which was untrue, deceptive or misleading; violated §§ 38.2-510 A 1, 38.2-510 A 6, 38.2-510 A 8, 38.2-510 A 15, and 38.2-4306.1 B of the Code by failing to comply with claim settlement practices; violated § 38.2-514 B of the Code by failing to make proper disclosures; violated §§ 38.2-3407.4 A and 38.2-3407.4 B of the Code by failing to comply with explanation of benefits practices; violated §§ 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 5, 38.2-3407.15 B 6, 38.2-3407.15 B 7, 38.2-3407.15 B 8, 38.2-3407.15 B 9, 38.2-3407.15 B 10, and 38.2-3407.15 B 11 of the Code by failing to comply with ethics and fairness requirements for business practices; violated § 38.2-3412.1:01 C of the Code by failing to comply with the requirements of coverage for biologically based mental illness; violated § 38.2-4312.3 B of the Code by failing to comply with the requirements of patient access to emergency services; violated § 38.2-5805 C 9 of the Code by failing to comply with Managed Care Health Insurance Plan (MCHIP) requirements; and violated the provisions of the Commission's Rules Governing Advertisement of Accident and Sickness Insurance, 14 VAC 5-90-10 *et seq.*, specifically 14 VAC 5-90-50 A.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-4316 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been advised of its right to a hearing in this matter, whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth the sum of Forty Thousand Dollars (\$40,000), waived its right to a hearing, and agreed to comply with the Corrective Action Plan contained in the Target Market Conduct Examination Report as of June 30, 2008.

The Bureau has recommended that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The offer of Priority Health Care, Inc., in settlement of the matter set forth herein be, and it is hereby, accepted.
- (2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00140
AUGUST 22, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

PENINSULA HEALTH CARE, INC.,
Defendant

SETTLEMENT ORDER

Based on a target market conduct examination performed by the Bureau of Insurance ("Bureau"), it is alleged that Peninsula Health Care, Inc. ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of a health maintenance organization in the Commonwealth of Virginia ("Commonwealth"), in certain instances, violated § 38.2-502 (1) of the Code of Virginia ("Code") by misrepresenting the benefits, advantages, conditions or terms of an insurance policy; violated § 38.2-503 of the Code by making, publishing, disseminating, circulating, or placing before the public an advertisement, announcement or statement containing an assertion, representation or statement relating to the business of insurance which was untrue, deceptive or misleading; violated §§ 38.2-510 A 1, 38.2-510 A 6, 38.2-510 A 8, 38.2-510 A 15, and 38.2-4306.1 B of the Code by failing to comply with claim settlement practices; violated § 38.2-514 B of the Code by failing to comply with explanation of benefits practices; violated §§ 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 5, 38.2-3407.15 B 6, 38.2-3407.15 B 7, 38.2-3407.15 B 8, 38.2-3407.15 B 9, 38.2-3407.15 B 10, and 38.2-3407.15 B 11 of the Code by failing to comply with ethics and fairness requirements for business practices; violated § 38.2-3412.1:01 C of the Code by failing to comply with the requirements of coverage for biologically based mental illness; violated § 38.2-4312.3 B of the Code by failing to comply with the requirements of patient access to emergency services; violated § 38.2-5805 C 9 of the Code by failing to comply with Managed Care Health Insurance Plan (MCHIP) requirements; and violated the provisions of the Commission's Rules

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Governing Advertisement of Accident and Sickness Insurance, 14 VAC 5-90-10 *et seq.*, specifically 14 VAC 5-90-50 A, 14 VAC 5-90-90 C, and 14 VAC 5-90-130 A.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-4316 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been advised of its right to a hearing in this matter, whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth the sum of Forty Thousand Dollars (\$40,000), waived its right to a hearing, and agreed to comply with the Corrective Action Plan contained in the Target Market Conduct Examination Report as of June 30, 2008.

The Bureau has recommended that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The offer of Peninsula Health Care, Inc., in settlement of the matter set forth herein be, and it is hereby, accepted.
- (2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00141
AUGUST 22, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
HEALTHKEEPERS, INC.,
Defendant

SETTLEMENT ORDER

Based on a target market conduct examination performed by the Bureau of Insurance ("Bureau"), it is alleged that HealthKeepers, Inc. ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as a health maintenance organization in the Commonwealth of Virginia ("Commonwealth"), in certain instances, violated § 38.2-502 (1) of the Code of Virginia ("Code") by misrepresenting the benefits, advantages, conditions or terms of an insurance policy; violated § 38.2-503 of the Code by making, publishing, disseminating, circulating, or placing before the public an advertisement, announcement or statement containing an assertion, representation or statement relating to the business of insurance which was untrue, deceptive or misleading; violated §§ 38.2-510 A 1, 38.2-510 A 6, 38.2-510 A 8, 38.2-510 A 15, and 38.2-4306.1 B of the Code by failing to comply with claim settlement practices; violated § 38.2-514 B of the Code by failing to make proper disclosures; violated §§ 38.2-3407.4 A and 38.2-3407.4 B of the Code by failing to comply with explanation of benefits practices; violated § 38.2-3407.14 B of the Code by failing to comply with the requirements regarding notice of premium increases; violated §§ 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 5, 38.2-3407.15 B 6, 38.2-3407.15 B 7, 38.2-3407.15 B 8, 38.2-3407.15 B 9, 38.2-3407.15 B 10, and 38.2-3407.15 B 11 of the Code by failing to comply with ethics and fairness requirements for business practices; violated § 38.2-3412.1:01 C of the Code by failing to comply with the requirements of coverage for biologically based mental illness; violated § 38.2-4312.3 B of the Code by failing to comply with the requirements of patient access to emergency services; violated § 38.2-5805 C 9 of the Code by failing to comply with Managed Care Health Insurance Plan (MCHIP) requirements; and violated the provisions of the Commission's Rules Governing Advertisement of Accident and Sickness Insurance, 14 VAC 5-90-10 *et seq.*, specifically 14 VAC 5-90-50 A.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-4316 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been advised of its right to a hearing in this matter, whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth the sum of Fifty-two Thousand Dollars (\$52,000); waived its right to a hearing; agreed to cease and desist from future violations of §§ 38.2-510 A 1, 38.2-510 A 6, 38.2-510 A 8, 38.2-514 B, 38.2-3407.4 A, 38.2-3407.4 B, 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 5, 38.2-3407.15 B 6, 38.2-3407.15 B 7, 38.2-3407.15 B 8, 38.2-3407.15 B 9, 38.2-3407.15 B 10, 38.2-3407.15 B 11, or 38.2-4312.3 B of the Code; and agreed to comply with the Corrective Action Plan contained in the Target Market Conduct Examination Report as of June 30, 2008.

The Bureau has recommended that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

(1) The offer of HealthKeepers, Inc., in settlement of the matter set forth herein be, and it is hereby, accepted.

(2) HealthKeepers, Inc., shall cease and desist from any future violations of §§ 38.2-510 A 1, 38.2-510 A 6, 38.2-510 A 8, 38.2-514 B, 38.2-3407.4 A, 38.2-3407.4 B, 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 5, 38.2-3407.15 B 6, 38.2-3407.15 B 7, 38.2-3407.15 B 8, 38.2-3407.15 B 9, 38.2-3407.15 B 10, 38.2-3407.15 B 11, or 38.2-4312.3 B of the Code.

(3) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00142
JULY 30, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

PEERLESS INSURANCE COMPANY,
EXCELSIOR INSURANCE COMPANY,
THE NETHERLANDS INSURANCE COMPANY,
PEERLESS INDEMNITY INSURANCE COMPANY,
and
MONTGOMERY MUTUAL INSURANCE COMPANY,
Defendants

SETTLEMENT ORDER

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Peerless Insurance Company, Excelsior Insurance Company, The Netherlands Insurance Company, Peerless Indemnity Insurance Company, and Montgomery Mutual Insurance Company (collectively, "Defendants"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth"), violated 14 VAC 5-335-10 *et seq.* of the Commission's Rules Governing Claims-Made Liability Insurance Policies ("Rules"), by issuing claims-made forms that did not comply with the Rules since January 1, 2005, the effective date of the regulation.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia ("Code") to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendants' licenses upon a finding by the Commission, after notice and opportunity to be heard, that the Defendants have committed the aforesaid alleged violations.

The Defendants have been advised of their right to a hearing in this matter, whereupon the Defendants, without admitting any violation of Virginia law, have made an offer of settlement to the Commission wherein the Defendants have tendered to the Commonwealth the sum of One Thousand Dollars (\$1,000) per company for an amount totaling Five Thousand Dollars (\$5,000), waived their right to a hearing, and agreed to comply with the Corrective Action Plan set forth in their letter to the Bureau dated May 31, 2012.

The Bureau has recommended that the Commission accept the offer of settlement of the Defendants pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendants, and the recommendation of the Bureau, is of the opinion that the Defendants' offer should be accepted.

Accordingly, IT IS ORDERED THAT:

(1) The offer of Peerless Insurance Company, Excelsior Insurance Company, The Netherlands Insurance Company, Peerless Indemnity Insurance Company, and Montgomery Mutual Insurance Company in settlement of the matter set forth herein be, and it is hereby, accepted.

(2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00143
JULY 30, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

AMERICAN ECONOMY INSURANCE COMPANY,
AMERICAN STATES INSURANCE COMPANY,
GENERAL INSURANCE COMPANY OF AMERICA,
FIRST NATIONAL INSURANCE COMPANY OF AMERICA,
SAFECO INSURANCE COMPANY OF AMERICA,
Defendants

SETTLEMENT ORDER

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that American Economy Insurance Company, American States Insurance Company, General Insurance Company of America, First National Insurance Company of America, and Safeco Insurance Company of America (collectively, "Defendants"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth"), violated 14 VAC 5-335-10 *et seq.* of the Commission's Rules Governing Claims-Made Liability Insurance Policies ("Rules"), by issuing claims-made forms that did not comply with the Rules since January 1, 2005, the effective date of the regulation.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia ("Code") to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendants' licenses upon a finding by the Commission, after notice and opportunity to be heard, that the Defendants have committed the aforesaid alleged violations.

The Defendants have been advised of their right to a hearing in this matter, whereupon the Defendants, without admitting any violation of Virginia law, have made an offer of settlement to the Commission wherein the Defendants have tendered to the Commonwealth the sum of One Thousand Dollars (\$1,000) per company for an amount totaling Five Thousand Dollars (\$5,000), waived their right to a hearing, and agreed to comply with the Corrective Action Plan set forth in their letter to the Bureau dated May 31, 2012.

The Bureau has recommended that the Commission accept the offer of settlement of the Defendants pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendants, and the recommendation of the Bureau, is of the opinion that the Defendants' offer should be accepted.

Accordingly, IT IS ORDERED THAT:

(1) The offer of American Economy Insurance Company, American States Insurance Company, General Insurance Company of America, First National Insurance Company of America, and Safeco Insurance Company of America in settlement of the matter set forth herein be, and it is hereby, accepted.

(2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00144
DECEMBER 10, 2012**

APPLICATION OF
NATIONAL COUNCIL ON COMPENSATION INSURANCE, INC.

For revisions of advisory loss costs and assigned risk workers' compensation insurance rates

FINAL ORDER

On July 20, 2012, the National Council on Compensation Insurance, Inc. ("NCCI"), filed an application with the State Corporation Commission ("Commission") for approval of certain changes applicable to voluntary market advisory loss costs and assigned risk rates and rating values for new and renewal workers' compensation insurance policies becoming effective on or after April 1, 2013 ("Application"). The Application consisted of two separate filings: a voluntary market loss cost filing and an assigned risk market rate filing. The voluntary loss cost filing addresses two categories of workers' compensation classifications: (i) industrial classifications, including coal mine classifications, and (ii) federal ("F") classifications. The assigned risk rate filing addresses the same two categories.

With respect to voluntary loss costs, NCCI proposed an overall decrease of 5.7% for industrial classifications; a decrease of 2.1% for F classifications; an increase of 4.9% for the surface coal mine classification; and a decrease of 14.5% for the underground coal mine classification.

With respect to the assigned risk rates, NCCI proposed an overall increase of 7.3% for industrial classifications; an increase of 14.4% for F classifications; an increase of 19.4% for the surface coal mine classification; and a decrease of 3.5% for the underground coal mine classification.

Jay A. Rosen ("Rosen") and Dr. Harry L. Shuford ("Shuford") filed direct testimony and exhibits on behalf of NCCI. Rosen stated that NCCI has recommended three changes to the current methodology upon which the voluntary loss costs, assigned risk rates, and rating values are based. First, NCCI recommended a change to the formula used to calculate the 19th-to-ultimate report loss development tail factor. As of December 31, 2011, NCCI no

longer collects incurred but not reported (IBNR) reserves on its ratemaking financial calls. Therefore, a change to the data on which the 19th-to-ultimate tail factors are currently based was necessarily made in this year's filings.¹ Second, NCCI recommended changes to the methodology used to determine indemnity and medical annual trend factors. The prescribed method for several years for trend factors was based on loss ratios for the most recent 5 to 8 policy years. NCCI recommended selecting the annual trend factor as the average of the eight-point exponential annual trend and the most current approved trend factor, and limiting the change from the prior filing to +/- 1%, which would provide appropriate stability in trend selections from year to year.² Finally, NCCI recommended a change in the formula to calculate assigned risk loss cost differential in order to ensure equity between the assigned risk and voluntary markets.³

On July 30, 2012, the Commission entered an Order Scheduling Hearing, wherein the Commission docketed the case; required publication of the notice of proceeding; outlined a procedural schedule that provided respondents with the opportunity to participate and file testimony and exhibits; and scheduled an evidentiary hearing to investigate whether the rates and advisory loss costs set forth in the Application are excessive, inadequate, or unfairly discriminatory and if there were any other issues subject to investigation.

On August 13, 2012, the Iron Workers Employers Association and the Washington Construction Employers Association (collectively, "Respondents") filed their Notice of Participation. On August 15, 2012, the Office of the Attorney General's Division of Consumer Counsel ("Consumer Counsel") filed its Notice of Participation.

On September 14, 2012, Glenn A. Watkins ("Watkins"), Matthew P. Merlino ("Merlino"), and David C. Parcell ("Parcell") filed direct testimony and exhibits on behalf of the Bureau of Insurance ("Bureau"). Watkins' testimony, in part, addressed the profit and contingency factor for coal mine occupational disease ("O.D. P&C"). Mr. Watkins recommended an O.D. P&C factor of 8.13% rather than the 9.29% proposed by the NCCI.⁴

In his testimony, Merlino, in part, addressed the issue of the Commission's instruction in 2011 that the Working Group examine the appropriateness of reducing the currently approved swing limits of 15% to 5%.⁵ Merlino stated that after a discussion with all members of the Working Group, the actuaries concluded that the current 15% swing limits provide a more appropriate balance between responsiveness to class differences and stability in rates from year to year than 5% swing limits.⁶ Merlino also testified as to the Bureau's proposed changes to the assigned risk rates for coal classifications 1005 and 1016 caused by Watkins' recommended O.D. P&C factor.⁷ Based upon the testimony, the Bureau supported NCCI's proposed voluntary loss costs and assigned risk rates, with the exception of the changes in the assigned risk rates for coal mine class codes 1005 and 1016. The Bureau proposed a rate increase of 19.0% for class code 1005 and a rate decrease of 3.9% for class code 1016, as opposed to the NCCI's proposed increase of 19.4% for class code 1005 and decrease of 3.5% for class code 1016.⁸

On October 11, 2012, the Bureau and NCCI filed a Joint Pre-Trial Motion for Approval of Stipulation to Admit Testimony ("Joint Pre-Trial Motion") requesting that the testimony and exhibits of Shuford, Parcell, and Watkins be admitted into the record without personal appearances or verifications by those witnesses at the hearing.⁹

On October 16, 2012, the hearing was held in the Commission's courtroom in Richmond, Virginia, to consider the Application. Charles H. Tenser, Esquire, appeared on behalf of NCCI; John O. Cox, Esquire, appeared on behalf of the Bureau; Kiva Bland Pierce, Esquire, appeared on behalf of Consumer Counsel; and Fred H. Codding ("Codding"), Esquire, appeared as a public witness.

Rosen testified on behalf of NCCI. He supported NCCI's proposed loss costs for the voluntary market and rates for the assigned risk market as revised based on the proposed changes to the methodology. In addition, Rosen stated that he revised his recommended changes for the assigned risk rates for the coal mine classifications such that his recommendations were in agreement with those supported by the Bureau and appearing in Merlino's testimony.¹⁰

Merlino testified on behalf of the Bureau. He discussed NCCI's proposed changes to the methodology, three of which resulted from discussions within the Working Group. He also addressed NCCI's proposed loss costs for the voluntary market and rates for the assigned risk market as revised based on the proposed changes to the methodology. Merlino agreed with Rosen's revised recommended changes for the assigned risk rates for the coal mine classifications.¹¹

¹ Exhibit 7 at 5.

² *Id.* at 6-7.

³ *Id.* at 7.

⁴ Exhibit 11 at 3, 12-15.

⁵ *Application of National Council on Compensation Insurance, Inc., For revisions of advisory loss costs and assigned risk workers compensation rates*, Case No. INS-2011-00163, 2011 S.C.C. Ann. Rpt. 169, 171, Final Order (Dec. 1, 2011).

⁶ Exhibit 9 at 6.

⁷ *Id.* at 16-17.

⁸ *Id.* at 17-18.

⁹ At the hearing on October 16, 2012, the Commission granted the Joint Pre-Trial Motion. Tr. at 7.

¹⁰ *Id.* at 24-25.

¹¹ *Id.* at 36-39.

Codding testified to information he obtained from the Joint Legislative Audit and Review Commission's review of employee misclassification in Virginia.¹²

NOW THE COMMISSION, having considered the record in its entirety, including the Application, the pre-filed testimony, the Joint Pre-Trial Motion to stipulate certain witnesses' testimony, and the evidence and exhibits presented at the hearing, finds that the proposed changes to the methodology, as well as the proposed changes to the voluntary market advisory loss costs and assigned risk rates, should be approved.

Accordingly, IT IS ORDERED THAT:

(1) The following changes applicable to the voluntary market advisory loss costs and assigned risk rates are hereby APPROVED for use with respect to new and renewal workers' compensation insurance policies effective on or after April 1, 2013: (i) an overall decrease of 5.7% to the voluntary loss costs for industrial classifications; (ii) a decrease of voluntary loss costs of 2.1% for F classifications; (iii) an increase in the voluntary loss costs of 4.9% for the surface coal mine classification; (iv) a decrease in the voluntary loss costs of 14.5% for the underground coal mine classification; (v) an overall increase of 7.3% to the assigned risk rates for industrial classifications; (vi) an increase to the assigned risk rates of 14.4% for F classifications; (vii) an increase to the assigned risk rates of 19.0% for the surface coal mine classification; and (viii) a decrease to the assigned risk rate of 3.9% for the underground mine classification.

(2) The proposal by NCCI to change the methodology used to calculate the 19th-to-ultimate report loss development tail factor is hereby approved.

(3) The proposal by NCCI to change the methodology used to determine indemnity and medical annual trend factors is hereby approved.

(4) The proposal by NCCI to change the methodology used to calculate the assigned risk loss cost differential is hereby approved.

(5) Except as otherwise ordered herein, the proposed revisions that have been filed by NCCI in this proceeding on behalf of its members and subscribers, including those relating to minimum premiums, rating values, rules, regulations and procedures for writing workers' compensation voluntary loss costs and assigned risk rates are hereby APPROVED for use with respect to new and renewal policies effective on or after April 1, 2013.

(6) On or before June 3, 2013, NCCI, the Bureau, Consumer Counsel, and the Respondents in this proceeding shall endeavor to recommend jointly to the Commission a proposed schedule for any year 2013 voluntary loss costs/assigned risk rate revision proceeding before the Commission. The proposed schedule shall address: (i) "pre-filing" of any discovery requests by the Bureau, Consumer Counsel, and any other parties; (ii) the date on which NCCI proposes to file with the Commission any voluntary loss costs/assigned risk rate revision application and its direct testimony; (iii) the date on which NCCI proposes to file its responses to pre-filed discovery requests; (iv) the dates for the pre-filing of the direct testimony of the Bureau, Consumer Counsel, and any respondents; (v) the date for filing by NCCI of its rebuttal testimony; and (vi) the date of any proposed hearing before the Commission.

(7) NCCI and any other persons participating in future voluntary loss costs and assigned risk rate application proceedings before the Commission, when proposing methodologies or data sources that are different from the methodologies or data sources upon which then current voluntary loss costs and/or assigned risk rate or rating values are based, shall be required to disclose the impact on voluntary loss costs and/or assigned risk rate or rating values of the change employing both the methodology it proposes to replace as well as the newly proposed methodology.

¹² *Id.* at 13-18.

**CASE NO. INS-2012-00146
JUNE 26, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
ROGER METZGER ASSOCIATES, INC.,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Roger Metzger Associates, Inc. ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent and a surplus lines broker in the Commonwealth of Virginia, violated §§ 38.2-4809 and 38.2-4809.1 of the Code of Virginia ("Code") by failing to pay the Bureau of Insurance Maintenance Assessment, Premium License Tax, and other related fines and penalties for the calendar year 2011.

The Commission is authorized by §§ 38.2-218, 38.2-219, 38.2-1831, and 38.2-1857.7 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been notified of its right to a hearing before the Commission in this matter by certified letter dated June 1, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of its right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent and a surplus lines broker.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated §§ 38.2-4809 and 38.2-4809.1 of the Code by failing to pay the Bureau of Insurance Maintenance Assessment, Premium License Tax, and other related fines and penalties for the calendar year 2011.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent and a surplus lines broker in the Commonwealth of Virginia are hereby REVOKED.
- (2) All appointments issued under said licenses are hereby VOID.
- (3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent or a surplus lines broker.
- (4) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.
- (5) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00148
JUNE 26, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
WILLIAM E. JONES,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that William E. Jones ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent and a surplus lines broker in the Commonwealth of Virginia, violated §§ 38.2-4809 and 38.2-4809.1 of the Code of Virginia ("Code") by failing to pay the Bureau of Insurance Maintenance Assessment, Premium License Tax, and other related fines and penalties for the calendar year 2011.

The Commission is authorized by §§ 38.2-218, 38.2-219, 38.2-1831, and 38.2-1857.7 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated June 1, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent and a surplus lines broker.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated §§ 38.2-4809 and 38.2-4809.1 of the Code by failing to pay the Bureau of Insurance Maintenance Assessment, Premium License Tax, and other related fines and penalties for the calendar year 2011.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent and a surplus lines broker in the Commonwealth of Virginia are hereby REVOKED.
- (2) All appointments issued under said licenses are hereby VOID.
- (3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent or a surplus lines broker.
- (4) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.
- (5) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00149
JUNE 26, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
PHILIP GRAEME CABAUD III,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Philip Graeme Cabaud III ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent and a surplus lines broker in the Commonwealth of Virginia, violated §§ 38.2-4809 and 38.2-4809.1 of the Code of Virginia ("Code") by failing to pay the Bureau of Insurance Maintenance Assessment, Premium License Tax, and other related fines and penalties for the calendar year 2011.

The Commission is authorized by §§ 38.2-218, 38.2-219, 38.2-1831, and 38.2-1857.7 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated June 1, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent and a surplus lines broker.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated §§ 38.2-4809 and 38.2-4809.1 of the Code by failing to pay the Bureau of Insurance Maintenance Assessment, Premium License Tax, and other related fines and penalties for the calendar year 2011.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent and a surplus lines broker in the Commonwealth of Virginia are hereby REVOKED.
- (2) All appointments issued under said licenses are hereby VOID.
- (3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent or a surplus lines broker.
- (4) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.
- (5) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00150
JUNE 26, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
JOSHUA SUN KIM,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Joshua Sun Kim ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent and a surplus lines broker in the Commonwealth of Virginia, violated §§ 38.2-4809 and 38.2-4809.1 of the Code of Virginia ("Code") by failing to pay the Bureau of Insurance Maintenance Assessment, Premium License Tax, and other related fines and penalties for the calendar year 2011.

The Commission is authorized by §§ 38.2-218, 38.2-219, 38.2-1831, and 38.2-1857.7 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated June 1, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent and a surplus lines broker.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated §§ 38.2-4809 and 38.2-4809.1 of the Code by failing to pay the Bureau of Insurance Maintenance Assessment, Premium License Tax, and other related fines and penalties for the calendar year 2011.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent and a surplus lines broker in the Commonwealth of Virginia are hereby REVOKED.
- (2) All appointments issued under said licenses are hereby VOID.
- (3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent or a surplus lines broker.
- (4) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.
- (5) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00151
JUNE 25, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
ROGER W. METZGER, JR.,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Roger W. Metzger, Jr. ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent and a surplus lines broker in the Commonwealth of Virginia, violated §§ 38.2-4809 and 38.2-4809.1 of the Code of Virginia ("Code") by failing to pay the Bureau of Insurance Maintenance Assessment, Premium License Tax, and other related fines and penalties for the calendar year 2011.

The Commission is authorized by §§ 38.2-218, 38.2-219, 38.2-1831, and 38.2-1857.7 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated June 1, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent and a surplus lines broker.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated §§ 38.2-4809 and 38.2-4809.1 of the Code by failing to pay the Bureau of Insurance Maintenance Assessment, Premium License Tax, and other related fines and penalties for the calendar year 2011.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent and a surplus lines broker in the Commonwealth of Virginia are hereby REVOKED.
- (2) All appointments issued under said licenses are hereby VOID.
- (3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent or a surplus lines broker.
- (4) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.
- (5) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00152
JUNE 26, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
KIMBERLY A. WILLIAMS,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Kimberly A. Williams ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent and a surplus lines broker in the Commonwealth of Virginia, violated §§ 38.2-4809 and 38.2-4809.1 of the Code of Virginia ("Code") by failing to pay the Bureau of Insurance Maintenance Assessment, Premium License Tax, and other related fines and penalties for the calendar year 2011.

The Commission is authorized by §§ 38.2-218, 38.2-219, 38.2-1831, and 38.2-1857.7 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been notified of her right to a hearing before the Commission in this matter by certified letter dated June 1, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of her right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent and a surplus lines broker.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated §§ 38.2-4809 and 38.2-4809.1 of the Code by failing to pay the Bureau of Insurance Maintenance Assessment, Premium License Tax, and other related fines and penalties for the calendar year 2011.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent and a surplus lines broker in the Commonwealth of Virginia are hereby REVOKED.
- (2) All appointments issued under said licenses are hereby VOID.
- (3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent or a surplus lines broker.
- (4) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.
- (5) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00154
JUNE 25, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
WASHINGTON SETTLEMENT GROUP, LLC,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Washington Settlement Group, LLC ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated § 55-525.27 of the Code of Virginia ("Code"), as well as 14 VAC 5-395-70, *Access to records*, of the Commission's rules governing settlement agents, 14 VAC 5-395-10 *et seq.*, by failing to maintain sufficient records of its affairs, and by failing to make all escrow, closing, or settlement records available promptly upon request for examination by the Bureau.

The Commission is authorized by § 55-525.31 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Commission is also authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Defendant has been notified of its right to a hearing before the Commission in this matter by certified letter dated April 30, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of its right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 55-525.27 of the Code, as well as 14 VAC 5-395-70, by failing to maintain sufficient records of its affairs, and by failing to make all escrow, closing, or settlement records available promptly upon request for examination by the Bureau.

Accordingly, IT IS ORDERED THAT:

(1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED.

(2) All appointments issued under said licenses are hereby VOID.

(3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent.

(4) The Defendant shall not apply to the State Corporation Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order.

(5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.

(6) The papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00156
JUNE 27, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

EARNEST EVANS BRIDGES,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Earnest Evans Bridges ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated §§ 38.2-1812 and 38.2-1822 of the Code of Virginia ("Code") by receiving commissions from an insurer for services as an agent prior to becoming licensed and appointed, and by acting as an agent of an insurer without first obtaining a license in the manner and form prescribed by the Commission.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated May 24, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated §§ 38.2-1812 and 38.2-1822 of the Code by receiving commissions from an insurer for services as an agent prior to becoming licensed and appointed, and by acting as an agent of an insurer without first obtaining a license in the manner and form prescribed by the Commission.

Accordingly, IT IS ORDERED THAT:

(1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

- (2) All appointments issued under said licenses are hereby VOID.
- (3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent.
- (4) The Defendant shall not apply to the State Corporation Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order.
- (5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.
- (6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00156
JULY 16, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
EARNEST EVANS BRIDGES,
Defendant

ORDER GRANTING RECONSIDERATION

On June 27, 2012, the State Corporation Commission ("Commission") issued an Order Revoking License in this docket. On July 16, 2012, Earnest Evans Bridges filed a Petition for Reconsideration requesting that the Commission reconsider the revocation of his Virginia insurance agent license.

NOW THE COMMISSION, upon consideration of this matter, grants reconsideration for the purposes of continuing jurisdiction over this matter and considering the above-referenced request.

Accordingly, IT IS ORDERED THAT:

- (1) Reconsideration is granted for the purpose of continuing jurisdiction over this matter and considering the above-referenced request.
- (2) This matter is continued pending further order of the State Corporation Commission

**CASE NO. INS-2012-00156
AUGUST 21, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
EARNEST EVANS BRIDGES,
Defendant

ORDER ON RECONSIDERATION

By Order Revoking License entered on June 27, 2012, the State Corporation Commission ("Commission") ordered, among other things, the revocation of the license of Earnest Evans Bridges ("Defendant") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth") for violating §§ 38.2-1812 and 38.2-1822 of the Code of Virginia ("Code") by receiving commissions from an insurer for services as an agent prior to becoming licensed and appointed, and by acting as an agent of an insurer without first obtaining a license in the manner and form prescribed by the Commission.

On July 16, 2012, the Defendant filed a Petition for Reconsideration in which he requested that his license be reinstated.

By Order Granting Reconsideration entered on July 16, 2012, the Commission granted reconsideration for the purpose of continuing our jurisdiction over this matter and considering the Defendant's request.

The Defendant has subsequently made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth the sum of One Thousand Dollars (\$1,000) and waived his right to a hearing.

The Bureau of Insurance ("Bureau") has recommended that the Commission reinstate the Defendant's license, and it further recommends that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, upon further reconsideration of this matter and having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau, is of the opinion that the Defendant's license should be reinstated and his offer of settlement accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The Defendant's request for reconsideration is hereby GRANTED.
- (2) The Order of June 27, 2012, is VACATED.
- (3) The Defendant's license is hereby REINSTATED.
- (4) The offer of the Defendant in settlement of the matter set forth herein be, and it is hereby, accepted.
- (5) The papers filed herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00157
AUGUST 21, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

ANDREA S. YOUNG

and

MORRIS & YOUNG INSURANCE AGENCY, LLC,
Defendants

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Andrea S. Young and Morris & Young Insurance Agency, LLC (collectively, "Defendants"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as insurance agents in the Commonwealth of Virginia ("Commonwealth"), violated §§ 38.2-1809 and 38.2-1813 of the Code of Virginia ("Code") by failing to retain all records relative to insurance transactions for the three (3) previous calendar years, by failing to make records available promptly upon request for examination by the Commission or its employees, and by failing to hold all premiums, return premiums, or other funds received by the Defendants in a fiduciary capacity and failing to account for such funds.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendants' licenses upon a finding by the Commission, after notice and opportunity to be heard, that the Defendants have committed the aforesaid alleged violations.

The Defendants have been notified of their right to a hearing before the Commission in this matter by certified letter dated May 29, 2012, and mailed to the Defendants' address shown in the records of the Bureau.

The Defendants, having been advised in the above manner of their right to a hearing in this matter, have failed to request a hearing and have not otherwise communicated with the Bureau.

The Bureau, upon the Defendants' failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendants' licenses to transact the business of insurance in the Commonwealth as insurance agents.

NOW THE COMMISSION is of the opinion and finds that the Defendants have violated §§ 38.2-1809 and 38.2-1813 of the Code by failing to retain all records relative to insurance transactions for the three (3) previous calendar years, by failing to make records available promptly upon request for examination by the Commission or its employees, and by failing to hold all premiums, return premiums, or other funds received by the Defendants in a fiduciary capacity and failing to account for such funds.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendants to transact the business of insurance as insurance agents in the Commonwealth of Virginia are hereby REVOKED.
- (2) All appointments issued under said licenses are hereby VOID.
- (3) The Defendants shall transact no further business in the Commonwealth of Virginia as insurance agents.
- (4) The Defendants shall not apply to the State Corporation Commission to be licensed as insurance agents in the Commonwealth of Virginia prior to one (1) year from the date of this Order.
- (5) The Bureau of Insurance shall notify every insurance company for which the Defendants hold appointments to act as insurance agents in the Commonwealth of Virginia.
- (6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00160
JUNE 26, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

PMA INSURANCE SERVICES,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that PMA Insurance Services ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent and a surplus lines broker in the Commonwealth of Virginia ("Commonwealth"), violated §§ 38.2-4809 and 38.2-4809.1 of the Code of Virginia ("Code") by failing to pay the Bureau of Insurance Maintenance Assessment, Premium License Tax, and other related fines and penalties for the calendar year 2011.

The Commission is authorized by §§ 38.2-218, 38.2-219, 38.2-1831, and 38.2-1857.7 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been notified of its right to a hearing before the Commission in this matter by certified letter dated June 13, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of its right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent and a surplus lines broker.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated §§ 38.2-4809 and 38.2-4809.1 of the Code by failing to pay the Bureau of Insurance Maintenance Assessment, Premium License Tax, and other related fines and penalties for the calendar year 2011.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent and a surplus lines broker in the Commonwealth of Virginia are hereby REVOKED.
- (2) All appointments issued under said licenses are hereby VOID.
- (3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent or a surplus lines broker.
- (4) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.
- (5) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00161
JUNE 26, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

VIRGIL LEE ANDERSON,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Virgil Lee Anderson ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent and a surplus lines broker in the Commonwealth of Virginia ("Commonwealth"), violated §§ 38.2-4809 and 38.2-4809.1 of the Code of Virginia ("Code") by failing to pay the Bureau of Insurance Maintenance Assessment, Premium License Tax, and other related fines and penalties for the calendar year 2011.

The Commission is authorized by §§ 38.2-218, 38.2-219, 38.2-1831, and 38.2-1857.7 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated June 13, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent and a surplus lines broker.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated §§ 38.2-4809 and 38.2-4809.1 of the Code by failing to pay the Bureau of Insurance Maintenance Assessment, Premium License Tax, and other related fines and penalties for the calendar year 2011.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent and a surplus lines broker in the Commonwealth of Virginia are hereby REVOKED.
- (2) All appointments issued under said licenses are hereby VOID.
- (3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent or a surplus lines broker.
- (4) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.
- (5) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00163
AUGUST 21, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

MATTHEW EVART WELLS,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Matthew Evert Wells ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-1826 and subsection 1 of § 38.2-1831 of the Code of Virginia ("Code") by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the state of Kansas and by providing materially incorrect, misleading, incomplete or untrue information in his license application filed with the Commission.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated July 16, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 and subsection 1 of § 38.2-1831 of the Code by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the state of Kansas and by providing materially incorrect, misleading, incomplete or untrue information in his license application filed with the Commission.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED.
- (2) All appointments issued under said licenses are hereby VOID.
- (3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent.
- (4) The Defendant shall not apply to the State Corporation Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order.

(5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.

(6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00165
SEPTEMBER 5, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

MENDOTA INSURANCE COMPANY,
Defendant

SETTLEMENT ORDER

Based on a market conduct examination performed by the Bureau of Insurance ("Bureau"), it is alleged that Mendota Insurance Company ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-305 A of the Code of Virginia ("Code") by failing to provide the information required by the statute in its insurance policies; violated §§ 38.2-604 A, 38.2-604 C, 38.2-610 A, 38.2-1905 B, 38.2-2202 B, 38.2-2210 A, 38.2-2230, and 38.2-2234 A of the Code by failing to accurately provide the required notices to insureds; violated § 38.2-1318 of the Code by failing to provide convenient access to files, documents and records; violated §§ 38.2-1812 and 38.2-1833 of the Code by paying commissions to agents and/or agencies that were not properly licensed and/or appointed; violated § 38.2-1822 A of the Code by knowingly permitting persons to act as insurance agents without such person first obtaining a license in the manner and form prescribed by the Commission; violated § 38.2-1905 A of the Code by increasing its insureds' premiums or charging points under safe driver plans as a result of motor vehicle accidents that were not caused either wholly or partially by the named insureds, residents of the same household, or other customary operator; violated § 38.2-1906 D of the Code by making or issuing insurance contracts or policies not in accordance with the rate and supplementary rate information filings in effect for the Defendant; violated § 38.2-2204 of the Code by failing to represent coverage for all permissive users; violated §§ 38.2-2208 A, 38.2-2208 B, 38.2-2212 E, and 38.2-2212 F of the Code by failing to properly terminate insurance policies; violated § 38.2-511 of the Code by failing to maintain a complete complaint register; and violated § 38.2-510 A 3 of the Code as well as the Commission's Rules Governing Unfair Claim Settlement Practices, 14 VAC 5-400-10 *et seq.*, specifically 14 VAC 5-400-30, 14 VAC 5-400-40 A, 14 VAC 5-400-50 C, 14 VAC 5-400-70 A, 14 VAC 5-400-70 D, and 14 VAC 5-400-80 D, by failing to properly handle claims with such frequency as to indicate a general business practice.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been advised of its right to a hearing in this matter whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth the sum of Thirty-three Thousand Three Hundred Dollars (\$33,300), waived its right to a hearing, agreed to comply with the Corrective Action Plan set forth in its letters to the Bureau dated April 16, 2012 and June 18, 2012, and the Defendant has confirmed that restitution was made to 23 consumers in the amount of Two Thousand Forty-seven Dollars and Twenty-two Cents (\$2,047.22).

The Bureau has recommended that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The offer of Mendota Insurance Company in settlement of the matter set forth herein be, and it is hereby, accepted.
- (2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00166
JULY 24, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

CSMB, LLC T/A EASTERN TITLE AND SETTLEMENTS,
Defendant

SETTLEMENT ORDER

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that CSMB, LLC t/a Eastern Title and Settlements ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the

Commonwealth of Virginia ("Commonwealth"), violated § 55-525.30 of the Code of Virginia ("Code") by acting as a settlement agent without being properly registered.

The Commission is authorized by § 55-525.31 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Commission is also authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been advised of its right to a hearing in this matter, whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth the sum of Five Thousand Dollars (\$5,000) and waived its right to a hearing.

The Bureau has recommended that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The offer of the Defendant in settlement of the matter set forth herein be, and it is hereby, accepted.
- (2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00173
SEPTEMBER 27, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
DAMIEN D. BYRD,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Damien D. Byrd ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-1822 E and subsection 1 of § 38.2-1831 of the Code of Virginia ("Code") by conducting the business of insurance under an assumed or fictitious name without notifying the Bureau, and by providing materially incorrect, misleading, incomplete or untrue information in his license application filed with the Commission.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated August 14, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1822 E and subsection 1 of § 38.2-1831 of the Code by conducting the business of insurance under an assumed or fictitious name without notifying the Bureau, and by providing materially incorrect, misleading, incomplete or untrue information in his license application filed with the Commission.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED.
- (2) All appointments issued under said licenses are hereby VOID.
- (3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent.

(4) The Defendant shall not apply to the State Corporation Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order.

(5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.

(6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00174
AUGUST 27, 2012**

IN THE MATTER OF
ALLIANZ LIFE INSURANCE COMPANY OF NORTH AMERICA

Ex Parte: In the matter of Approval of a Multi-State Regulatory Settlement Agreement between Allianz Life Insurance Company of North America and the Insurance Commissioners or Directors of the States of Iowa, Florida, Minnesota and Missouri, for and on behalf of the Virginia State Corporation Commission's Bureau of Insurance

ORDER APPROVING SETTLEMENT AGREEMENT

ON THIS DAY came the Bureau of Insurance ("Bureau"), by counsel, and requested: (i) State Corporation Commission ("Commission") approval and acceptance of a multi-state Regulatory Settlement Agreement ("Agreement") dated June 22, 2012, a copy of which is attached hereto and made a part hereof, by and between the commissioners or directors of insurance for the states of Iowa, Florida, Minnesota and Missouri, and Allianz Life Insurance Company of North America ("Allianz"), domiciled in Minnesota and licensed to transact the business of insurance in the Commonwealth of Virginia; and (ii) authority to execute any documents attendant to the Agreement necessary to evidence the Commission's acceptance of the Agreement.

NOW THE COMMISSION, having considered the terms of the Agreement together with the recommendation of the Bureau that the Commission approve and accept the Agreement, is of the opinion, finds, and ORDERS that: (i) the Agreement be, and it is hereby, APPROVED AND ACCEPTED, and (ii) the Commissioner of Insurance be, and she is hereby, authorized to execute any attendant documents necessary to evidence the Commission's approval and acceptance of the Agreement for the scope of review that is within the jurisdiction of the Commission.

NOTE: A copy of the Attachment entitled "Regulatory Settlement Agreement" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. INS-2012-00194
SEPTEMBER 18, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
GOVERNMENT EMPLOYEES INSURANCE COMPANY,
GEICO GENERAL INSURANCE COMPANY,
and
GEICO CASUALTY COMPANY,
Defendants

SETTLEMENT ORDER

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Government Employees Insurance Company, GEICO General Insurance Company, GEICO Casualty Company ("Defendants"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-502 of the Code of Virginia ("Code") by misrepresenting the benefits, advantages, conditions or terms of insurance policies.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendants' licenses upon a finding by the Commission, after notice and opportunity to be heard, that the Defendants have committed the aforesaid alleged violations.

The Defendants have been advised of their right to a hearing in this matter whereupon the Defendants, without admitting any violation of Virginia law, have made an offer of settlement to the Commission wherein the Defendants have tendered to the Commonwealth the sum of Two Thousand Dollars (\$2,000) per company for an amount totaling Six Thousand Dollars (\$6,000), agreed to comply with the Corrective Action Plan set forth in their letter to the Bureau dated October 15, 2011, confirmed that restitution was made to 67 consumers in the amount of Two Thousand Six Hundred Ninety-five Dollars and Fifty-six Cents (\$2,695.56), and waived their right to a hearing.

The Bureau has recommended that the Commission accept the offer of settlement of the Defendants pursuant to the authority granted the Commission in § 12.1-15 of the Code.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendants, and the recommendation of the Bureau, is of the opinion that the Defendants' offer should be accepted.

Accordingly, IT IS ORDERED THAT:

(1) The offer of Government Employees Insurance Company, GEICO General Insurance Company, and GEICO Casualty Company, in settlement of the matter set forth herein be, and it is hereby, accepted.

(2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00199
SEPTEMBER 18, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

ELEPHANT INSURANCE COMPANY,
Defendant

SETTLEMENT ORDER

Based on a market conduct examination performed by the Bureau of Insurance ("Bureau"), it is alleged that Elephant Insurance Company ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-305 A of the Code of Virginia ("Code") by failing to provide required information in the insurance policy; violated § 38.2-502 of the Code by misrepresenting the benefits, advantages, conditions or terms of an insurance policy; violated §§ 38.2-604 A, 38.2-604 B, 38.2-604 C, 38.2-604.1, 38.2-610 A, and 38.2-1905 A of the Code by failing to accurately provide the required notices to insureds; violated §§ 38.2-1906 A and 38.2-1906 D of the Code by making or issuing insurance contracts or policies not in accordance with the rate and supplementary rate information filings in effect for the Defendant; violated §§ 38.2-2208 A, 38.2-2208 B, 38.2-2212 D, and 38.2-2212 E of the Code by failing to properly terminate insurance policies; violated § 38.2-511 of the Code by failing to maintain a complete complaint register; violated § 38.2-2220 of the Code by using automobile forms that did not contain the precise language of the standard form filed and adopted by the Commission; and violated § 38.2-510 A 6 of the Code, as well as 14 VAC 5-400-30, 14 VAC 5-400-40 A, 14 VAC 5-400-50 C, 14 VAC 5-400-70 D, and 14 VAC 5-400-80 D of the Commission's Rules Governing Unfair Claim Settlement Practices, 14 VAC 5-400-10 *et seq.*, by failing to properly handle claims with such frequency as to indicate a general business practice.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been advised of its right to a hearing in this matter whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth the sum of Twenty-four Thousand One Hundred Dollars (\$24,100), waived its right to a hearing, agreed to comply with the Corrective Action Plan set forth in its letter to the Bureau dated May 31, 2012, and confirmed that restitution was made to 23 consumers in the amount of Five Thousand Six Hundred Nine Dollars and Six Cents (\$5,609.06).

The Bureau has recommended that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

(1) The offer of Elephant Insurance Company in settlement of the matter set forth herein be, and it is hereby, accepted.

(2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00200
AUGUST 30, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

RICHARD M. HUNT,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Richard M. Hunt ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

("Commonwealth"), violated § 38.2-1826 C of the Code of Virginia ("Code") by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the state of North Carolina.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated August 2, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 C of the Code by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the state of North Carolina.

Accordingly, IT IS ORDERED THAT:

(1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED.

(2) All appointments issued under said licenses are hereby VOID.

(3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent.

(4) The Defendant shall not apply to the State Corporation Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order.

(5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.

(6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00201
AUGUST 30, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
BRITTANY A. COLLINS,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Brittany A. Collins ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-1826 C of the Code of Virginia ("Code") by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against her by the state of Idaho.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

The Defendant has been notified of her right to a hearing before the Commission in this matter by certified letter dated August 2, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of her right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 C of the Code by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against her by the state of Idaho.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED.
- (2) All appointments issued under said licenses are hereby VOID.
- (3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent.
- (4) The Defendant shall not apply to the State Corporation Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order.
- (5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.
- (6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00202
AUGUST 30, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

NATALIE BUTBUL,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Natalie Butbul ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-1826 C of the Code of Virginia ("Code") by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against her by the state of Colorado.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

The Defendant has been notified of her right to a hearing before the Commission in this matter by certified letter dated August 1, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of her right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 C of the Code by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against her by the state of Colorado.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED.
- (2) All appointments issued under said licenses are hereby VOID.
- (3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent.
- (4) The Defendant shall not apply to the State Corporation Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order.
- (5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.
- (6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00203
AUGUST 30, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
MICHAEL C. SANDERS,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Michael C. Sanders ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-1826 C of the Code of Virginia ("Code") by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the state of New Jersey.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated August 1, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 C of the Code by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the state of New Jersey.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED.
- (2) All appointments issued under said licenses are hereby VOID.
- (3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent.
- (4) The Defendant shall not apply to the State Corporation Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order.
- (5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.
- (6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00204
AUGUST 30, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
FRANCIS J. GAETANI,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Francis J. Gaetani ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-1826 C of the Code of Virginia ("Code") by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the state of Connecticut.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated August 1, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 C of the Code by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the state of Connecticut.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED.
- (2) All appointments issued under said licenses are hereby VOID.
- (3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent.
- (4) The Defendant shall not apply to the State Corporation Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order.
- (5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.
- (6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00204
SEPTEMBER 20, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
FRANCIS J. GAETANI,
Defendant

ORDER GRANTING RECONSIDERATION

On August 30, 2012, the State Corporation Commission ("Commission") issued an Order Revoking License in this matter. On September 18, 2012, Francis J. Gaetani filed a Petition for Reconsideration pursuant to 5 VAC 5-20-220 of the Commission's Rules of Practice and Procedure, 5 VAC 5-20-10 *et seq.*, requesting that the Commission reconsider the revocation of his Virginia insurance agent license.

NOW THE COMMISSION, upon consideration of this matter, grants reconsideration for the purposes of continuing jurisdiction over this matter and considering the above-referenced request.

Accordingly, IT IS ORDERED THAT:

- (1) Reconsideration is granted for the purposes of continuing jurisdiction over this matter and considering the above-referenced request.
- (2) This matter is continued pending further order of the State Corporation Commission.

**CASE NO. INS-2012-00204
NOVEMBER 26, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
FRANCIS J. GAETANI,
Defendant

ORDER ON RECONSIDERATION

By Order Revoking License entered August 30, 2012, the State Corporation Commission ("Commission") ordered, among other things, the revocation of the license of Francis J. Gaetani ("Defendant") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth") for violating § 38.2-1826 C of the Code of Virginia ("Code") by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the state of Connecticut.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

On September 18, 2012, the Defendant filed a Petition for Reconsideration in which he requested that his license be reinstated.

By Order Granting Reconsideration entered September 20, 2012, the Commission granted reconsideration for the purpose of continuing our jurisdiction over this matter and considering the Defendant's request.

Based upon further investigation, the Bureau of Insurance ("Bureau") has alleged that in addition to his violation of § 38.2-1826 C of the Code, the Defendant has violated § 38.2-1809, and has violated subsection 1 of § 38.2-1831 of the Code by failing to make records available promptly upon request for examination by the Commission or its employees, by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the state of Massachusetts, and by providing materially incorrect, misleading, incomplete or untrue information in his license application filed with the Commission.

The Defendant has subsequently made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth the sum of One Thousand Dollars (\$1,000) and waived his right to a hearing.

The Bureau has recommended that the Commission reinstate the Defendant's license, and it further recommends that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, upon further reconsideration of this matter and having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau, is of the opinion that the Defendant's license should be reinstated and his offer of settlement accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The Order Revoking License entered August 30, 2012, is VACATED.
- (2) The offer of the Defendant in settlement of the matter set forth herein is accepted.
- (3) The Defendant's license is REINSTATED.
- (4) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00205
AUGUST 30, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
JAMES DAVID WILKINS,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that James David Wilkins ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-1826 C of the Code of Virginia ("Code") by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the state of Ohio.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated August 1, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 C of the Code by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the state of Ohio.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED.
- (2) All appointments issued under said licenses are hereby VOID.

(3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent.

(4) The Defendant shall not apply to the State Corporation Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order.

(5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.

(6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00206
OCTOBER 19, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

BENNIE KENNEDY,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Bennie Kennedy ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated subsection 10 of § 38.2-1831 of the Code of Virginia ("Code") by using fraudulent, coercive, or dishonest practices in the conduct of business in the Commonwealth.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated August 13, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated subsection 10 of § 38.2-1831 of the Code by using fraudulent, coercive, or dishonest practices in the conduct of business in the Commonwealth.

Accordingly, IT IS ORDERED THAT:

(1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED.

(2) All appointments issued under said licenses are hereby VOID.

(3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent.

(4) The Defendant shall not apply to the State Corporation Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order.

(5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.

(6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00212
SEPTEMBER 26, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
LINDSEY B. WEATHERS,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Lindsey B. Weathers ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-1826 C of the Code of Virginia ("Code") by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against her by the state of Kansas.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

The Defendant has been notified of her right to a hearing before the Commission in this matter by certified letter dated August 13, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of her right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 C of the Code by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against her by the state of Kansas.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED.
- (2) All appointments issued under said licenses are hereby VOID.
- (3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent.
- (4) The Defendant shall not apply to the State Corporation Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order.
- (5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.
- (6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00215
NOVEMBER 13, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
CALIFORNIA CASUALTY INDEMNITY EXCHANGE,
Defendant

SETTLEMENT ORDER

Based on a market conduct examination performed by the Bureau of Insurance ("Bureau"), it is alleged that California Casualty Indemnity Exchange ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-228 of the Code of Virginia ("Code"), by failing to provide to the Commissioner of the Department of Motor Vehicles proof of future financial responsibility at the request of a named insured; violated § 38.2-502 of the Code by misrepresenting the benefits, advantages, conditions or terms of an insurance policy; violated §§ 38.2-604 C, 38.2-604.1 B, 38.2-2125, 38.2-2126 A, 38.2-2202 A, 38.2-2202 B, 38.2-2210 A, and 38.2-2234 A of the Code by failing to accurately provide the required notices to insureds; violated § 38.2-2126 B of the Code by failing to properly update insureds' credit information at least once every three (3) years; violated § 38.2-1906 D of the Code by making or issuing insurance contracts or policies not in accordance with the rate and supplementary rate information filings in effect for the Defendant; violated §§ 38.2-2113 A, 38.2-2113 C, 38.2-2208 A, 38.2-2208 B, 38.2-2212 E of the Code by failing to properly terminate insurance policies; and violated §§ 38.2-510 A 1, and 38.2-510 A 3 of the Code, as well as 14 VAC 5-400-30, 14 VAC 5-400-40 A, 14 VAC 5-400-50 C, 14 VAC 5-400-70 D, and 14 VAC 5-400-80 D of the Commission's

Rules Governing Unfair Claim Settlement Practices, 14 VAC 5-400-10 *et seq.*, by failing to properly handle claims with such frequency as to indicate a general business practice.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been advised of its right to a hearing in this matter whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth the sum of Eighteen Thousand Dollars (\$18,000), waived its right to a hearing, confirmed that restitution was made to fifteen (15) consumers in the amount of Eleven Thousand Nine Hundred Ninety-one Dollars and Eighty Cents (\$11,991.80), and agreed to comply with the corrective action plan set forth in its letters to the Bureau dated May 22, 2012, and August 16, 2012.

The Bureau has recommended that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The offer of California Casualty Indemnity Exchange in settlement of the matter set forth herein is hereby accepted.
- (2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00216
SEPTEMBER 28, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

LINCOLN HERITAGE LIFE INSURANCE COMPANY,
Defendant

SETTLEMENT ORDER

Based on a target market conduct examination performed by the Bureau of Insurance ("Bureau"), it is alleged that Lincoln Heritage Life Insurance Company ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth"), in certain instances, violated subsection 1 of § 38.2-502 of the Code of Virginia ("Code") by misrepresenting the benefits, advantages, conditions or terms of insurance policies; violated § 38.2-503 of the Code by making, publishing, disseminating, circulating, or placing before the public an advertisement, announcement or statement containing an assertion, representation or statement relating to the business of insurance which was untrue, deceptive or misleading; violated §§ 38.2-316 B and 38.2-316 C 1 of the Code by failing to comply with policy and form filing requirements; violated § 38.2-610 A of the Code by failing to give to applicants for insurance written notice of an adverse underwriting decision in the form approved by the Commission; violated § 38.2-3115 B of the Code by failing to pay interest on life insurance proceeds; violated the Commission's Rules Governing Life Insurance and Annuity Replacements, 14 VAC 5-30-10 *et seq.*, specifically 14 VAC 5-30-40 B, 14 VAC 5-30-70 A, and 14 VAC 5-30-70 B; and violated the Commission's Rule Governing Life Insurance and Annuity Marketing Practices, 14 VAC 5-40-10 *et seq.*, specifically 14 VAC 5-40-40 A 1, 14 VAC 5-40-40 A 7, 14 VAC 5-40-40 D 1, 14 VAC 5-40-40 D 17, 14 VAC 5-40-40 E 2, 14 VAC 5-40-40 H 1, and 14 VAC 5-40-60 B.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been advised of its right to a hearing in this matter whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth the sum of Nine Thousand Dollars (\$9,000), waived its right to a hearing, and agreed to comply with the Corrective Action Plan contained in the Target Market Conduct Examination Report as of October 1, 2010.

The Bureau has recommended that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The offer of Lincoln Heritage Life Insurance Company in settlement of the matter set forth herein be, and it is hereby, accepted.
- (2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00217
OCTOBER 5, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
CAROLINA CASUALTY INSURANCE COMPANY,
Defendant

SETTLEMENT ORDER

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Carolina Casualty Insurance Company ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth"), violated 14 VAC 5-335-10 *et seq.* of the Commission's Rules Governing Claims-Made Liability Insurance Policies ("Rules"), by issuing claims-made forms that did not comply with the Rules since January 1, 2005, the effective date of the regulation.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia ("Code") to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been advised of its right to a hearing in this matter, whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth the sum of Five Thousand Dollars (\$5,000), waived its right to a hearing, and agreed to comply with the Corrective Action Plan set forth in its letter to the Bureau dated August 21, 2012.

The Bureau has recommended that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The offer of Carolina Casualty Insurance Company in settlement of the matter set forth herein is hereby accepted.
- (2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00220
DECEMBER 14, 2012**

APPLICATION OF
GUARANTY ASSOCIATION BENEFITS COMPANY

For approval of an assumption reinsurance agreement pursuant to § 38.2-136 C of the Code of Virginia

ORDER APPROVING APPLICATION

By petition filed with the State Corporation Commission ("Commission") on September 18, 2012, Guaranty Association Benefits Company ("Petitioner"), a Washington, D.C.-domiciled insurer,¹ requested approval of an assumption reinsurance agreement for the transfer of Executive Life Insurance Company of New York ("ELNY") annuities pursuant to § 38.2-136 of the Code of Virginia ("Code").

On April 16, 2012, the Supreme Court of the State of New York, County of Nassau, issued an order of liquidation with a finding of insolvency against ELNY. ELNY has been in rehabilitation since 1991.

Pursuant to § 38.2-136 C of the Code, the Petitioner has requested that the Commission waive the policy holder consent to this transaction required by § 38.2-136 B of the Code because a delinquency proceeding has been instituted against the insurer for the purpose of conserving, rehabilitating, or liquidating the insurer.

The assumption reinsurance agreement represents the liquidator's plan to liquidate ELNY in an orderly fashion and requires the Virginia Life, Accident and Sickness Insurance Guaranty Association to support the reinsured contracts after the implementation of the transaction. The Bureau of Insurance, having reviewed the application, has recommended that the application be approved.

NOW THE COMMISSION, having considered the application, the recommendation of the Bureau of Insurance that the application be approved, and the law applicable hereto, is of the opinion that the application should be approved;

Accordingly, IT IS ORDERED THAT the application of Guaranty Association Benefits Company for the approval of the reinsurance agreement pursuant to § 38.2-136 C of the Code of Virginia is hereby APPROVED.

¹ The Petitioner is a captive insurance company that was formed by the participating state life and health insurance guaranty associations for the sole purpose of assuming and discharging these liabilities.

**CASE NO. INS-2012-00227
NOVEMBER 1, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

AMERICAN AUTOMOBILE INSURANCE COMPANY,
ASSOCIATED INDEMNITY CORPORATION,
FIREMAN'S FUND INSURANCE COMPANY,
NATIONAL SURETY CORPORATION,
and
THE AMERICAN INSURANCE COMPANY,
Defendants

SETTLEMENT ORDER

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that American Automobile Insurance Company, Associated Indemnity Corporation, Fireman's Fund Insurance Company, National Surety Corporation, and The American Insurance Company ("Defendants"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-1906 D of the Code of Virginia ("Code") by making or issuing insurance contracts or policies not in accordance with the rate and supplementary rate information filings in effect for the Defendants.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendants' licenses upon a finding by the Commission, after notice and opportunity to be heard, that the Defendants have committed the aforesaid alleged violations.

The Defendants have been advised of their right to a hearing in this matter whereupon the Defendants, without admitting any violation of Virginia law, have made an offer of settlement to the Commission wherein the Defendants have tendered to the Commonwealth the sum of One Thousand Dollars (\$1,000) per company for an amount totaling Five Thousand Dollars (\$5,000), waived their right to a hearing, agreed to comply with the corrective action plan set forth in their letter to the Bureau dated September 19, 2012, and confirmed that restitution was made to twenty-two (22) consumers in the amount of One Thousand Eight Hundred Three Dollars (\$1,803).

The Bureau has recommended that the Commission accept the offer of settlement of the Defendants pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendants, and the recommendation of the Bureau, is of the opinion that the Defendants' offer should be accepted.

Accordingly, IT IS ORDERED THAT:

(1) The offer of American Automobile Insurance Company, Associated Indemnity Corporation, Fireman's Fund Insurance Company, National Surety Corporation, and The American Insurance Company in settlement of the matter set forth herein is hereby accepted.

(2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00228
NOVEMBER 9, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

PEERLESS INSURANCE COMPANY,
THE NETHERLANDS INSURANCE COMPANY,
EXCELSIOR INSURANCE COMPANY,
MONTGOMERY MUTUAL INSURANCE COMPANY,
AMERICAN FIRE AND CASUALTY COMPANY,
THE OHIO CASUALTY INSURANCE COMPANY,
WEST AMERICAN INSURANCE COMPANY,
and
PEERLESS INDEMNITY INSURANCE COMPANY,
Defendants

SETTLEMENT ORDER

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Peerless Insurance Company, The Netherlands Insurance Company, Excelsior Insurance Company, Montgomery Mutual Insurance Company, American Fire and Casualty Company, The Ohio Casualty Insurance Company, West American Insurance Company, and Peerless Indemnity Insurance Company ("Defendants"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-317 of the Code of Virginia ("Code") by delivering or issuing for delivery insurance policies or endorsements without having filed such policy forms or endorsements with the Commission at least thirty (30) days prior to their effective date.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendants' licenses upon a finding by the Commission, after notice and opportunity to be heard, that the Defendants have committed the aforesaid alleged violations.

The Defendants have been advised of their right to a hearing in this matter whereupon the Defendants, without admitting any violation of Virginia law, have made an offer of settlement to the Commission wherein the Defendants have tendered to the Commonwealth the sum of One Thousand Dollars (\$1,000) per company for an amount totaling Eight Thousand Dollars (\$8,000), waived their right to a hearing, and agreed to comply with the corrective action plan set forth in their letter to the Bureau dated October 1, 2012.

The Bureau has recommended that the Commission accept the offer of settlement of the Defendants pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendants, and the recommendation of the Bureau, is of the opinion that the Defendants' offer should be accepted.

Accordingly, IT IS ORDERED THAT:

(1) The offer of Peerless Insurance Company, The Netherlands Insurance Company, Excelsior Insurance Company, Montgomery Mutual Insurance Company, American Fire and Casualty Company, The Ohio Casualty Insurance Company, West American Insurance Company, and Peerless Indemnity Insurance Company in settlement of the matter set forth herein is hereby accepted.

(2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00232
NOVEMBER 9, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

STATE AUTO PROPERTY AND CASUALTY INSURANCE COMPANY

and

STATE AUTO MUTUAL INSURANCE COMPANY,

Defendants

SETTLEMENT ORDER

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that State Auto Property and Casualty Insurance Company and State Auto Mutual Insurance Company ("Defendants"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth"), violated §§ 38.2-317 and 38.2-1906 A of the Code of Virginia ("Code"), as well as the Commission's Rules Governing Claims-Made Liability Insurance Policies, 14 VAC 5-335-10 *et seq.*, ("Rules") by delivering or issuing for delivery insurance policies or endorsements without having filed such policy forms or endorsements with the Commission at least thirty (30) days prior to their effective date; by failing to file with the Commission all rates and supplementary rate information and all changes and amendments to the rates and supplementary rate information made by it for use in the Commonwealth on or before the date they became effective; and by issuing claims-made forms that did not comply with the Rules since January 1, 2005, the effective date of the Rules.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendants' licenses upon a finding by the Commission, after notice and opportunity to be heard, that the Defendants have committed the aforesaid alleged violations.

The Defendants have been advised of their right to a hearing in this matter whereupon the Defendants, without admitting any violation of Virginia law, have made an offer of settlement to the Commission wherein the Defendants have tendered to the Commonwealth the sum of Seven Thousand Dollars (\$7,000) per company for an amount totaling Fourteen Thousand Dollars (\$14,000), waived their right to a hearing, and agreed to comply with the corrective action plan set forth in their letter to the Bureau dated November 28, 2011.

The Bureau has recommended that the Commission accept the offer of settlement of the Defendants pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendants, and the recommendation of the Bureau, is of the opinion that the Defendants' offer should be accepted.

Accordingly, IT IS ORDERED THAT:

(1) The offer of State Auto Property and Casualty Insurance Company and State Auto Mutual Insurance Company in settlement of the matter set forth herein is hereby accepted.

(2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00233
OCTOBER 23, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

MEDMARC CASUALTY INSURANCE COMPANY,
Defendant

SETTLEMENT ORDER

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Medmarc Casualty Insurance Company ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth"), violated 14 VAC 5-335-10 *et seq.* of the Commission's Rules Governing Claims-Made Liability Insurance Policies ("Rules"), by issuing claims-made forms that did not comply with the Rules since January 1, 2005, the effective date of the regulation.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia ("Code") to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been advised of its right to a hearing in this matter whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth the sum of Five Thousand Dollars (\$5,000), waived its right to a hearing, and agreed to comply with the Corrective Action Plan set forth in its letter to the Bureau dated September 27, 2012.

The Bureau has recommended that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The offer of Medmarc Casualty Insurance Company in settlement of the matter set forth herein is hereby accepted.
- (2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00235
OCTOBER 23, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

SHAWN A. BAKO,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Shawn A. Bako ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-1826 C and subsection 1 of § 38.2-1831 of the Code of Virginia ("Code") by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the state of California, and by providing materially incorrect, misleading, incomplete or untrue information in his license application filed with the Commission.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated September 6, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 C and subsection 1 of § 38.2-1831 of the Code by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the state of California, and by providing materially incorrect, misleading, incomplete or untrue information in his license application filed with the Commission.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED.
- (2) All appointments issued under said licenses are hereby VOID.
- (3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent.
- (4) The Defendant shall not apply to the State Corporation Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order.
- (5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.
- (6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00236
OCTOBER 24, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
DEBBIE ANN MARIE NEWMAN,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Debbie Ann Marie Newman ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-1826 C of the Code of Virginia ("Code") by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against her by the state of Louisiana.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

The Defendant has been notified of her right to a hearing before the Commission in this matter by certified letter dated September 6, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of her right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 C of the Code by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against her by the state of Louisiana.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED.
- (2) All appointments issued under said licenses are hereby VOID.
- (3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent.
- (4) The Defendant shall not apply to the State Corporation Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order.
- (5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.
- (6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00237
OCTOBER 23, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

DOMINIC ALESSI,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Dominic Alessi ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-1826 C of the Code of Virginia ("Code") by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the state of Ohio.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated September 6, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 C of the Code by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the state of Ohio.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED.
- (2) All appointments issued under said licenses are hereby VOID.
- (3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent.
- (4) The Defendant shall not apply to the State Corporation Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order.
- (5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.
- (6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00238
OCTOBER 24, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

CASSIE SPRAGUE,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Cassie Sprague ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-1826 C of the Code of Virginia ("Code") by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against her by the state of Louisiana.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Defendant has been notified of her right to a hearing before the Commission in this matter by certified letter dated September 6, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of her right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 C of the Code by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against her by the state of Louisiana.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED.
- (2) All appointments issued under said licenses are hereby VOID.
- (3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent.
- (4) The Defendant shall not apply to the State Corporation Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order.
- (5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.
- (6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00239
OCTOBER 24, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
STEVEY L. MITCHELL,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Stevey L. Mitchell ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-1826 C of the Code of Virginia ("Code") by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the state of Georgia.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated September 6, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 C of the Code by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the state of Georgia.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED.
- (2) All appointments issued under said licenses are hereby VOID.
- (3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent.

(4) The Defendant shall not apply to the State Corporation Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order.

(5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.

(6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00240
OCTOBER 24, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
LORENE MICHELE KEHOE,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Lorene Michele Kehoe ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-1826 C of the Code of Virginia ("Code") by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against her by the state of California.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

The Defendant has been notified of her right to a hearing before the Commission in this matter by certified letter dated September 6, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of her right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 C of the Code by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against her by the state of California.

Accordingly, IT IS ORDERED THAT:

(1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED.

(2) All appointments issued under said licenses are hereby VOID.

(3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent.

(4) The Defendant shall not apply to the State Corporation Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order.

(5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.

(6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00241
OCTOBER 24, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
JOSHUA STEVEN GRIFFIN,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Joshua Steven Griffin ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-1826 C of the Code of Virginia ("Code") by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the state of Wisconsin.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated September 6, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 C of the Code by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the state of Wisconsin.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED.
- (2) All appointments issued under said licenses are hereby VOID.
- (3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent.
- (4) The Defendant shall not apply to the State Corporation Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order.
- (5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.
- (6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00242
OCTOBER 23, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
JOSEPH M. WAGNER,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Joseph M. Wagner ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-1826 C of the Code of Virginia ("Code") by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the Financial Industry Regulatory Authority.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated August 27, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 C of the Code by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the Financial Industry Regulatory Authority.

Accordingly, IT IS ORDERED THAT:

(1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED.

(2) All appointments issued under said licenses are hereby VOID.

(3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent.

(4) The Defendant shall not apply to the State Corporation Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order.

(5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.

(6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00243
OCTOBER 24, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

JAZIDE MIREL ROSALES,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Jazide Mirel Rosales ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-1826 C of the Code of Virginia ("Code") by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against her by the state of Georgia.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

The Defendant has been notified of her right to a hearing before the Commission in this matter by certified letter dated September 6, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of her right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 C of the Code by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against her by the state of Georgia.

Accordingly, IT IS ORDERED THAT:

(1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED.

(2) All appointments issued under said licenses are hereby VOID.

(3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

(4) The Defendant shall not apply to the State Corporation Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order.

(5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.

(6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00244
OCTOBER 24, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
TERESA LYNN LAPERNA,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Teresa Lynn Laperna ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-1826 C of the Code of Virginia ("Code") by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against her by the state of Louisiana.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

The Defendant has been notified of her right to a hearing before the Commission in this matter by certified letter dated September 6, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of her right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 C of the Code by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against her by the state of Louisiana.

Accordingly, IT IS ORDERED THAT:

(1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED.

(2) All appointments issued under said licenses are hereby VOID.

(3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent.

(4) The Defendant shall not apply to the State Corporation Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order.

(5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.

(6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00246
OCTOBER 23, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

CHRISTIE ANNETTE GLENN,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Christie Annette Glenn ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated §§ 38.2-1809 and 38.2-1826 of the Code of Virginia ("Code") by failing to make records available promptly upon request for examination by the Commission or its employees, by failing to report within thirty (30) calendar days to the Commission and to every insurer for which she is appointed a change in her residence address, and by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against her by the state of Kansas.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been notified of her right to a hearing before the Commission in this matter by certified letter dated September 4, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of her right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated §§ 38.2-1809 and 38.2-1826 of the Code by failing to make records available promptly upon request for examination by the Commission or its employees, by failing to report within thirty (30) calendar days to the Commission and to every insurer for which she is appointed a change in her residence address, and by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against her by the state of Kansas.

Accordingly, IT IS ORDERED THAT:

(1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED.

(2) All appointments issued under said licenses are hereby VOID.

(3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent.

(4) The Defendant shall not apply to the State Corporation Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to one (1) year from the date of this Order.

(5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.

(6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00254
NOVEMBER 1, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

JASON T. WILKINS,
Defendant

SETTLEMENT ORDER

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Jason T. Wilkins ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated subsection 9 of § 38.2-1831 of the Code of Virginia ("Code") by having been convicted of a felony.

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The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

The Defendant has been advised of his right to a hearing in this matter whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has waived his right to a hearing and agreed to be placed on probation for a period of three (3) years from the date of entry of this Order. As a condition of probation, the Defendant has agreed to comply with all provisions of Title 38.2 of the Code. If, during the period of probation the Bureau has good cause to believe that the Defendant has violated the terms and conditions of the probation, the Bureau will initiate formal action to revoke permanently the Defendant's insurance agent license.

The Bureau has recommended that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The offer of Jason T. Wilkins in settlement of the matter set forth herein is hereby accepted.
- (2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00260
NOVEMBER 9, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
KEITH HENRY GILLIARD,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Keith Henry Gilliard ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated §§ 38.2-1809 and 38.2-1813 of the Code of Virginia ("Code") by failing to make records available promptly upon request for examination by the Commission or its employees, and by failing to pay funds in the ordinary course of business to the insured or his assignee, insurer, insurance premium finance company or agent entitled to the payment.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated September 19, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated §§ 38.2-1809 and 38.2-1813 of the Code by failing to make records available promptly upon request for examination by the Commission or its employees, and by failing to pay funds in the ordinary course of business to the insured or his assignee, insurer, insurance premium finance company or agent entitled to the payment.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED.
- (2) All appointments issued under said licenses are hereby VOID.
- (3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent.
- (4) The Defendant shall not apply to the State Corporation Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to one (1) year from the date of this Order.

(5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.

(6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00261
DECEMBER 19, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

AIU INSURANCE COMPANY,
Defendant

SETTLEMENT ORDER

Based on a market conduct examination performed by the Bureau of Insurance ("Bureau"), it is alleged that AIU Insurance Company ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-305 A of the Code of Virginia ("Code") by failing to provide the information required by the statute in the insurance policy; violated § 38.2-317 A of the Code by delivering or issuing for delivery insurance policies or endorsements without having filed such policy forms or endorsements with the Commission at least thirty (30) days prior to their effective date; violated §§ 38.2-604 B, 38.2-610 A, 38.2-2118, and 38.2-2126 A of the Code by failing to accurately provide the required notices to insureds; violated § 38.2-1318 of the Code by failing to provide convenient access to files, documents, and records; violated §§ 38.2-1812 and 38.2-1833 of the Code by paying commissions to agents/agencies that were not appointed by the Defendant; violated § 38.2-1822 A of the Code by knowingly permitting a person to act as an insurance agent without such person first obtaining a license in the manner and form prescribed by the Commission; violated §§ 38.2-1906 A and 38.2-1906 D of the Code by making or issuing insurance contracts or policies not in accordance with the rate and supplementary rate information filings in effect for the Defendant; violated §§ 38.2-2113 A, 38.2-2113 C, 38.2-2114 A, and 38.2-2114 C of the Code by failing to properly terminate insurance policies; and violated 14 VAC 5-400-30 and 14 VAC 5-400-70 A of the Commission's Rules Governing Unfair Claim Settlement Practices, 14 VAC 5-400-10 *et seq.*, by failing to properly handle claims with such frequency as to indicate a general business practice.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been advised of its right to a hearing in this matter whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth the sum of Thirty One Thousand Nine Hundred Dollars (\$31,900), waived its right to a hearing, agreed to comply with the corrective action plan set forth in its letters to the Bureau dated April 23, 2012, July 26, 2012, and August 29, 2012, and confirmed that restitution was made to fourteen (14) consumers in the amount of Fifty-nine Thousand Twelve Dollars and Twelve Cents (\$59,012.12).

The Bureau has recommended that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The offer of AIU Insurance Company in settlement of the matter set forth herein is hereby accepted.
- (2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00262
DECEMBER 14, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

KAISER PERMANENTE INSURANCE COMPANY,
Defendant

SETTLEMENT ORDER

Based on a target market conduct examination performed by the Bureau of Insurance ("Bureau"), it is alleged that Kaiser Permanente Insurance Company ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth"), in certain instances violated § 38.2-510 A 15 of the Code of Virginia ("Code"), as well as the Commission's Rules Governing Unfair Claim Settlement Practices, 14 VAC 5-400-10 *et seq.*, specifically 14 VAC 5-400-50 A, 14 VAC 5-400-60 A, and 14 VAC 5-400-60 B, by failing to comply with claim settlement practices; violated § 38.2-3407.1 B of the Code by failing to pay interest at the legal rate of interest from the date of

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

fifteen (15) working days from the Defendant's receipt of proof of loss to the date that the claim was paid; violated §§ 38.2-3407.14 A and 38.2-3407.14 B of the Code by failing to comply with the requirements regarding notice of premium increases; violated §§ 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 5, 38.2-3407.15 B 6, 38.2-3407.15 B 7, 38.2-3407.15 B 8, 38.2-3407.15 B 9, 38.2-3407.15 B 10, and 38.2-3407.15 B 11 of the Code by failing to comply with ethics and fairness requirements for business practices; and violated § 38.2-5804 A of the Code by failing to comply with procedures to establish and maintain a complaint system for each of its Managed Care Health Insurance Plans (MCHIPs).

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been advised of its right to a hearing in this matter whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth the sum of Thirty Thousand Dollars (\$30,000), waived its right to a hearing, and agreed to comply with the corrective action plan contained in the Target Market Conduct Examination Report as of March 31, 2010.

The Bureau has recommended that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The offer of Kaiser Permanente Insurance Company in settlement of the matter set forth herein is hereby accepted.
- (2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00263
NOVEMBER 26, 2012**

APPLICATION OF
NATIONAL STATES INSURANCE COMPANY, IN LIQUIDATION

For approval of an assumption reinsurance agreement pursuant to § 38.2-136 C of the Code of Virginia

ORDER APPROVING APPLICATION

By petition filed with the State Corporation Commission ("Commission") on October 31, 2012, National States Insurance Company, in Liquidation ("Petitioner"), a Missouri-domiciled insurer licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, requested approval of an assumption reinsurance agreement pursuant to § 38.2-136 C of the Code of Virginia ("Code").

On October 1, 2012, the Petitioner executed an assumption reinsurance agreement that provided for the assumption of certain active health insurance policies by Family Life Insurance Company.

On October 26, 2012, the Circuit Court of Cole County, Missouri, approved the assumption reinsurance agreement upon the motion of the Director of the Department of Insurance, Financial Institutions and Professional Registration of the state of Missouri, in his capacity as liquidator of the Petitioner.

Pursuant to § 38.2-136 C of the Code, the Petitioner has requested that the Commission waive the policyholder consent to this transaction required by § 38.2-136 B of the Code by finding that the transfer of the policies to the Petitioner is in the best interest of policyholders.

The Bureau of Insurance ("Bureau"), having reviewed the application to ensure that Virginia policyholders will not lose any rights or claims afforded under their original contracts pursuant to Chapter 17 of Title 38.2 of the Code, has recommended that the application be approved.

NOW THE COMMISSION, having considered the application, the recommendation of the Bureau that the application be approved, and the law applicable hereto, is of the opinion that the application should be approved;

Accordingly, IT IS ORDERED THAT the application of National States Insurance Company, in Liquidation, for the approval of the reinsurance agreement pursuant to § 38.2-136 C of the Code of Virginia is hereby APPROVED.

**CASE NO. INS-2012-00264
NOVEMBER 26, 2012**

IN THE MATTER OF
NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

Ex Parte: In the matter of Approval of a Multi-State Regulatory Settlement Agreement between National Union Fire Insurance Company of Pittsburgh, PA and the Insurance Commissioners or Directors of the States of Iowa, Minnesota, New Jersey, Ohio, and Pennsylvania, for and on behalf of the Virginia State Corporation Commission's Bureau of Insurance

ORDER APPROVING SETTLEMENT AGREEMENT

ON THIS DAY came the Bureau of Insurance ("Bureau"), by counsel, and requested: (i) State Corporation Commission ("Commission") approval and acceptance of a multi-state Regulatory Settlement Agreement ("Agreement") dated October 15, 2012, a copy of which is attached hereto and made a part hereof, by and between the commissioners or directors of insurance for the states of Iowa, Minnesota, New Jersey, Ohio, and Pennsylvania and National Union Fire Insurance Company of Pittsburgh, PA, domiciled in Pennsylvania and licensed to transact the business of insurance in the Commonwealth of Virginia; and (ii) authority to execute any documents attendant to the Agreement necessary to evidence the Commission's acceptance of the Agreement.

NOW THE COMMISSION, having considered the terms of the Agreement together with the recommendation of the Bureau that the Commission approve and accept the Agreement, is of the opinion, finds, and ORDERS that: (i) the Agreement is hereby APPROVED AND ACCEPTED, and (ii) the Commissioner of Insurance is hereby authorized to execute any attendant documents necessary to evidence the Commission's approval and acceptance of the Agreement for the scope of review that is within the jurisdiction of the Commission.

**CASE NO. INS-2012-00265
NOVEMBER 15, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

MID-CENTURY INSURANCE COMPANY,
Defendant

SETTLEMENT ORDER

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Mid-Century Insurance Company ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-1906 D of the Code of Virginia ("Code") by making or issuing insurance contracts or policies not in accordance with the rate and supplementary rate information filings in effect for the Defendant.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been advised of its right to a hearing in this matter whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth the sum of One Thousand Dollars (\$1,000), waived its right to a hearing, and agreed to comply with the corrective action plan set forth in its letter to the Bureau dated October 15, 2012.

The Bureau has recommended that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The offer of Mid-Century Insurance Company in settlement of the matter set forth herein is hereby accepted.
- (2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00267
NOVEMBER 15, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
JOSEPH ALEXANDER BILES,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Joseph Alexander Biles ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated subsection 1 of § 38.2-1831 of the Code of Virginia ("Code") by providing materially incorrect, misleading, incomplete or untrue information in his license application filed with the Commission.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated October 2, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated subsection 1 of § 38.2-1831 of the Code by providing materially incorrect, misleading, incomplete or untrue information in his license application filed with the Commission.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED.
- (2) All appointments issued under said licenses are hereby VOID.
- (3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent.
- (4) The Defendant shall not apply to the State Corporation Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order.
- (5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.
- (6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00268
NOVEMBER 15, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
DOUNIA AMELIA WHITE,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Dounia Amelia White ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-1826 of the Code of Virginia ("Code") by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against her by the state of Missouri and by failing to report within thirty (30) calendar days to the Commission and to every insurer for which she is appointed a change in her residence address.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

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The Defendant has been notified of her right to a hearing before the Commission in this matter by certified letter dated October 4, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of her right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 of the Code by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against her by the state of Missouri and by failing to report within thirty (30) calendar days to the Commission and to every insurer for which she is appointed a change in her residence address.

Accordingly, IT IS ORDERED THAT:

(1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED.

(2) All appointments issued under said licenses are hereby VOID.

(3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent.

(4) The Defendant shall not apply to the State Corporation Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order.

(5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.

(6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00269
NOVEMBER 15, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

ADRIANA JAIME,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Adriana Jaime ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-1826 C of the Code of Virginia ("Code") by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against her by the state of Georgia.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

The Defendant has been notified of her right to a hearing before the Commission in this matter by certified letter dated October 4, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of her right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 C of the Code by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against her by the state of Georgia.

Accordingly, IT IS ORDERED THAT:

(1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED.

(2) All appointments issued under said licenses are hereby VOID.

(3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent.

(4) The Defendant shall not apply to the State Corporation Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order.

(5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.

(6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00270
NOVEMBER 15, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

ROGER GERARD HAIGNEY, JR.,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Roger Gerard Haigney, Jr. ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-1826 C of the Code of Virginia ("Code") by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the Financial Industry Regulatory Authority.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated August 30, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 C of the Code by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the Financial Industry Regulatory Authority.

Accordingly, IT IS ORDERED THAT:

(1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED.

(2) All appointments issued under said licenses are hereby VOID.

(3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent.

(4) The Defendant shall not apply to the State Corporation Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order.

(5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.

(6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00271
NOVEMBER 15, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

COREY LAMAR BATTEY,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Corey Lamar Battey ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-1826 C of the Code of Virginia ("Code") by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the Financial Industry Regulatory Authority.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated August 27, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated § 38.2-1826 C of the Code by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the Financial Industry Regulatory Authority.

Accordingly, IT IS ORDERED THAT:

- (1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED.
- (2) All appointments issued under said licenses are hereby VOID.
- (3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent.
- (4) The Defendant shall not apply to the State Corporation Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order.
- (5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.
- (6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00275
NOVEMBER 29, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

SENTINEL INSURANCE COMPANY LIMITED,
Defendant

SETTLEMENT ORDER

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Sentinel Insurance Company Limited ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia, violated § 38.2-1906 D of the Code of Virginia ("Code") by making or issuing insurance contracts or policies not in accordance with the rate and supplementary rate information filings in effect for the Defendant.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violation.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Defendant has been advised of its right to a hearing in this matter whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has waived its right to a hearing, agreed to comply with the corrective action plan set forth in its letter to the Bureau dated September 7, 2012, and confirmed that restitution was made to 44 consumers in the amount of Sixty-six Thousand Seven Hundred Thirty-five Dollars and Fifty-seven Cents (\$66,735.57).

The Bureau has recommended that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The offer of Sentinel Insurance Company Limited in settlement of the matter set forth herein is hereby accepted.
- (2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00276
DECEMBER 6, 2012**

NATIONWIDE FINANCIAL SERVICES, INC.,
NATIONWIDE LIFE INSURANCE COMPANY,
NATIONWIDE LIFE AND ANNUITY INSURANCE COMPANY,
NATIONWIDE LIFE INSURANCE COMPANY OF AMERICA,
and
NATIONWIDE LIFE AND ANNUITY COMPANY OF AMERICA

Ex Parte: In the matter of Approval of a Multi-State Regulatory Settlement Agreement between Nationwide Financial Services, Inc., Nationwide Life Insurance Company, Nationwide Life and Annuity Insurance Company, Nationwide Life Insurance Company of America, and Nationwide Life and Annuity Insurance Company of America, and the Florida Office of Insurance Regulation, the California Department of Insurance, the North Dakota Insurance Department, the Illinois Department of Insurance, the Pennsylvania Insurance Department, the Ohio Department of Insurance and the New Hampshire Insurance Department for and on behalf of the Virginia Bureau of Insurance and the Insurance Regulators of the remaining states, districts and territories of the United States

ORDER APPROVING SETTLEMENT AGREEMENT

ON THIS DAY came the Bureau of Insurance ("Bureau"), by counsel, and requested (i) State Corporation Commission ("Commission") approval and acceptance of a multi-state Regulatory Settlement Agreement ("Agreement"), a copy of which is attached hereto and made a part hereof, by and between the commissioners of insurance for the states of Florida, California, North Dakota, Illinois, Pennsylvania, Ohio, and New Hampshire and Nationwide Financial Services, Inc., Nationwide Life Insurance Company, domiciled in Ohio and licensed to transact the business of insurance in the Commonwealth of Virginia, Nationwide Life and Annuity Insurance Company, domiciled in Ohio and licensed to transact the business of insurance in the Commonwealth of Virginia, Nationwide Life Insurance Company of America, domiciled in Pennsylvania and formerly licensed to transact the business of insurance in the Commonwealth of Virginia,¹ and Nationwide Life and Annuity Company of America, domiciled in Delaware and formerly licensed to transact the business of insurance in the Commonwealth of Virginia;² and (ii) authority to execute any documents attendant to the Agreement necessary to evidence the Commission's acceptance of the Agreement.

NOW THE COMMISSION, having considered the terms of the Agreement together with the recommendation of the Bureau that the Commission approve and accept the Agreement, is of the opinion, finds, and ORDERS that (i) the Agreement is hereby APPROVED AND ACCEPTED and (ii) the Commissioner of Insurance is hereby authorized to execute any attendant documents necessary to evidence the Commission's approval and acceptance of the Agreement.

¹ On January 26, 2010, Nationwide Life Insurance Company of America was merged into Nationwide Life Insurance Company.

² On January 26, 2010, Nationwide Life and Annuity Company of America was merged into Nationwide Life and Annuity Insurance Company.

**CASE NO. INS-2012-00278
DECEMBER 10, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

CONTINENTAL INSURANCE COMPANY,
AMERICAN CASUALTY COMPANY OF READING PA,
NATIONAL FIRE INSURANCE COMPANY OF HARTFORD,
TRANSPORTATION INSURANCE COMPANY,
VALLEY FORGE INSURANCE COMPANY,

and

CONTINENTAL CASUALTY COMPANY,
Defendants

SETTLEMENT ORDER

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Continental Insurance Company, American Casualty Company of Reading PA, National Fire Insurance Company of Hartford, Transportation Insurance Company, Valley Forge Insurance Company, and Continental Casualty Company ("Defendants"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-1906 D of the Code of Virginia ("Code") by making or issuing insurance contracts or policies not in accordance with the rate and supplementary rate information filings in effect for the Defendants.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendants' licenses upon a finding by the Commission, after notice and opportunity to be heard, that the Defendants have committed the aforesaid alleged violations.

The Defendants have been advised of their right to a hearing in this matter whereupon the Defendants, without admitting any violation of Virginia law, have made an offer of settlement to the Commission wherein the Defendants have tendered to the Commonwealth the sum of One Thousand Dollars (\$1,000) per company for an amount totaling Six Thousand Dollars (\$6,000), waived their right to a hearing, agreed to comply with the corrective action plan set forth in their letter to the Bureau dated October 5, 2012, and confirmed that restitution was made to 14 consumers in the amount of Five Hundred Seventy-four Dollars and Eighty Cents (\$574.80).

The Bureau has recommended that the Commission accept the offer of settlement of the Defendants pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendants, and the recommendation of the Bureau, is of the opinion that the Defendants' offer should be accepted.

Accordingly, IT IS ORDERED THAT:

(1) The offer of Continental Insurance Company, American Casualty Company of Reading PA, National Fire Insurance Company of Hartford, Transportation Insurance Company, Valley Forge Insurance Company, and Continental Casualty Company in settlement of the matter set forth herein is hereby accepted.

(2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00280
NOVEMBER 30, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

ALLSTATE INSURANCE COMPANY,
Defendant

SETTLEMENT ORDER

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Allstate Insurance Company ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth"), violated §§ 38.2-317 and 38.2-1906 A of the Code of Virginia ("Code"), as well as the Commission's Rules Governing Claims Made Policies ("Rules"), 14 VAC 5-335-10 *et seq.*, by delivering or issuing for delivery insurance policies or endorsements without having filed such policy forms or endorsements with the Commission at least thirty (30) days prior to their effective date; by failing to file with the Commission all rates and supplementary rate information and all changes and amendments to the rates and supplementary rate information made by it for use in the Commonwealth on or before the date they become effective; and by issuing claims-made forms that did not comply with the Rules since January 1, 2005, the effective date of the regulation.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been advised of its right to a hearing in this matter whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has waived its right to a hearing and agreed to comply with the corrective action plan set forth in its letter to the Bureau dated October 9, 2012.

The Bureau has recommended that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The offer of Allstate Insurance Company in settlement of the matter set forth herein is hereby accepted.
- (2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00281
DECEMBER 14, 2012**

PETITION OF
ANTHEM HEALTH PLANS OF VIRGINIA, INC.
and
HEALTHKEEPERS, INC.,

For approval to offer new behavioral health customer services to Anthem members from a newly created call center located outside of Virginia

FINAL ORDER

On November 8, 2012, Anthem Health Plans of Virginia, Inc. and HealthKeepers, Inc. (collectively, "Anthem" or "Petitioners"), filed a Petition pursuant to the State Corporation Commission's ("Commission") Rules of Practice and Procedure, 5 VAC 5-20-10 *et seq.*, and the Final Order entered in Case No. INS-2007-00141.¹ In the 2007 Final Order, the Commission continued the requirement that Anthem cause the following services to be provided from offices located in Virginia: claims processing and case management, customer service, quality management, provider services, medical management, and network development. The Commission permitted Anthem to provide the following services from offices located outside of the Commonwealth of Virginia: actuarial, underwriting, marketing, community relations, distribution management, and sales. In the 2007 Final Order, the Commission also provided that if Anthem seeks to provide any of the aforementioned services currently required to be provided from offices located in Virginia to offices located outside of Virginia, it should seek permission from the Commission by filing a petition "... setting forth a specific and detailed proposal for providing such services out of state, including specific and detailed information on *how* and *where* Anthem will provide such services, as well as safeguards for ensuring adequate levels of service."²

In this Petition, the Petitioners are asking for relief, in part, with respect to new behavioral health customer services ("Services") as described in the Petition, from the requirement of the 2007 Final Order that the Services be provided in Virginia. The Petitioners are requesting to be allowed to utilize Anthem associates located in states other than Virginia to perform the Services.³ Additionally, the Petitioners represent that the call center conducting the Services will not affect any existing job functions in Virginia but will only enhance and assist behavioral health management and customer service functions already in, and remaining in, Virginia.⁴ The Petitioners represent that an advance draft of the Petition has been provided to the Office of the Attorney General's Division of Consumer Counsel and to the Medical Society of Virginia ("MSV") and that MSV has authorized Petitioners to represent that it does not object to the Petition.⁵

On November 16, 2012, the Commission entered a Scheduling Order in which it provided a deadline of November 26, 2012, for interested persons to comment or to file a notice of participation as a respondent in this matter and for the Bureau of Insurance ("Bureau") to file a response to the Petition.

On November 20, 2012, the Bureau filed its response to the Petition. The Bureau stated that it does not object to Anthem's request.

NOW THE COMMISSION, upon consideration of this matter, and the Bureau's response thereto, finds that the Petition should be granted.

Accordingly, IT IS ORDERED THAT:

- (1) Anthem's Petition is GRANTED.

¹ *Petition of Anthem Health Plans of Virginia, Inc., et al., For Amendment of Final Order in Case No INS-2002-00131*, Case No. INS-2007-00141, 2007 S.C.C. Ann. Rept. 114, Final Order (Aug. 9, 2007) (hereinafter "2007 Final Order").

² *Id.* at 116, paragraph 4.

³ Petition at 2.

⁴ *Id.* at 3.

⁵ *Id.* at 4.

(2) Anthem is permitted to utilize Anthem associates in a new call center located outside of Virginia with respect to new behavioral health customer services. The new call center is permitted to offer limited behavioral health screening and referral services, provider search and health risk assessments that can match customers with care management clinical programs and wellness initiatives within their networks and service areas. Virginia customers seeking medical management services requiring care from licensed clinicians shall have their cases immediately transferred back to offices located in Virginia. The new call center is also permitted to provide customer linkage to Virginia network providers, enhanced triage to clinical programs located in Virginia, and direct access to a behavioral health clinician for consideration of placement alternatives, which, where medical management services are warranted, shall be provided from offices located in Virginia.

(3) The other provisions of the Final Order in Case No. INS-2007-00141 are not affected hereby, and Anthem shall continue to comply therewith.

(4) This matter is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00283
DECEMBER 21, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

AMERICAN HOME ASSURANCE COMPANY,
NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA.,
NEW HAMPSHIRE INSURANCE COMPANY,
GRANITE STATE INSURANCE COMPANY,
COMMERCE AND INDUSTRY INSURANCE COMPANY,
AMERICAN INTERNATIONAL SOUTH INSURANCE COMPANY,
AIG CASUALTY COMPANY,

and

THE INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA,
Defendants

SETTLEMENT ORDER

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that American Home Assurance Company, National Union Fire Insurance Company of Pittsburgh, Pa., New Hampshire Insurance Company, Granite State Insurance Company, Commerce and Industry Insurance Company, American International South Insurance Company, AIG Casualty Company, and The Insurance Company of the State of Pennsylvania ("Defendants"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth"), violated §§ 38.2-317 and 38.2-1903.1 of the Code of Virginia ("Code") by delivering or issuing for delivery insurance policies or endorsements without having filed such policy forms or endorsements with the Commission at least thirty (30) days prior to their effective date, and by issuing policies under the exemption set forth in the statute without having obtained the required annual certification.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendants' licenses upon a finding by the Commission, after notice and opportunity to be heard, that the Defendants have committed the aforesaid alleged violations.

The Defendants have been advised of their right to a hearing in this matter whereupon the Defendants, without admitting any violation of Virginia law, have made an offer of settlement to the Commission wherein the Defendants have tendered to the Commonwealth the sum of Fifteen Thousand Dollars (\$15,000), waived their right to a hearing, and agreed to comply with the corrective action plan set forth in their letters to the Bureau dated September 21, 2012, and October 5, 2012.

The Bureau has recommended that the Commission accept the offer of settlement of the Defendants pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendants, and the recommendation of the Bureau, is of the opinion that the Defendants' offer should be accepted.

Accordingly, IT IS ORDERED THAT:

(1) The offer of American Home Assurance Company, National Union Fire Insurance Company of Pittsburgh, Pa., New Hampshire Insurance Company, Granite State Insurance Company, Commerce and Industry Insurance Company, American International South Insurance Company, AIG Casualty Company, and The Insurance Company of the State of Pennsylvania in settlement of the matter set forth herein is hereby accepted.

(2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00284
DECEMBER 17, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
GRAMERCY INSURANCE COMPANY,
Defendant

IMPAIRMENT ORDER

Gramercy Insurance Company, a Texas domiciled insurer ("Defendant") licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth"), is required by § 38.2-1028 of the Code of Virginia ("Code") to maintain minimum capital of \$1 million and minimum surplus of \$3 million.

Section 38.2-1036 of the Code provides that if the Commission finds an impairment of the required minimum surplus of any foreign insurer, the Commission may order the insurer to eliminate the impairment and restore the minimum surplus to the amount required by law and may prohibit the insurer from issuing any new policies in the Commonwealth while the impairment of the insurer's surplus exists.

The Quarterly Statement of the Defendant, dated September 30, 2012, and filed with the Commission's Bureau of Insurance, indicates surplus of negative \$664,858, an impairment in surplus of \$3,664,858.

Accordingly, IT IS ORDERED THAT:

(1) On or before February 28, 2013, the Defendant shall eliminate the impairment in its surplus, restore the same to at least \$3 million, and advise the Commission of the accomplishment thereof by affidavit of the Defendant's president or other authorized officer.

(2) The Defendant shall issue no new contracts or policies of insurance in the Commonwealth of Virginia while the impairment of the Defendant's surplus exists and until further order of the Commission.

**CASE NO. INS-2012-00285
DECEMBER 6, 2012**

AMERICAN INTERNATIONAL GROUP, INC.,
AMERICAN GENERAL ASSURANCE COMPANY,
AMERICAN GENERAL LIFE INSURANCE COMPANY OF DELAWARE,
AMERICAN GENERAL LIFE AND ACCIDENT INSURANCE COMPANY,
AMERICAN GENERAL LIFE INSURANCE COMPANY,
SUNAMERICA ANNUITY AND LIFE ASSURANCE COMPANY,
SUNAMERICA LIFE INSURANCE COMPANY,
and
WESTERN NATIONAL LIFE INSURANCE COMPANY

Ex Parte: In the matter of Approval of a Multi-State Regulatory Settlement Agreement between American International Group, Inc., American General Assurance Company, American General Life Insurance Company of Delaware, American General Life and Accident Insurance Company, American General Life Insurance Company, SunAmerica Annuity and Life Assurance Company, SunAmerica Life Insurance Company, and Western National Life Insurance Company, and the Florida Office of Insurance Regulation, the California Department of Insurance, the North Dakota Insurance Department, the Illinois Department of Insurance, the Pennsylvania Insurance Department, the Texas Department of Insurance, and the New Hampshire Insurance Department for and on behalf of the Virginia Bureau of Insurance and the Insurance Regulators of the remaining states, districts and territories of the United States

ORDER APPROVING SETTLEMENT AGREEMENT

ON THIS DAY came the Bureau of Insurance ("Bureau"), by counsel, and requested: (i) State Corporation Commission ("Commission") approval and acceptance of a multi-state Regulatory Settlement Agreement ("Agreement"), a copy of which is attached hereto and made a part hereof, by and between the commissioners of insurance for the states of Florida, California, North Dakota, Illinois, Pennsylvania, Texas and New Hampshire and American International Group, Inc., American General Assurance Company, domiciled in Illinois and licensed to transact the business of insurance in the Commonwealth of Virginia; American General Life Insurance Company of Delaware, domiciled in Delaware and licensed to transact the business of insurance in the Commonwealth of Virginia; American General Life and Accident Insurance Company, domiciled in Tennessee and licensed to transact the business of insurance in the Commonwealth of Virginia; American General Life Insurance Company, domiciled in Texas and licensed to transact the business of insurance in the Commonwealth of Virginia; SunAmerica Annuity and Life Assurance Company, domiciled in Arizona and licensed to transact the business of insurance in the Commonwealth of Virginia; SunAmerica Life Insurance Company, domiciled in Arizona and licensed to transact the business of insurance in the Commonwealth of Virginia; and Western National Life Insurance Company, domiciled in Texas and licensed to transact the business of insurance in the Commonwealth of Virginia¹; and (ii) authority to execute any documents attendant to the Agreement necessary to evidence the Commission's acceptance of the Agreement.

¹ The Agreement also includes AGC Life Insurance Company, The United States Life Insurance Company in the City of New York, and The Variable Annuity Life Insurance Company. None of these companies are licensed to transact the business of insurance in the Commonwealth of Virginia; therefore, this Order does not include them.

NOW THE COMMISSION, having considered the terms of the Agreement together with the recommendation of the Bureau that the Commission approve and accept the Agreement, is of the opinion, finds, and ORDERS that: (i) the Agreement is hereby APPROVED AND ACCEPTED and (ii) the Commissioner of Insurance is hereby authorized to execute any attendant documents necessary to evidence the Commission's approval and acceptance of the Agreement.

**CASE NO. INS-2012-00288
DECEMBER 21, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
ANDREW O NIEL BRYAN,
Defendant

ORDER REVOKING LICENSE

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Andrew O Niel Bryan ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance as an insurance agent in the Commonwealth of Virginia ("Commonwealth"), violated §§ 38.2-1826 A and 38.2-1826 C of the Code of Virginia ("Code") by failing to report within thirty (30) calendar days to the Commission, and to every insurer for which he is appointed any change in his residence or name, and by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the state of Florida.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated November 15, 2012, and mailed to the Defendant's address shown in the records of the Bureau.

The Defendant, having been advised in the above manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau.

The Bureau, upon the Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of the Defendant's licenses to transact the business of insurance in the Commonwealth as an insurance agent.

NOW THE COMMISSION is of the opinion and finds that the Defendant has violated §§ 38.2-1826 A and 38.2-1826 C of the Code by failing to report within thirty (30) calendar days to the Commission, and to every insurer for which he is appointed any change in his residence or name, and by failing to report to the Commission within thirty (30) calendar days an administrative action that was taken against him by the state of Florida.

Accordingly, IT IS ORDERED THAT:

(1) The licenses of the Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia are hereby REVOKED.

(2) All appointments issued under said licenses are hereby VOID.

(3) The Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent.

(4) The Defendant shall not apply to the State Corporation Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to sixty (60) days from the date of this Order.

(5) The Bureau of Insurance shall notify every insurance company for which the Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.

(6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2012-00290
DECEMBER 21, 2012**

JOHN HANCOCK LIFE INSURANCE COMPANY (U.S.A.)
and
JOHN HANCOCK LIFE AND HEALTH INSURANCE COMPANY,

Ex Parte: In the matter of Approval of a Multi-State Regulatory Settlement Agreement between John Hancock Life Insurance Company (U.S.A.) and John Hancock Life and Health Insurance Company, and the Florida Office of Insurance Regulation, the California Department of Insurance, the North Dakota Insurance Department, the Illinois Department of Insurance, the Pennsylvania Insurance Department, the Michigan Office of Financial and Insurance Regulation, and the New Hampshire Insurance Department for and on behalf of the Virginia Bureau of Insurance and the Insurance Regulators of the remaining states, districts and territories of the United States

ORDER APPROVING SETTLEMENT AGREEMENT

ON THIS DAY came the Bureau of Insurance ("Bureau"), by counsel, and requested: (i) State Corporation Commission ("Commission") approval and acceptance of a multi-state Regulatory Settlement Agreement ("Agreement"), a copy of which is attached hereto and made a part hereof, by and between the commissioners of insurance for the states of Florida, California, North Dakota, Illinois, Pennsylvania, Michigan and New Hampshire and John Hancock Life Insurance Company (U.S.A.), domiciled in Michigan and licensed to transact the business of insurance in the Commonwealth of Virginia; and John Hancock Life and Health Insurance Company, domiciled in Massachusetts and licensed to transact the business of insurance in the Commonwealth of Virginia; and (ii) authority to execute any documents attendant to the Agreement necessary to evidence the Commission's acceptance of the Agreement.

NOW THE COMMISSION, having considered the terms of the Agreement together with the recommendation of the Bureau that the Commission approve and accept the Agreement, is of the opinion, finds, and ORDERS that: (i) the Agreement is hereby APPROVED AND ACCEPTED and (ii) the Commissioner of Insurance is hereby authorized to execute any attendant documents necessary to evidence the Commission's approval and acceptance of the Agreement.

NOTE: A copy of the "Participating Regulator Adoption" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

DIVISION OF PUBLIC SERVICE TAXATION

CASE NOS. PST-2005-00014, PST-2006-00023, PST-2007-00018, PST-2008-00025, PST-2009-00025, PST-2010-00031 JANUARY 11, 2012

APPLICATION OF
DIECA COMMUNICATIONS, INC. D/B/A COVAD COMMUNICATIONS COMPANY

For Review and Correction of Certification of Gross Receipts - Tax Year 2004

APPLICATION OF
DIECA COMMUNICATIONS, INC. D/B/A COVAD COMMUNICATIONS COMPANY

For Review and Correction of Certification of Gross Receipts for the year ended December 31, 2004

APPLICATION OF
DIECA COMMUNICATIONS, INC. d/b/a COVAD COMMUNICATIONS

For Review and Correction of Certification of Gross Receipts

APPLICATION OF
DIECA COMMUNICATIONS, INC. D/B/A COVAD COMMUNICATIONS

For Review and Correction of Certification of Gross Receipts

APPLICATION OF
DIECA COMMUNICATIONS, INC. D/B/A COVAD COMMUNICATIONS

For Review and Correction of Certification of Gross Receipts for the Twelve Months Ending December 31, 2007

APPLICATION OF
DIECA COMMUNICATIONS, INC. D/B/A COVAD COMMUNICATIONS

For review and correction of certification of gross receipts for the year ending December 31, 2008

FINAL ORDER

Before the State Corporation Commission ("Commission") are applications of DIECA Communications, Inc. d/b/a Covad Communications Company ("Covad" or "Company") for review and correction of the Commission's certifications of gross receipts to the Department of Taxation ("Department") for levy of any minimum tax on telecommunications companies. In Case Nos. PST-2006-00023, PST-2007-00018, PST-2008-00025, and PST-2009-00025, the Hearing Examiner has filed reports ("Reports") and recommended that the applications be dismissed. In Case No. PST-2010-00031, the Commission Staff ("Staff") has moved for dismissal of the application, and Covad does not oppose. Finally, in Case No. PST-2005-00014, the Hearing Examiner has recommended in a Report that the Commission accept a settlement of some issues and dismiss the balance of the application. As explained in this Order, we will adopt the Hearing Examiner's recommendations in five of the cases and grant the Staff motion to dismiss in the sixth case.

In his Report of October 4, 2011, in Case No. PST-2007-00018 and in his Reports of October 17, 2011, in Case Nos. PST-2006-00023, PST-2008-00025, and PST-2009-00025, the Hearing Examiner recommended that the Commission grant unopposed Staff motions to dismiss the applications on the grounds that the issues raised in the applications were moot. In each Report, the Hearing Examiner noted that the Commission had declined to allow the deductions of the type claimed by Covad in a previous proceeding.¹

On November 7, 2011, the Hearing Examiner filed his Report in Case No. PST-2005-00014. The Hearing Examiner discussed the agreement of the Staff and Covad that the Commission's certification to the Department for tax year 2004 should be reduced to \$4,180,105. Further, Covad had moved to amend its application to conform to this number and for entry of a Hearing Examiner's Report recommending correction of the certified gross receipts. Neither the Staff nor the Department objected.

On August 31, 2011, the Staff moved to dismiss Covad's application filed in Case No. PST-2010-00031. As in its motions to dismiss filed in the cases assigned to a Hearing Examiner, the Staff argued that the issues raised in the application were moot. In a response filed on September 21, 2011, Covad expressed no objection to the Staff motion.

NOW THE COMMISSION, having considered the Reports and the record, will adopt the recommendations. We will also grant the Staff motion to dismiss Case No. PST-2010-00031. The Commission will correct the certification to the Department of gross receipts for tax year 2004 and otherwise dismiss the applications as recommended by the Hearing Examiner.

¹ *Application of Level 3 Communications, LLC, For Review and Correction of Certification of Gross Receipts - Tax Year 2003*, Case No. PST-2004-00030, Final Order, 2010 S.C.C. Ann. Rept. 194 (June 30, 2010), *aff'd sub nom. Level 3 Communications, LLC v. State Corp. Comm'n*, 282 Va. 41, 710 S.E.2d 474 (2011).

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Accordingly, IT IS ORDERED THAT:

- (1) The application for review and correction of the certification for tax year 2004 filed in Case No. PST-2005-00014 be granted to the extent discussed above and otherwise dismissed from the Commission's docket and placed in closed status in the records maintained by the Clerk of the Commission.
- (2) The Commission's certification of May 14, 2004, to the Department, "Gross Receipts of Telecommunications Companies: A Statement Showing the Gross Receipts subject to the minimum tax for the year ending December 31, 2003, of Telecommunications Companies in the Commonwealth of Virginia pursuant to Title 58. 1, Chapter 3, Article 10, of the Code of Virginia," page 6 for DIECA Communications, Inc. d/b/a Covad Communications Company, be corrected by striking the figure \$8,174,183 and inserting the figure \$4,180,105.
- (3) The Commission's Division of Public Service Taxation shall promptly provide to the Department of Taxation a copy of this Order and such other information as the Department may require.
- (4) Case Nos. PST-2006-00023, PST-2007-00018, PST-2008-00025, PST-2009-00025, and PST-2010-00031 are hereby dismissed from the Commission's docket and placed in a closed status in the records maintained by the Clerk of the Commission.

**CASE NOS. PST-2009-00027 AND PST-2010-00034
JANUARY 23, 2012**

APPLICATION OF
BROADWING COMMUNICATIONS, LLC

For review and correction of certification of gross receipts for the twelve months ending December 31, 2007

APPLICATION OF
BROADWING COMMUNICATIONS, LLC

For review and correction of certification of gross receipts for the year ending December 31, 2008

ORDER GRANTING DISMISSAL

On November 12, 2009, Broadwing Communications, LLC ("Broadwing") filed with the State Corporation Commission ("Commission") an Application for review and correction of the Commission's certification to the Department of Taxation of Broadwing's gross receipts for the year ended December 31, 2007. The application was docketed as Case No. PST-2009-00027 by Order for Notice on December 10, 2009. On November 12, 2010, Broadwing filed with the Commission its Application for review and correction of the Commission's certification to the Department of Taxation of Broadwing's gross receipts for the year ended December 31, 2008. The application was docketed as Case No. PST-2010-00034 by Order for Notice on December 17, 2010.

Alexander F. Skirpan, Jr., Senior Hearing Examiner, filed a report in Case No. PST-2010-00034 on December 14, 2011, and a report in Case No. PST-2009-00027 on December 16, 2011. The Senior Hearing Examiner recommended that the Commission grant Broadwing's unopposed motions to dismiss the applications in Case Nos. PST-2009-00027 and PST-2010-00034.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the Senior Hearing Examiner's recommendations should be adopted and the applications shall be, and hereby are, dismissed.

Accordingly, IT IS ORDERED THAT Case Nos. PST-2009-00027 and PST-2010-00034 hereby are dismissed from the Commission's docket of active cases, and the papers filed therein shall be placed in the file for ended causes.

**CASE NO. PST-2009-00028, PST-2010-00032
JANUARY 11, 2012**

APPLICATION OF
LEVEL 3 COMMUNICATIONS, LLC

For Review and Correction of Certification of Gross Receipts for the Twelve Months Ending December 31, 2007

APPLICATION OF
LEVEL 3 COMMUNICATIONS, LLC

For review and correction of certification of gross receipts for the year ending December 31, 2008

ORDER GRANTING DISMISSAL

On November 12, 2009, Level 3 Communications, LLC ("Level 3" or "Company"), filed with the State Corporation Commission ("Commission") an Application for Review and Correction of Certification of Gross Receipts for the Year Ended December 31, 2007. The application was docketed as Case No. PST-2009-00028 by Order for Notice on December 10, 2009. On November 12, 2010, Level 3 filed with the Commission its Application for Review and Correction of Certification of Gross Receipts for the Year Ended December 31, 2008. The application was docketed as Case No. PST-2010-00032 by Order for Notice on December 17, 2010.

Michael D. Thomas, Hearing Examiner, filed reports in both cases on December 6, 2011. The Hearing Examiner recommended that the Commission grant the Company's unopposed motions to dismiss the applications in Case No. PST-2009-00028 and Case No. PST-2010-00032.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the Hearing Examiner's recommendations should be adopted and the applications shall be, and hereby are, dismissed.

Accordingly, IT IS ORDERED THAT Case Nos. PST-2009-00028 and PST-2010-00032 hereby are dismissed from the Commission's docket of active cases, and the papers filed therein shall be placed in the file for ended causes.

**CASE NO. PST-2010-00035
JANUARY 23, 2012**

APPLICATION OF
TELCOVE OF VIRGINIA, LLC

For review and correction of certification of gross receipts for the year ending December 31, 2008

ORDER GRANTING DISMISSAL

On November 12, 2009, TelCove of Virginia, LLC ("TelCove") filed with the State Corporation Commission ("Commission") an Application for review and correction of the Commission's certification to the Department of Taxation of TelCove's gross receipts for the year ended December 31, 2008. The application was docketed as Case No. PST-2010-00035 by Order for Notice of December 17, 2010. Alexander F. Skirpan, Jr., Senior Hearing Examiner, filed a report in this docket on December 14, 2011. The Senior Hearing Examiner recommended that the Commission grant TelCove's unopposed motion to dismiss the application in Case No. PST-2010-00035.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the Senior Hearing Examiner's recommendations should be adopted and the application shall be, and hereby is, dismissed.

Accordingly, IT IS ORDERED THAT Case No. PST-2010-00035 hereby is dismissed from the Commission's docket of active cases, and the papers filed therein shall be placed in the file for ended causes.

**CASE NO. PST-2011-00031
OCTOBER 31, 2012**

APPLICATION OF
XO VIRGINIA, LLC

For review and correction of the equalized assessment of value of property subject to local taxation - Tax Year 2011

FINAL ORDER

Before the State Corporation Commission ("Commission") is the application of XO Virginia, LLC ("XO" or "Company") for review and correction of the tax year 2011 assessments of the value of certain classes of property in the counties of Fairfax and Loudoun and the Town of Herndon as provided by § 58.1-2670 of the Code of Virginia ("Code"). Specifically, the Company seeks review of the Commission's assessments of Class 2, Value of wire lines, in all three jurisdictions and Class 3, Value of central office equipment, in Fairfax County, all as shown in the Commission's Statement Showing the Value of Real and Tangible Personal Property of Telecommunications Companies in the Commonwealth of Virginia, assessed as of the beginning of the first day of January 2011, pursuant to Title 58.1, Chapter 26, Article 2, of the Code for the Company ("Statement of Value").

On January 31, 2012, the Commission entered its Order for Notice and Hearing assigning the application to a Hearing Examiner to conduct further proceedings and directing the Company to give notice to the affected localities. On February 29, 2012, Fairfax County ("Fairfax") filed a Notice of Participation as a Respondent.

On October 1, 2012, the Report of Howard P. Anderson, Jr., Hearing Examiner, was filed with the Commission. The Hearing Examiner recommended that the Commission accept a stipulation and settlement of all issues proposed by XO and the Commission Staff ("Staff") and grant the application. As noted in the Report, in its response to the joint motion of Staff and XO to accept the stipulation, Fairfax stated that it did not object to the proposed settlement. The Hearing Examiner found that an opportunity to file responses to the Report was unnecessary.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the settlement should be accepted and the application should be granted. As the Hearing Examiner discussed, this application concerns errors in the Company's annual report to the Commission of the cost of its property. XO reported an overstated value of its central office equipment. Also, the Company reported the value of leased fiber optic cable that another telephone company had reported, and, as a result, the fiber optic cable was assessed twice.¹ After an investigation, the Staff agreed that the values were overstated, and the Company and Staff reached an agreement on the correct values.² While Fairfax did not join in the motion to accept the stipulation and settlement, it does not object.

¹ Report at 2.

² *Id.* at 2-3.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Accordingly, IT IS ORDERED THAT:

- (1) As provided by § 58.1-2673 and related provisions of the Code, the application for review and correction of the assessment of the value of property subject to local taxation for tax year 2011 is granted to the extent discussed above.
- (2) In the Statement of Value, For Class 2 Value of wire lines for Fairfax County: All Districts strike 2,227,756 and insert 407,309.
- (3) In the Statement of Value, For Class 3 Value of central office equipment for Fairfax County: All Districts strike 17,243,295 and insert 5,100,957.
- (4) In the Statement of Value, For Total value of all property for Fairfax County: All Districts strike 22,688,003 and insert 8,725,218 to reflect Ordering Paragraphs (2) and (3).
- (5) In the Statement of Value, For Class 2 Value of wire lines for Fairfax County: Herndon, Town Of strike 203,591 and insert 29,445.
- (6) In the Statement of Value, For Total value of all property for Fairfax County: Herndon, Town Of strike 507,679 and insert 333,533 to reflect Ordering Paragraph (5).
- (7) In the Statement of Value, For Class 2 Value of wire lines for Loudoun County: All Districts strike 328,400 and insert 128,321.
- (8) In the Statement of Value, For Total value of all property for Loudoun County: All Districts strike 3,559,486 and insert 3,359,407 to reflect Ordering Paragraph (7).
- (9) The Commission's Public Service Taxation Division shall mail a copy of this Order to the commissioner of the revenue, or equivalent official, of Fairfax County, the Town of Herndon, and Loudoun County.
- (10) As there is nothing further to come before the Commission, this matter is dismissed, and the papers filed herein shall be placed in the file for ended causes.

DIVISION OF COMMUNICATIONS**CASE NO. PUC-2002-00100
JANUARY 17, 2012**

JOINT APPLICATION OF
UNITED TELEPHONE - SOUTHEAST, INC.
AND
CENTRAL TELEPHONE COMPANY OF VIRGINIA
and
FRE COMMUNICATIONS, INC.

For approval of an interconnection agreement

ORDER CLOSING CASE

By Order entered January 6, 2012, in Case No. PUC-2011-00085, the State Corporation Commission ("Commission") cancelled the certificates of public convenience and necessity previously issued to FRE Communications, Inc.¹

NOW THE COMMISSION, being sufficiently advised, finds that there is nothing further to be acted upon in the instant case, wherein the Commission approved an interconnection agreement between the parties named in the caption (or their legal predecessors), and the case should be closed.

Accordingly, IT IS ORDERED THAT Case No. PUC-2002-001 00 is hereby closed.

¹ *Commonwealth of Virginia, ex rel. State Corporation Commission v. FRE Communications, Inc., For cancellation of certificates of public convenience and necessity to provide local exchange and interexchange services*, Case No. PUC-2011-00085.

**CASE NOS. PUC-2004-00058 AND PUC-2012-00003
FEBRUARY 16, 2012**

APPLICATIONS OF
NATIONS LINE VIRGINIA, INC.

For a certificate of public convenience and necessity to provide local exchange telecommunications services
and

For cancellation of a certificate of public convenience and necessity to provide local exchange telecommunications services

**ORDER CANCELLING CERTIFICATE AND ELIGIBLE
TELECOMMUNICATIONS CARRIER DESIGNATION**

The State Corporation Commission ("Commission") issued to NationsLine Virginia, Inc. ("NationsLine"), a certificate of public convenience and necessity ("Certificate No. T-633") to provide local exchange telecommunications services in the Commonwealth of Virginia on August 24, 2004, in Case No. PUC-2004-00058.¹ On October 22, 2008, the Commission issued an Order granting NationsLine's request to be designated as an eligible telecommunications carrier ("ETC") for purposes of universal service support pursuant to § 214(e) of the Telecommunications Act of 1996.²

By communication to the Commission's Division of Communications, NationsLine advised that it will no longer be providing services under its local exchange telecommunications certificate in the Commonwealth of Virginia and requested that Certificate No. T-633 be cancelled.

NOW THE COMMISSION, upon consideration of the foregoing, finds that Certificate No. T-633 issued to NationsLine should be cancelled. We further find that given its request, and its withdrawal from the Virginia market, NationsLine's ETC designation by the Commission should be removed. Finally, we find that Case No. PUC-2004-00058 should be closed.

Accordingly, IT IS ORDERED THAT:

(1) This matter shall be docketed as Case No. PUC-2012-00003.

¹ *Application of NationsLine Virginia, Inc., For a certificate of public convenience and necessity to provide local exchange telecommunications services*, Case No. PUC-2004-00058, 2004 S.C.C. Ann. Rept. 248, Order (Dec. 6, 2004) (Case No. PUC-2004-00058 was kept open so that NationsLine's prepaid month-to-month local exchange telecommunications service offering could be evaluated).

² *Commonwealth ex rel. State Corp. Comm'n, Ex Parte: In re: Implementation of requirements of § 214(e) of the Telecommunications Act of 1996*, Case No. PUC-1997-00135; *Application of NationsLine Virginia, Inc., For designation as an eligible telecommunications carrier under 47 U.S.C. § 214(e)(2)*, Case No. PUC-2006-00126, 2008 S.C.C. Ann. Rept. 251, Order (Oct. 22, 2008).

(2) Certificate T-633, authorizing NationsLine Virginia, Inc., to provide telecommunications services throughout the Commonwealth of Virginia, is hereby cancelled.

(3) Any tariffs on file associated with this certificate are hereby cancelled.

(4) NationsLine Virginia, Inc., is no longer designated as an ETC for the Commonwealth of Virginia.

(5) There being nothing further to come before the Commission in Case Nos. PUC-2004-00058 or PUC-2012-00003, these cases shall be dismissed from the Commission's active docket and the papers filed herein shall be placed in the file for ended causes.

**CASE NO. PUC-2011-00028
JANUARY 6, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
WINSTAR OF VIRGINIA, LLC

For cancellation of certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

ORDER CANCELLING CERTIFICATES

By previous Orders issued at various times in other dockets, the State Corporation Commission ("Commission") issued Certificates of Public Convenience and Necessity No. T-588, permitting the provision of local exchange telecommunications services, and No. TT-179A, permitting the provision of interexchange telecommunications services, to Winstar of Virginia, LLC ("Winstar" or "Company").

Winstar previously requested cancellation of their tariffs for both local exchange and interexchange telecommunications services. The Commission granted Winstar's discontinuance request by Order Permitting Discontinuance of Services dated August 4, 2004.¹

The foregoing telecommunications carrier has been notified by the Commission of the termination of its corporate existence for its failure to pay annual registration or other fees. As a result, the Company is no longer authorized to transact business in the Commonwealth of Virginia. Therefore, the Commission finds that the above-named certificates of public convenience and necessity should be cancelled.

NOW THE COMMISSION, being sufficiently advised, will cancel Certificate Nos. T-588 and TT-179A, previously issued to Winstar.

Accordingly, IT IS ORDERED THAT:

- (1) This matter shall be docketed as Case No. PUC-2011-00028.
- (2) Certificate Nos. T-588 and TT-179A, issued to Winstar of Virginia, LLC, are hereby cancelled.
- (3) This matter is hereby dismissed from the Commission's docket of active cases.

¹ *Application of Winstar of Virginia, LLC, For discontinuance of certain telecommunications services to certain customers in the Commonwealth of Virginia*, Case No. PUC-2004-00094. Tariffs were later cancelled/withdrawn by the Company.

**CASE NO. PUC-2011-00048
JANUARY 17, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

Ex Parte: In re: Amending the rules governing the certification and regulation of competitive local exchange carriers

ORDER REVISING REGULATIONS

On August 4, 2011, the State Corporation Commission ("Commission") issued an Order for Notice and Hearing ("August 4 Order") that initiated a proceeding to consider amending the Commission's rules governing the certification and regulation of competitive local exchange carriers, 20 VAC 5-417-10 *et seq.* ("CLEC Rules"). The August 4 Order noted that the CLEC Rules were last revised on September 27, 2007, by a Final Order issued by the Commission in Case No. PUC-2007-00033. The Commission concluded that it is appropriate to revisit the CLEC Rules to make modifications necessitated by changes in the law by the Virginia General Assembly enacted in Chapters 738 and 740 of the 2011 Virginia Acts of Assembly, and by competitive and technological changes that have occurred in the telecommunications industry since the last review of the CLEC Rules.

To facilitate this review, the Staff of the Commission ("Staff") prepared proposed revisions of the CLEC Rules ("Proposed Rules"), which were, pursuant to the August 4 Order, published in the Virginia Register. Public notice was also given so as to provide the public an opportunity to comment on the Proposed Rules, to request a hearing thereon, or to suggest modifications or supplements to the Proposed Rules.

While no requests for hearing were filed, comments on the Proposed Rules were filed by BVU Authority, Sprint Communications of Virginia, United Telephone Southeast, LLC, and Central Telephone Company of Virginia (jointly as CenturyLink), Verizon Virginia Inc. and Verizon South Inc. (jointly as Verizon), and Cox Virginia Telcom, LLC. BVU Authority also included in its comments to the Proposed Rules certain revisions to the requirements for Municipal Local Exchange Carriers ("MLEC") set out in 20 VAC 5-417-40 of the CLEC Rules.

On October 28, 2011, the Staff filed the Response of the Division of Communications ("Staff Response"), which, in part, reviewed the comments submitted on the Proposed Rules. Staff also noted that Rule 20 VAC 5-417-40 was not specifically noticed at the outset of this proceeding as no changes to this section of the CLEC Rules were included in the Proposed Rules. However, the Staff Response set out revisions to the Proposed Rules based upon the comments received, including additional modifications to the MLEC requirements in 20 VAC 5-417-40 of the CLEC Rules.

On November 22, 2011, the Commission issued an Order providing the public an opportunity to comment on, request a hearing on, or suggest modifications or supplements to the revisions to the MLEC requirements set out in 20 VAC 5-417-40 of the CLEC Rules as proposed by BVU Authority and as further modified by the Staff. Again, no requests for a hearing were received by the Commission. Only BVU filed comments, which were supportive of the additional changes to 20 VAC 5-417-40 noted in the Staff Response.

NOW THE COMMISSION, upon consideration of the foregoing, is of the opinion and finds that the revisions to the CLEC Rules, 20 VAC 5-417-10 *et seq.*, as set forth and attached to this Order, should be adopted.

Accordingly, IT IS ORDERED THAT:

(1) The Commission's Rules Governing Certification and Regulation of Competitive Local Exchange Carriers, 20 VAC 5-417-10 *et seq.* are hereby revised and adopted as attached to this Order, and shall become effective as of February 1, 2012.

(2) A copy of this Order including the revisions to 20 VAC 5-417-10 *et seq.*, shall be forwarded to the Registrar of Regulations for publication in the Virginia Register.

(3) There being nothing further to come before the Commission, this case shall be removed from the docket and the papers herein be placed in the file for ended causes.

NOTE: A copy of Attachment A entitled "Rules Governing Certification and Regulation of Competitive Local Exchange Carriers" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

CASE NO. PUC-2011-00058 JANUARY 4, 2012

APPLICATION OF
DOWN UNDER COMMUNICATIONS, LLC

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

FINAL ORDER

On October 14, 2011, Down Under Communications, LLC ("Down Under" or the "Applicant"), completed an application for certificates of public convenience and necessity with the State Corporation Commission ("Commission") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia ("Application"). The Applicant also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia. In addition, the Applicant filed a Motion for Protective Order ("Motion") in accordance with Rule 5 VAC 5-20-170 of the Commission's Rules of Practice and Procedure when an application contains information that the applicant claims to be confidential.

By Order for Notice and Comment dated October 20, 2011 ("October 20 Order"), the Commission directed the Applicant to provide notice to the public of its Application and directed the Commission Staff ("Staff") to conduct an investigation and file a Staff Report. The Commission also stated that it would hold the Applicant's Motion in abeyance until a party sought access to the information that the Applicant designated as confidential. On November 21, 2011, the Applicant filed proof of service as required by the October 20 Order, and on November 23, 2011, the Applicant filed proof of publication.

On December 16, 2011, the Staff filed its Staff Report finding that Down Under's Application was in compliance with the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers, 20 VAC 5-417-10 *et seq.*, and the Rules Governing the Certification of Interexchange Carriers, 20 VAC 5-411-10 *et seq.* Based upon its review of Down Under's Application, the Staff determined it would be appropriate to grant the Applicant certificates to provide local exchange and interexchange telecommunications services subject to the following condition: Down Under should notify the Division of Utility Accounting and Finance no less than 30 days prior to the cancellation or lapse of its bond and should provide a replacement bond at that time. This requirement should be maintained until such time as the Commission determines it is no longer necessary.

On December 19, 2011, the Applicant filed a response to the Staff Report in which it stated that it agreed with the conditions set forth in the Staff Report.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

NOW THE COMMISSION, having considered the Application and the Staff Report, finds that the Applicant should be granted certificates to provide local exchange and interexchange telecommunications services. Having considered § 56-481.1 of the Code of Virginia, the Commission further finds that the Applicant may price its interexchange telecommunications services competitively. The Commission also finds that Down Under's Motion is no longer necessary; therefore, the Motion should be denied.¹

Accordingly, IT IS ORDERED THAT:

(1) Down Under Communications, LLC is hereby granted a certificate of public convenience and necessity, No. TT-267A, to provide interexchange telecommunications services subject to the restrictions set forth in the Commission's Rules Governing the Certification of Interexchange Carriers, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(2) Down Under Communications, LLC is hereby granted a certificate of public convenience and necessity, No. T-716, to provide local exchange telecommunications services subject to the restrictions set forth in the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(3) Pursuant to § 56-481.1 of the Code of Virginia, the Applicant may price its interexchange telecommunications services competitively.

(4) Down Under Communications, LLC shall notify the Division of Utility Accounting and Finance no less than thirty (30) days prior to the cancellation or lapse of its bond and should provide a replacement bond at that time. This requirement shall be maintained until such time as the Commission determines it is no longer necessary.

(5) The Applicant's Motion for Protective Order is hereby denied; however, we direct the Clerk of the Commission to retain the confidential information, to which the Motion pertains, under seal.

(6) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

¹ The Commission has received no request for leave to review the information that the Applicant designated confidential. Accordingly, we deny the Motion as moot but direct the Clerk of the Commission to retain the confidential information, to which the Motion pertains, under seal.

**CASE NO. PUC-2011-00067
FEBRUARY 24, 2012**

APPLICATION OF
WATERFORD TELEPHONE COMPANY

For a certificate of public convenience and necessity to provide local exchange telecommunications services

FINAL ORDER

On October 14, 2011, Waterford Telephone Company ("Waterford" or "Applicant") completed an application ("Application") with the State Corporation Commission ("Commission") for a certificate of public convenience and necessity ("certificate") to provide local exchange telecommunications services in the exchanges of Mt. Gilead, Catoctin, and Bluemont located in western Loudoun County.¹

By Order for Notice and Comment dated October 21, 2011 ("October 21 Order"), the Commission directed the Applicant to provide notice to the public of its Application and directed the Commission Staff ("Staff") to conduct an investigation and file a Staff Report. On November 17, 2011, the Applicant filed proof of publication and proof of service as required by the October 21 Order.

On November 17, 2011, Waterford filed with the Commission a letter stating that it had been unable to secure the required bond in the time set forth in the October 21 Order and requested that the Commission extend the date for submission of the bond. By Order dated November 22, 2011, the Commission extended the date by which the Applicant was required to submit the bond until December 30, 2011. On January 26, 2012, the Staff received the Applicant's bond and Waterford filed a letter with the Commission requesting that the Commission accept the late-filed bond.²

On February 9, 2012, the Staff filed its Staff Report finding that Waterford's Application was in compliance with the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers, 20 VAC 5-417-10 *et seq.* Based upon its review of Waterford's Application, the Staff determined it would be appropriate to grant the Applicant a certificate to provide local exchange telecommunications services subject to the following conditions:

(1) Waterford should notify the Division of Communications no less than 30 days prior to the cancellation or lapse of its bond and should provide a replacement bond at that time. This requirement should be maintained until such time as the Commission determines it is no longer necessary.

¹ As noted by the Commission Staff in the Staff Report, the Applicant originally requested the "exchanges" of Waterford, Hillsboro, Bluemont, and Purcellville. Waterford and Hillsboro are, in fact, wire centers within the exchange of Catoctin; and Purcellville is a wire center within the Mt. Gilead exchange. The Applicant has advised the Staff of the technical correction of requesting the exchanges of Bluemont, Catoctin, and Mt. Gilead as the certificated service area. Staff Report at 1 n.1.

² See Staff Report at 5 n.4.

(2) The certificate should be limited to the provision of local exchange telecommunications services in the exchanges of Mt. Gilead, Catoctin, and Bluemont located in western Loudoun County.

On February 13, 2012, the Applicant filed a response to the Staff Report in which it stated that it concurred with the Staff Report, waived any additional time to file a response to the Staff Report, and requested that the Commission issue an order as soon as possible.

NOW THE COMMISSION, having considered the Application and the Staff Report, finds that the Applicant should be granted a certificate to provide local exchange telecommunications services. Further, we hereby grant Waterford's motion to accept its late-filed bond.

Accordingly, IT IS ORDERED THAT:

(1) Waterford Telephone Company is hereby granted a certificate of public convenience and necessity, No. T-718, to provide local exchange telecommunications services in the exchanges of Mt. Gilead, Catoctin, and Bluemont located in western Loudoun County subject to the restrictions set forth in the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(2) Waterford Telephone Company shall notify the Division of Communications no less than thirty (30) days prior to the cancellation or lapse of its bond and shall provide a replacement bond at that time. This requirement shall be maintained until such time as the Commission determines it is no longer necessary.

(3) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

**CASE NO. PUC-2011-00069
JANUARY 17, 2012**

APPLICATION OF
UNITE PRIVATE NETWORKS, L.L.C.

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

FINAL ORDER

On September 26, 2011, Unite Private Networks, L.L.C. ("Unite Private Networks" or "Applicant"), filed an application with the State Corporation Commission ("Commission") for certificates of public convenience and necessity ("certificates") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia ("Application"). The Applicant also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia. In addition, the Applicant filed a Motion for Protective Order ("Motion") in accordance with Rule 5 VAC 5-20-170 of the Commission's Rules of Practice and Procedure when an application contains information that the applicant claims to be confidential.

By Order for Notice and Comment dated October 6, 2011 ("October 6 Order"), the Commission directed the Applicant to provide notice to the public of its Application and directed the Commission Staff ("Staff") to conduct an investigation and file a Staff Report. The Commission also stated that it would hold the Applicant's Motion in abeyance until a party sought access to the information that the Applicant designated as confidential. On November 16, 2011, the Applicant filed proof of publication and proof of service as required by the October 6 Order.

On December 15, 2011, the Staff filed its Staff Report finding that Unite Private Networks's Application was in compliance with the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers, 20 VAC 5-417-10 *et seq.*, and the Rules Governing the Certification of Interexchange Carriers, 20 VAC 5-411-10 *et seq.* Based upon its review of the Application, the Staff determined it would be appropriate to grant the Applicant certificates to provide local exchange and interexchange telecommunications services subject to the following condition: Unite Private Networks should notify the Division of Utility Accounting and Finance no less than thirty (30) days prior to the cancellation or lapse of its bond and should provide a replacement bond at that time. This requirement should be maintained until such time as the Commission determines it is no longer necessary.

NOW THE COMMISSION, having considered the Application and the Staff Report, finds that the Applicant should be granted certificates to provide local exchange and interexchange telecommunications services. Having considered § 56-481.1 of the Code of Virginia, the Commission further finds that the Applicant may price its interexchange telecommunications services competitively. The Commission also finds that the Applicant's Motion is no longer necessary; therefore, the Motion should be denied.¹

Accordingly, IT IS ORDERED THAT:

(1) Unite Private Networks, L.L.C., is hereby granted a certificate of public convenience and necessity, No. TT-268A, to provide interexchange telecommunications services subject to the restrictions set forth in the Commission's Rules Governing the Certification of Interexchange Carriers, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

¹ The Commission has received no request for leave to review the information that the Applicant designated confidential. Accordingly, we deny the Motion as moot but direct the Clerk of the Commission to retain the confidential information, to which the Motion pertains, under seal.

(2) Unite Private Networks, L.L.C. is hereby granted a certificate of public convenience and necessity, No. T-717, to provide local exchange telecommunications services subject to the restrictions set forth in the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(3) Pursuant to § 56-481.1 of the Code of Virginia, the Applicant may price its interexchange telecommunications services competitively.

(4) Unite Private Networks, L.L.C., shall notify the Division of Utility Accounting and Finance no less than thirty (30) days prior to the cancellation or lapse of its bond and shall provide a replacement bond at that time. This requirement shall be maintained until such time as the Commission determines it is no longer necessary.

(5) The Applicant's Motion for Protective Order is hereby denied; however, we direct the Clerk of the Commission to retain the confidential information, to which the Motion pertains, under seal.

(6) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

**CASE NO. PUC-2011-00072
FEBRUARY 3, 2012**

APPLICATION OF
DSLNET COMMUNICATIONS VA, INC.

For cancellation of certificates of public convenience and necessity for the provision of local exchange and interexchange telecommunications services

ORDER CANCELLING CERTIFICATES

The State Corporation Commission ("Commission") issued certificates of public convenience and necessity No. T-450 permitting the provision of local exchange telecommunications services, and No. TT-71 A permitting the provision of interexchange telecommunications services to DSLnet Communications VA, Inc. ("DSLnet-VA"), on July 28, 1999, in Case No. PUC-1999-00028.¹

On October 13, 2011, DSLnet-VA filed a letter requesting that the Commission cancel DSLnet-VA's certificates of public convenience and necessity. In support of this request, DSLnet-VA stated that in accordance with the change in control application that was before the Commission in Case No. PUC-2011-00070,² DSLnet-VA was to be merged with and into DIECA Communications, Inc. ("DIECA"), with DIECA surviving the merger. As a result of the *pro forma* merger, which was expected to be completed on or about December 31, 2011, DSLnet-VA would no longer exist as a separate corporate entity and DIECA would provide services to DSLnet-VA's customers pursuant to DIECA's certificates T-410 and TT-50A. Accordingly, DSLnet-VA requested that its certificates be cancelled upon notification by DIECA that the proposed merger has been completed, or as soon thereafter as possible under the Commission's rules.

By letter dated January 13, 2012, DIECA informed the Commission that the aforementioned merger involving DSLnet-VA and DIECA has been completed; that DSLnet-VA no longer offers telecommunications services in Virginia; and that the certificates issued to DSLnet-VA may be cancelled.

NOW THE COMMISSION, upon consideration of the matter, finds that Certificate Nos. T-450 and TT-71A issued to DSLnet-VA should be cancelled.

Accordingly, IT IS ORDERED THAT:

(1) This matter is hereby docketed and assigned Case No. PUC-2011-00072.

(2) Certificate No. T-450, issued to DSLnet Communications VA, Inc., to provide local exchange telecommunications services throughout the Commonwealth, is hereby cancelled.

(3) Certificate No. TT-71 A, issued to DSLnet Communications VA, Inc., to provide interexchange telecommunications services throughout the Commonwealth, is hereby cancelled.

(4) Any tariffs on file associated with Certificate Nos. T-450 and TT-71 A are hereby cancelled.

(5) There being nothing further to be done in this matter, this case shall be removed from the Commission's active docket and the papers filed herein placed in the file for ended causes.

¹ *Application of DSLnet Communications VA, Inc., For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services*, Case No. PUC-1999-00028, 1999 S.C.C. Ann. Rept. 287, Final Order (July 28, 1999).

² *Joint Petition of DSLnet Communications VA, Inc., and DIECA Communications, Inc., For authority to complete certain intra-corporate transactions, pursuant to §§ 56-88.1 and 56-90 of the Code of Virginia*, Case No. PUC-2011-00070, Order Granting Authority (Oct. 19, 2011).

**CASE NO. PUC-2011-00075
MAY 14, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

PAYPHONE MANAGER INC., d/b/a PAYPHONE MANAGER, INC.,
Defendant

FINAL ORDER

On December 14, 2011, the State Corporation Commission ("Commission") issued a Rule to Show Cause against Payphone Manager Inc., d/b/a Payphone Manager, Inc. ("Defendant"),¹ requiring that the Defendant appear and show cause why penalties should not be imposed for alleged violations of the Commission's Rules for Payphone Service and Instruments, 20 VAC 5-407-10 *et seq.* ("Payphone Rules"), promulgated pursuant to the Pay Telephone Registration Act, § 56-508.15 *et seq.* of the Code of Virginia. As set out in the Rule to Show Cause, the Commission's Division of Communications ("Division") alleged that the Defendant failed to keep its payphone instruments in compliance with the service requirements of 20 VAC 5-407-50 of the Payphone Rules and in compliance with the housing card requirements of 20 VAC 5-407-60 of the Payphone Rules. The Commission appointed a Hearing Examiner to conduct all further proceedings; directed the Defendant to file a response to the Rule to Show Cause by February 7, 2012; and scheduled a hearing for February 28, 2012.

The Defendant failed to file a responsive pleading to the Rule to Show Cause and failed to appear at the hearing on February 28, 2012. At the hearing, the Division presented Telecommunications Specialist, Jim Mullenaux, who provided testimony and documentary evidence in support of the violations set out in the Rule to Show Cause. The Division, by counsel, recommended that the Defendant be fined Fifty Dollars (\$50) for each of the forty-four (44) violations described in the Rule to Show Cause, for a total fine of Two Thousand Two Hundred Dollars (\$2,200), and that the Defendant's authority to provide payphone services in the Commonwealth of Virginia be revoked.

The Report of Michael D. Thomas, Hearing Examiner ("Report"), was issued on March 13, 2012. In this Report, the Hearing Examiner found the Defendant had been properly served; that the Defendant failed to respond to the Rule to Show Cause or appear at the hearing; and that the Defendant was in default. The Hearing Examiner further found that the evidence presented by the Division proved by clear and convincing evidence that the Defendant had committed forty-four (44) separate violations of the Payphone Rules, as alleged in the Rule to Show Cause. The Hearing Examiner found that the penalties recommended by the Division were reasonable, and so found that the Defendant should be assessed a fine of Fifty Dollars (\$50) for each of the forty-four (44) separate violations of the Payphone Rules and that the Defendant's Payphone Registration Certificate Number PSP-1407 should be revoked. The Hearing Examiner also found that the foregoing monetary penalty should accrue interest at the statutory rate until paid and that the Defendant should be ordered to remove its payphone equipment from the Commonwealth of Virginia.

The Hearing Examiner recommended that the Commission adopt the findings and recommendations contained in the Report and that the papers filed in this proceeding be passed to the Commission's file for ended causes. The Hearing Examiner also advised the Defendant of its right to file comments within twenty-one (21) days of the issuance of the Report. The Defendant did not file comments.

NOW THE COMMISSION, upon consideration of the Hearing Examiner's Report, the record herein, and the applicable law, is of the opinion and finds that the Hearing Examiner's Report, and the findings and recommendations contained therein, should be adopted.

Accordingly, IT IS ORDERED THAT:

- (1) The findings and recommendations of the Hearing Examiner's Report of March 13, 2012, are hereby adopted.
- (2) The Defendant is hereby fined in the amount of Two Thousand Two Hundred Dollars (\$2,200) for forty-four (44) separate violations of the Commission's Payphone Rules.
- (3) The foregoing monetary penalty shall accrue interest at the statutory rate until paid by the Defendant.
- (4) The Defendant's registration to furnish pay telephone service in Virginia, Registration Certificate Number PSP-1407, is hereby revoked.
- (5) The Division of Communications shall direct local telephone service providers to terminate service to the Defendant's payphones.
- (6) The Defendant shall remove its payphone equipment from the Commonwealth of Virginia in no less than sixty (60) days from the date of this Final Order.
- (7) This matter is dismissed from the Commission's docket of active cases and the papers filed herein shall be passed to the file for ended causes.

¹ According to documents filed by the Defendant with the Clerk of the Commission, the Defendant is a Delaware stock corporation incorporated on November 16, 2009, as Payphone Manager Inc. On February 18, 2010, Registration Certificate Number PSP-1407 was issued by the Commission to Payphone Manager, Inc., authorizing the Defendant to furnish payphone service within the Commonwealth. On March 10, 2010, a Certificate of Authority to Transact Business was issued by the Commission to Payphone Manager Inc.

**CASE NO. PUC-2011-00078
JANUARY 3, 2012**

APPLICATION OF
VA-CLEC LLC

For cancellation of certificate of public convenience and necessity

ORDER CANCELLING CERTIFICATE

On December 2, 2011, VA-CLEC LLC ("VA-CLEC" or "Company"), filed an application with the State Corporation Commission ("Commission") requesting the cancellation of its certificate of public convenience and necessity to provide local exchange telecommunications services ("Certificate No. T-639"). The Commission granted Certificate No. T-639 to VA-CLEC in Case No. PUC-2005-00004 by Final Order entered on May 23, 2005.

In support of its application, VA-CLEC states that it has never provided telecommunications services in the Commonwealth and does not intend to do so in the future. VA-CLEC requests that the Commission cancel the Company's tariffs on file with the Commission and return the Company's bond held by the Commission.

NOW THE COMMISSION, upon consideration of the matter, finds that Certificate No. T-639 issued to VA-CLEC should be cancelled. The Commission further finds that any local exchange telecommunications tariffs on file with the Division of Communications should be cancelled, and that the bond associated with Certificate No. T-639 should be returned.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is hereby docketed and assigned Case No. PUC-2011-00078.
- (2) Certificate No. T-639 issued to VA-CLEC LLC, to provide local exchange telecommunications services throughout the Commonwealth is hereby cancelled.
- (3) Any tariffs associated with Certificate No. T-639 on file with the Division of Communications are hereby cancelled.
- (4) The bond associated with Certificate No. T-639 shall be returned to VA-CLEC LLC as requested.
- (5) There being nothing further to be done in this matter, this case shall be removed from the Commission's active docket and the papers filed herein placed in the Commission's file for ended causes.

**CASE NO. PUC-2011-00079
MARCH 22, 2012**

JOINT PETITION OF
HYPERCUBE TELECOM, LLC,
HYPERCUBE, LLC,
RUBIK ACQUISITION COMPANY, LLC,
and
WEST CORPORATION

For approval of the indirect transfer of control of HyperCube Telecom, LLC, pursuant to Va. Code § 56-88 *et seq.*

ORDER GRANTING APPROVAL

On December 8, 2011, HyperCube Telecom, LLC ("HyperCube"), HyperCube, LLC ("Parent"), Rubik Acquisition Company, LLC ("Rubik"), and West Corporation ("West") (collectively, the "Petitioners")¹ filed a Joint Petition with the State Corporation Commission ("Commission"), pursuant to the Utility Transfers Act, Chapter 5 of Title 56 of the Code of Virginia ("Code"),² for approval of the indirect transfer of control of HyperCube to West.

The Petitioners filed the Joint Petition with the Commission under seal, pursuant to 5 VAC 5-20-170 of the Commission's Rules of Practice and Procedure ("Commission's Rules") regarding confidential information, in order to obtain confidential treatment of Exhibits F and H of the Joint Petition ("Confidential Exhibits"). Rule 5 VAC 5-20-170 states, in part: "When an application (including supporting documents and prefiled testimony) contains

¹ The Petitioners also provided verifications for the following entities and individuals that directly or indirectly own more than 25% of HyperCube's direct parent company, Parent, and therefore, included them as Petitioners in this proceeding: Annex Holdings HC Corporation ("Annex"), which directly owns 26.06% of Parent; Annex Holdings I, L.P., which indirectly owns 26.06% of Parent as the direct owner of Annex; Kamine Credit Corporation ("Kamine"), which directly owns 26.06% of Parent; Harold N. Kamine, who indirectly owns 26.06% of Parent as the direct owner of Kamine; and Chambers Street Investors, LLC, which directly owns 26.06% of Parent. Similarly, the Petitioners provided verifications for Thomas H. Lee Partners, L.P., as a Petitioner in this proceeding, which holds approximately 60% interest in West.

² Va. Code § 56-88 *et seq.*

information that the applicant claims to be confidential, the filing shall be made under seal and accompanied by a motion for protective order or other confidential treatment." Therefore, on December 8, 2011, concurrently with the Joint Petition and pursuant to 5 VAC 5-20-110 and 5 VAC 5-20-170 of the Commission's Rules, the Petitioners filed with the Commission a Motion for Confidential Treatment ("Motion") requesting that the Commission grant confidential treatment and issue a protective order covering the confidential information contained in the Confidential Exhibits.

On January 26, 2012, the Commission Staff ("Staff") filed a Memorandum of Completeness, which deemed the Joint Petition complete as of January 24, 2012.³

The Petitioners request Commission approval to consummate a transaction whereby West will ultimately acquire indirect control of HyperCube, which holds a certificate of public convenience and necessity ("CPCN") in Virginia, through its acquisition of indirect control of HyperCube's direct parent company, Parent ("Proposed Transaction"). Pursuant to the terms of a Securities Purchase Agreement between West, Parent, and certain individuals and entities holding direct or indirect membership interests in Parent, Rubik (a direct wholly owned subsidiary of West created specifically for the purposes of the Proposed Transaction) will acquire all of the membership interests in Parent and, indirectly, in HyperCube. With respect to Annex, Rubik will acquire Annex's interests in Parent by acquiring all of the equity in Annex. As a result, HyperCube will become a wholly owned indirect subsidiary of Rubik and, ultimately, West. The Petitioners represent that, upon completion of the Proposed Transaction, the individuals and entities currently holding direct or indirect membership interests in Parent will have no equity or other interest in Parent, HyperCube, Rubik or West, with the exception of Annex, which, as a wholly owned subsidiary of Rubik, will continue to hold its indirect minority interest in HyperCube.

The only change that will occur as a result of the Proposed Transaction will be the acquisition of indirect control of HyperCube by Rubik and, ultimately, West, resulting in a change in ownership at the parent holding company level but not direct ownership. The Petitioners represent that the Commission has previously determined that West is technically and financially qualified to own and operate a competitive telecommunications carrier in Virginia.⁴ The Petitioners state that, immediately following the completion of the Proposed Transaction, HyperCube will continue to operate under the same name and will remain certificated to provide telecommunications services in Virginia.⁵

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the above-described Proposed Transaction will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates and should, therefore, be approved. The Commission also finds that the Petitioners' Motion is no longer necessary; therefore, the Motion should be denied.⁶

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to §§ 56-88.1 and 56-90 of the Code, the Petitioners are hereby granted approval of the Proposed Transaction as described herein.

(2) The Petitioners shall file a report of the action taken pursuant to the approval granted herein within thirty (30) days of the Proposed Transaction taking place, subject to administrative extension by the Commission's Director of Utility Accounting and Finance. Such report shall include the date the Proposed Transaction took place.

(3) The Petitioners' Motion is hereby denied; however, we direct the Clerk of the Commission to retain the confidential information, to which the Motion pertains, under seal.

(4) There appearing nothing further to be done in this matter, it hereby is dismissed.

³ On January 24, 2012, the Petitioners filed a Response to Staff's January 10, 2012 Memorandum of Incompleteness, in which they provided verifications for the following entities and individuals that ultimately hold controlling interests in the entities that will either be acquiring or disposing of control of HyperCube and, therefore, included them as Petitioners in this proceeding: (1) Collier International General Partners, IV, L.P.; Shelly Hirschtritt, Kathryn Quigley, and Wilmington Trust Company, the Trustees of the Quigley 1999 Dynastic Trust; and the Trustees of Princeton University, which ultimately hold controlling interests in the entities disposing of control of HyperCube; and (2) Thomas H. Lee Advisors, LLC, which ultimately holds a controlling interest in the entities acquiring control of HyperCube.

⁴ The Commission approved West's acquisition of Intrado Communications of Virginia Inc., which holds CPCNs to provide local exchange and interexchange telecommunications services in Virginia, on August 1, 2006, in Case No. PUC-2006-00043. See Petition of Intrado Communications of Virginia Inc. and West Corporation, For approval to transfer ownership of Intrado Communications of Virginia Inc. from Intrado Inc. to West Corporation, Case No. PUC-2006-00043, 2006 S.C.C. Ann. Rept. 252, Order Granting Approval (Aug. 1, 2006).

⁵ HyperCube does not currently provide telecommunications services to any customers in Virginia.

⁶ The Commission has received no request for leave to review the confidential information contained in the Confidential Exhibits. Accordingly, we deny the Motion as moot but direct the Clerk of the Commission to retain the confidential information, to which the Motion pertains, under seal.

**CASE NO. PUC-2011-00080
JANUARY 12, 2012**

APPLICATION OF
CAVALIER TELEPHONE, L.L.C. D/B/A PAETEC BUSINESS SERVICES

For authority to partially discontinue and grandfather local exchange services

**ORDER PERMITTING PARTIAL DISCONTINUANCE AND
GRANDFATHERING OF SERVICE**

On December 14, 2011, Cavalier Telephone, L.L.C. d/b/a PAETEC Business Services ("Cavalier" or "Company") filed an application with the State Corporation Commission ("Commission") requesting authority for the partial discontinuance of Cavalier's local exchange services, including bundled services, provided to residential customers in Virginia ("Application"). Cavalier also proposes to grandfather these services to its existing residential customers. As reflected in the revised tariffs attached to the Application, the Company proposes a January 16, 2012 effective date for the partial discontinuance. After this date, new customers will no longer be accepted for the Company's residential local services. Grandfathered customers will continue to receive service at their existing locations with the ability to make changes to their service, but these existing customers will not be able to move their service to a new location after the proposed effective date.

Cavalier states that it has approximately 16,793 current subscribers to the Company's residential local service offerings who may be affected by the proposed partial discontinuance. The Company states that all residential customers were notified of the partial discontinuance and grandfathering by letter mailed on December 14, 2011.¹

NOW THE COMMISSION, having reviewed the Application and the applicable statutes and rules, is of the opinion and finds that Cavalier's Application for a partial discontinuance and grandfathering of residential local exchange services should be granted. The Commission's primary concern with authorizing discontinuance of any telecommunications services is providing adequate notice to the affected customers. We have reviewed the notice provided by the Company and find that it provides customers with sufficient notice of the partial discontinuance and grandfathering of the affected services.

Accordingly, IT IS ORDERED THAT:

- (1) This matter shall be docketed and assigned Case No . PUC-2011-00080.
- (2) Cavalier Telephone, L.L.C. d/b/a PAETEC Business Services is authorized to partially discontinue its residential local exchange services in Virginia, and grandfather such to its existing customers, as described in the Application and attached tariffs, as of January 16, 2012.
- (3) There being nothing further to come before the Commission, this case is hereby closed.

¹ A copy of the letter was attached to the Application.

**CASE NO. PUC-2011-00081
JANUARY 12, 2012**

APPLICATION OF
TALK AMERICA OF VIRGINIA, INC. D/B/A CAVALIER TELEPHONE D/B/A PAETEC BUSINESS SERVICES

For authority to partially discontinue and grandfather local exchange services

**ORDER PERMITTING PARTIAL DISCONTINUANCE AND
GRANDFATHERING OF SERVICE**

On December 14, 2011, Talk America of Virginia, Inc. d/b/a Cavalier Telephone d/b/a PAETEC Business Services ("Talk America" or "Company") filed an application with the State Corporation Commission ("Commission") requesting authority for the partial discontinuance of Talk America's local exchange services, including bundled services, provided to residential customers in Virginia ("Application"). Talk America also proposes to grandfather these services to its existing residential customers. As reflected in the revised tariffs attached to the Application, the Company proposes a January 16, 2012 effective date for the partial discontinuance. After this date, new customers will no longer be accepted for the Company's residential local services. Grandfathered customers will continue to receive service at their existing locations with the ability to make changes to their service, but these existing customers will not be able to move their service to a new location after the proposed effective date.

Talk America states that it has approximately 30 current subscribers to the Company's residential local service offerings who may be affected by the proposed partial discontinuance. The Company states that all residential customers were notified of the partial discontinuance and grandfathering by letter mailed on December 14, 2011.¹

¹ A copy of the letter was attached to the Application.

NOW THE COMMISSION, having reviewed the Application and the applicable statutes and rules, is of the opinion and finds that Talk America's Application for a partial discontinuance and grandfathering of residential local exchange services should be granted. The Commission's primary concern with authorizing discontinuance of any telecommunications services is providing adequate notice to the affected customers. We have reviewed the notice provided by the Company and find that it provides customers with sufficient notice of the partial discontinuance of the affected services.

Accordingly, IT IS ORDERED THAT:

- (1) This matter shall be docketed and assigned Case No. PUC-2011-00081.
- (2) Talk America of Virginia, Inc. d/b/a Cavalier Telephone d/b/a PAETEC Business Services is authorized to partially discontinue its residential local exchange services in Virginia, and grandfather such to its existing customers, as described in the Application and attached tariffs, as of January 16, 2012.
- (3) There being nothing further to come before the Commission, this case is hereby closed.

**CASE NO. PUC-2011-00082
JANUARY 3, 2012**

APPLICATION OF
24/7 CABLE COMPANY LLC

For cancellation of certificates of public convenience and necessity for the provision of local exchange and interexchange telecommunications services

ORDER CANCELLING CERTIFICATES

By previous Orders issued at various times in other dockets, the State Corporation Commission ("Commission") issued Certificates of Public Convenience and Necessity ("CPCN") No. T-704, permitting the provision of local exchange telecommunications services, and No. TT-258A, permitting the provision of interexchange telecommunications services to 24/7 Cable Company LLC ("24/7 Cable" or the "Company").¹

On December 15, 2011, 24/7 Cable filed a letter application with the Commission requesting cancellation of the CPCNs previously issued. The Company advised that it does not currently provide any regulated services to customers in Virginia.

NOW UPON CONSIDERATION of the matter, the Commission finds that Certificate Nos. T-704 and TT-258A issued to 24/7 Cable should be cancelled.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is hereby docketed and assigned Case No. PUC-2011-00082.
- (2) CPCN No. T-704 issued to 24/7 Cable Company LLC to provide local exchange telecommunications services throughout the Commonwealth, is hereby cancelled.
- (3) CPCN No. TT-258A, issued to 24/7 Cable Company LLC to provide interexchange telecommunications services throughout the Commonwealth, is hereby cancelled.
- (4) Any tariffs on file associated with Certificate Nos. T-704 and TT-258A are hereby cancelled.
- (5) There being nothing further to be done in this matter, this case shall be removed from the Commission's docket of active proceedings and the papers filed herein placed in the Commission's file for ended causes.

¹ Application of 24/7 Cable Company LLC, For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services, Case No. PUC-2010-00052, Final Order (Jan. 12, 2011).

**CASE NO. PUC-2011-00083
JANUARY 6, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
TELECENTS OF VIRGINIA, INC.

For cancellation of a certificate of public convenience and necessity to provide interexchange telecommunications services

ORDER CANCELLING CERTIFICATE

By previous Orders issued at various times in other dockets, the State Corporation Commission ("Commission") issued Certificates of Public Convenience and Necessity No. T-574, permitting the provision of local exchange telecommunications services, and No. TT-166A, permitting the provision of interexchange telecommunications services to Telecents of Virginia, Inc. ("Telecents" or "Company").

Telecents previously requested cancellation of their Certificate No. T-574 for local exchange telecommunications service. The Commission granted Telecents' request by Order dated May 29, 2003.¹

The foregoing telecommunications carrier has been notified by the Commission of the termination of its corporate existence for its failure to pay annual registration or other fees. As a result, the Company is no longer authorized to transact business in the Commonwealth of Virginia. Therefore, the Commission finds that Telecents' certificate of public convenience and necessity to provide interexchange telecommunications services should be cancelled.

NOW THE COMMISSION, being sufficiently advised, will cancel Certificate No. TT-166A, previously issued to Telecents.

Accordingly, IT IS ORDERED THAT:

- (1) This matter shall be docketed as Case No. PUC-2011-00083.
- (2) Certificate No. TT-166A, issued to Telecents of Virginia, Inc., is hereby cancelled.
- (3) This matter is hereby dismissed from the Commission's docket of active cases.

¹ *Application of Telecents of Virginia, Inc., To cancel certificate of public convenience and necessity to provide local telecommunications services, Case No. PUC-2003-00090.*

**CASE NO. PUC-2011-00084
JANUARY 6, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
NTERA OF VIRGINIA, INC.

For cancellation of certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

ORDER CANCELLING CERTIFICATES

By previous Orders issued at various times in other dockets, the State Corporation Commission ("Commission") issued Certificates of Public Convenience and Necessity No. T-580, permitting the provision of local exchange telecommunications services, and No. TT-172A, permitting the provision of interexchange telecommunications services, to NTERA of Virginia, Inc. ("NTERA" or "Company").

The foregoing telecommunications carrier has been notified by the Commission of the termination of its corporate existence for its failure to pay annual registration or other fees. As a result, the Company is no longer authorized to transact business in the Commonwealth of Virginia. Therefore, the Commission finds that the above-named certificates of public convenience and necessity should be cancelled.

NOW THE COMMISSION, being sufficiently advised, will cancel Certificate Nos. T-580 and TT-172A, previously issued to NTERA.

Accordingly, IT IS ORDERED THAT:

- (1) This matter shall be docketed as Case No. PUC-2011-00084.
- (2) Certificate Nos. T-580 and TT-172A, issued to NTERA of Virginia, Inc., are hereby cancelled.
- (3) Any tariffs on file associated with the above-referenced certificates are hereby cancelled.
- (4) This matter is hereby dismissed from the Commission's docket of active cases.

**CASE NO. PUC-2011-00085
JANUARY 6, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

FRE COMMUNICATIONS, INC.

For cancellation of certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

ORDER CANCELLING CERTIFICATES

By previous Orders issued at various times in other dockets, the State Corporation Commission ("Commission") issued Certificates of Public Convenience and Necessity No. T-432, permitting the provision of local exchange telecommunications services, and No. TT-62A, permitting the provision of interexchange telecommunications services, to FRE Communications, Inc. ("FRE" or "Company").

The foregoing telecommunications carrier has been notified by the Commission of the termination of its corporate existence for its failure to pay annual registration or other fees. As a result, the Company is no longer authorized to transact business in the Commonwealth of Virginia. Therefore, the Commission finds that the above-named certificates of public convenience and necessity should be cancelled.

NOW THE COMMISSION, being sufficiently advised, will cancel Certificate Nos. T-432 and TT-62A, previously issued to FRE.

Accordingly, IT IS ORDERED THAT:

- (1) This matter shall be docketed as Case No. PUC-2011-00085.
- (2) Certificate Nos. T-432 and TT-62A, issued to FRE Communications, Inc., are hereby cancelled.
- (3) Any tariffs on file associated with the above-referenced certificates are hereby cancelled.
- (4) This matter is hereby dismissed from the Commission's docket of active cases.

**CASE NO. PUC-2012-00001
MAY 11, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

AMERICAN FIBER NETWORK OF VIRGINIA, INC.,
Defendant

FINAL ORDER

On January 18, 2012, the State Corporation Commission ("Commission") issued a Rule to Show Cause against American Fiber Network of Virginia, Inc. ("AFN" or "Defendant"), to provide AFN with an opportunity to show why the certificate of public convenience and necessity (Certificate No. T-493) issued to AFN should not be revoked pursuant to § 56-265.6 of the Code of Virginia ("Code"). As set out in the Rule to Show Cause, this action arises out of AFN's violation of its obligation to maintain a Fifty Thousand Dollar (\$50,000) bond with the Commission. Certificate No. T-493 was issued to AFN by Order dated June 23, 2000, in Case No. PUC-1999-00221,¹ pursuant to § 56-265.4:4 of the Code and the Commission's Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers, 20 VAC 5-417-10 *et seq.* ("CLEC Rules"). Pursuant to Rule 20 VAC 5-417-20 G of the Commission's CLEC Rules as well as the Commission's Orders in Case Nos. PUC-2002-00102² and PUC-2008-00070,³ AFN was required to maintain a \$50,000 bond and to notify the Commission Staff no less than thirty days prior to the cancellation or lapse of its bond and was required to provide a replacement bond at that time.⁴

The Rule to Show Cause set forth allegations made by the Commission Staff regarding AFN's failure to maintain a \$50,000 bond and directed a Hearing Examiner to convene a hearing on February 29, 2012, to receive evidence regarding why AFN should not have its certificate of public convenience and necessity revoked pursuant to § 56-265.6 of the Code. The Rule to Show Cause also directed the Defendant to file a responsive pleading with the Commission by February 15, 2012. The Defendant failed to file a responsive pleading.

¹ *Application of American Fiber Network of Virginia, Inc., For a certificate of public convenience and necessity to provide local exchange telecommunications services*, Case No. PUC-1999-00221, 2000 S.C.C. Ann. Rept. 288, Final Order (June 23, 2000).

² *Petition of American Fiber Network of Virginia, Inc., For an extension of time to submit audited financial statements*, Case No. PUC-2002-00102, 2003 S.C.C. Ann. Rept. 204, Order Granting Request (June 24, 2003).

³ *Application of American Fiber Network of Virginia, Inc., For replacement of existing letter of credit with surety bond and return of the letter of credit*, Case No. PUC-2008-00070, 2008 S.C.C. Ann. Rept. 310, Order Granting Petition (Sept. 17, 2008).

⁴ *Id.* at 311.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

On February 29, 2012, the matter was heard by Howard P. Anderson, Jr., Hearing Examiner. The Defendant failed to appear at the hearing. The prefiled written testimony of Sheree L. King, Telecommunications Competition Specialist in the Commission's Division of Communications, was marked as an exhibit and admitted into the record. The Staff recommended that AFN's certificate of public convenience and necessity to provide local exchange telecommunications services (Certificate No. T-493) be revoked.

On April 6, 2012, the Report of Howard P. Anderson, Jr., Hearing Examiner ("Report"), was filed, which reviewed the procedural history of this matter and the evidence before the Commission. In the Report, the Hearing Examiner found the Defendant in default and further found that the Defendant's certificate of public convenience and necessity No. T-493 should be revoked. The Hearing Examiner recommended that the Commission enter an order that: (1) adopts the findings of the Report; (2) revokes Certificate No. T-493; and (3) dismisses this case from the Commission's docket of active cases.

At the conclusion of his Report, the Hearing Examiner also advised the Defendant of its right to file comments in response to the Report within twenty-one (21) days of the Report's date. The Defendant did not file comments.

NOW THE COMMISSION, upon consideration of the Rule to Show Cause, the Hearing Examiner's Report, the record, and the applicable rules and statutes, is of the opinion and finds that: (i) the Report of the Hearing Examiner and the findings and recommendations therein should be adopted; (ii) the record contains clear and convincing evidence showing that AFN failed to maintain a \$50,000 bond or notify Commission Staff no less than thirty (30) days prior to its cancellation, in violation of the Commission's orders and regulations; and (iii) the certificate of public convenience and necessity to provide local exchange telecommunications services issued to American Fiber Network of Virginia, Inc., Certificate No. T-493, should be revoked.

Accordingly, IT IS ORDERED THAT:

- (1) The findings and recommendations of the April 6, 2012 Hearing Examiner's Report are hereby adopted.
- (2) The certificate of public convenience and necessity to provide local exchange telecommunications services (Certificate No. T-493) issued to American Fiber Network of Virginia, Inc., on June 23, 2000, is hereby revoked.
- (3) There being nothing further to be done herein, this case shall be dismissed from the Commission's docket of active cases and the papers filed herein placed in the Commission's file for ended causes.

**CASE NO. PUC-2012-00005
APRIL 11, 2012**

APPLICATION OF
365 WIRELESS, LLC

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

ORDER GRANTING WITHDRAWAL

On February 28, 2012, 365 Wireless, LLC ("365 Wireless" or "Applicant"), completed an application ("Application") with the State Corporation Commission ("Commission") for certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia.

On March 6, 2012, the Commission issued an Order for Notice and Comment that, among other things, docketed the Application, directed the Applicant to give notice to the public of the Application, set forth the requirements for the filing of a bond, and directed the Commission's Staff to conduct an investigation into the reasonableness of the Application and present its finding in a Staff Report.

On March 29, 2012, 365 Wireless filed a letter with the Commission requesting to withdraw its Application.

NOW THE COMMISSION, upon consideration of the matter, is of the opinion and finds that 365 Wireless's request to withdraw its Application should be granted and this case should be dismissed.

Accordingly, IT IS ORDERED THAT:

- (1) 365 Wireless's request to withdraw its Application for certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia is hereby granted.
- (2) There being nothing further to come before the Commission in this matter, this case shall be closed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. PUC-2012-00006
FEBRUARY 27, 2012**

JOINT PETITION OF
NEXTG NETWORKS ATLANTIC, INC.,
NEXTG NETWORKS, INC.,
CROWN CASTLE SOLUTIONS CORP.,
CROWN CASTLE INTERNATIONAL CORP.,
and
MADISON DEARBORN PARTNERS, LLC

For approval of the indirect transfer of control of NextG Networks Atlantic, Inc., pursuant to Va. Code § 56-88 *et seq.*

ORDER GRANTING APPROVAL

On January 30, 2012, NextG Networks Atlantic, Inc. ("NextG"), NextG Networks, Inc., Crown Castle Solutions Corp. ("Solutions"), Crown Castle International Corp. ("CCI"), and Madison Dearborn Partners, LLC, (collectively, "Petitioners") filed a Joint Petition and Request for Streamlined Review ("Joint Petition") with the State Corporation Commission ("Commission"), pursuant to the Utility Transfers Act, Chapter 5 of Title 56 of the Code of Virginia ("Code"),¹ for approval of the indirect transfer of control of NextG. The Petitioners also filed an Application with the Federal Communications Commission ("FCC") under the FCC's Streamlined Review process, which was accepted as such on January 6, 2012.

The Petitioners filed the Joint Petition with the Commission under seal, pursuant to 5 VAC 5-20-170 of the Commission's Rules of Practice and Procedure ("Commission's Rules") regarding confidential information, in order to obtain confidential treatment of Exhibits E and F of the Joint Petition ("Confidential Exhibits"). Rule 5 VAC 5-20-170 states, in part: "When an application (including supporting documents and prefiled testimony) contains information that the applicant claims to be confidential, the filing shall be made under seal and accompanied by a motion for protective order or other confidential treatment." Therefore, on January 30, 2012, concurrently with the Joint Petition and pursuant to 5 VAC 5-20-110 and 5 VAC 5-20-170 of the Commission's Rules, the Petitioners filed with the Commission a Motion for Confidential Treatment ("Motion") requesting that the Commission grant confidential treatment and issue a protective order covering the confidential information contained in the Confidential Exhibits.

On February 6, 2012, Staff filed a Memorandum of Completeness, which deemed the Joint Petition complete as of January 30, 2012, and accepted the Joint Petition under the Commission's Streamlined Review procedures as of February 6, 2012.

The Petitioners request Commission approval of an Agreement and Plan of Merger ("Proposed Transaction") whereby Solutions² and CCI will acquire control of NextG Networks, Inc., and thereby indirect control of NextG, which holds Certificate of Public Convenience and Necessity ("CPCN") Nos. T-627 and TT-204A, respectively, issued pursuant to the Commission's Final Order entered June 16, 2004, in Case No. PUC-2004-00009.

The only change that will occur as a result of the Proposed Transaction will be the acquisition of ultimate control of NextG by Solutions and CCI, resulting in a change in ultimate ownership but not direct ownership. The Petitioners represent that, immediately following the completion of the Proposed Transaction, NextG will remain certificated to provide telecommunications services in Virginia.³

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the above-described Proposed Transaction will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates and should, therefore, be approved

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to §§ 56-88.1 and 56-90 of the Code, the Joint Petitioners are hereby granted approval of the Proposed Transaction as described herein.

(2) The Joint Petitioners shall file a report of the action taken pursuant to the approval granted herein within thirty (30) days of the Proposed Transaction taking place, subject to administrative extension by the Commission's Director of Utility Accounting and Finance. Such report shall include the date the Proposed Transaction took place.

(3) The Joint Petitioners' Motion is moot; however, we direct the Clerk of the Commission to retain the confidential information, to which the Motion pertains, under seal.

(4) There appearing nothing further to be done in this matter, it hereby is dismissed.

¹ Va. Code § 56-88 *et seq.*

² In Virginia, Solutions has indirect control of InSITE Fiber of Virginia, Inc., authorized to provide interexchange services pursuant to CPCN No. TT-203A, granted on April 23, 2003, in Case No. PUC-2003-00158 and NewPath Networks, LLC, authorized to provide local exchange and interexchange services pursuant to CPCN No. T-701 and TT-255A, respectively, granted on October 12, 2010 in Case No. PUC-2010-00031, and direct control of VA-CLEC LLC, pursuant to CPCN No. T-639 granted on May 23, 2005, in Case No. PUC-2005-00004.

³ NextG does not presently provide services in Virginia.

**CASE NO. PUC-2012-00007
MAY 14, 2012**

APPLICATION OF
LIBERTY-BELL TELECOM LLC OF VIRGINIA

For a certificate of public convenience and necessity to provide local exchange telecommunications services

FINAL ORDER

On February 6, 2012, Liberty-Bell Telecom LLC of Virginia ("Liberty-Bell" or "Applicant"), filed an application with the State Corporation Commission ("Commission") for a certificate of public convenience and necessity ("certificate") to provide local exchange telecommunications services throughout the Commonwealth of Virginia ("Application"). In addition, the Applicant filed a Motion for Protective Order ("Motion") in accordance with Rule 5 VAC 5-20-170 of the Commission's Rules of Practice and Procedure when an application contains information that the applicant claims to be confidential.

By Order for Notice and Comment dated February 22, 2012 ("February 22 Order"), the Commission directed the Applicant to provide notice to the public of its Application and directed the Commission Staff ("Staff") to conduct an investigation and file a Staff Report. The Commission also stated that it would hold the Applicant's Motion in abeyance until a party sought access to the information that the Applicant designated as confidential. On April 4, 2012 and April 10, 2012, the Applicant filed proof of publication and proof of service, respectively, as required by the February 22 Order.

On May 3, 2012, the Staff filed its Staff Report finding that Liberty-Bell's Application was in compliance with the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers, 20 VAC 5-417-10 *et seq.* Based upon its review of Liberty-Bell's Application, the Staff determined it would be appropriate to grant the Applicant a certificate to provide local exchange telecommunications services subject to the following condition: Liberty-Bell Telecom LLC of Virginia should notify the Division of Communications no less than 30 (thirty) days prior to the cancellation or lapse of its bond and should provide a replacement bond at that time. This requirement should be maintained until such time as the Commission determines it is no longer necessary.

On May 8, 2012, the Applicant filed a response ("Response") to the Staff Report in which it stated that it concurred with Staff's recommendations in the Staff Report. The Response also noted that a Federal Communications Commission proceeding involving the Applicant's parent company discussed in the Staff Report had been disclosed in the Application.

NOW THE COMMISSION, having considered the Application and the Staff Report, finds that the Applicant should be granted a certificate to provide local exchange telecommunications services. The Commission also finds that Liberty-Bell's Motion is no longer necessary; therefore, the Motion should be denied.¹

Accordingly, IT IS ORDERED THAT :

(1) Liberty-Bell Telecom LLC of Virginia is hereby granted a certificate of public convenience and necessity, No. T-719, to provide local exchange telecommunications services subject to the restrictions set forth in the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(2) Liberty-Bell Telecom LLC of Virginia shall notify the Division of Communications no less than 30 (thirty) days prior to the cancellation or lapse of its bond and shall provide a replacement bond at that time. This requirement shall be maintained until such time as the Commission determines it is no longer necessary.

(3) The Applicant's Motion for Protective Order is hereby denied; however, we direct the Clerk of the Commission to retain the confidential information, to which the Motion pertains, under seal.

(4) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

¹ The Commission has received no request for leave to review the information that the Applicant designated confidential. Accordingly, we deny the Motion as moot but direct the Clerk of the Commission to retain the confidential information, to which the Motion pertains, under seal.

**CASE NO. PUC-2012-00008
JUNE 1, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

In re: For purposes of considering the Joint Motion and Joint Stipulation of Verizon Virginia LLC, Verizon South Inc., and the Staff of the State Corporation Commission

FINAL ORDER

On December 14, 2007, the State Corporation Commission ("Commission") issued an Order on Application ("Order on Application") that, among other things, established market tests for determining whether a telephone exchange area is competitive for residential and business Basic Local Exchange

Telephone Services ("BLETS").¹ The Order on Application also established price increase limitations of \$1.00 and \$3.00 per year (on a per-line basis) for residential BLETS and business BLETS, respectively, which remain in effect until December 31, 2012.² In addition, the Commission indicated that it intended to initiate a proceeding on or before March 1, 2012, pursuant to the Commission's authority to monitor the competitiveness of telephone service under § 56-235.5 G of the Code of Virginia ("Code").

In recognition of the Commission's prior statement with regard to the commencement of a new proceeding on or before March 1, 2012, Verizon Virginia LLC (formerly Verizon Virginia Inc.) and Verizon South Inc. (collectively, "Verizon") and the Staff of the Commission ("Staff") filed a Joint Motion on February 24, 2012, seeking approval of a Joint Stipulation, which, if approved by the Commission, would: (i) provide for the extension of the price cap safeguard on residential BLETS through December 31, 2014; (ii) not modify the scheduled removal of the price cap safeguard on business BLETS on December 31, 2012; and (iii) serve as resolution of the proceeding contemplated in the Order on Application.

On February 28, 2012, the Commission issued an Order for Notice and Comment that required publication of notice of this proceeding, permitted interested persons to submit electronic and written comments on the Joint Motion and Joint Stipulation, and permitted Staff and Verizon to submit replies thereto.

On March 6, 2012, one person submitted electronic comments supporting the proposed extension of the residential price caps and also preferring that they be extended indefinitely.

On April 13, 2012, the Office of the Attorney General's Division of Consumer Counsel ("Consumer Counsel") filed comments. Consumer Counsel stated, among other things, that: (1) "[w]hile there may be facts and information that support the expiration of the residential safeguard after 2014 and the business safeguard at the end of this year, such does not presently appear in the record;" and (2) "[s]hould the Commission approve the Joint Stipulation, there should be an affirmative duty on Verizon to actually supply the information requested by Commission Staff."³

On May 4, 2012, Verizon filed its reply. Verizon stated, among other things, that: (1) the Order on Application "expressly sets the price caps to sunset on [December 31, 2012] without any particular finding to be made by the Commission," and "[s]ince that sunset is self-executing, it needs no additional evidentiary support;" (2) "Verizon would have a statutory obligation to respond to [information requests from Staff] without changing the Joint Stipulation"; and (3) the "updated data [set forth in Verizon's reply] makes clear that the robust competition Verizon faced when the Commission issued its [Order on Application] has expanded and transformed the communications market," and the "Commission has information at its disposal to make this finding without conducting a separate proceeding."⁴

On May 4, 2012, Staff filed its reply. Staff stated, among other things, that "two key legislative changes have occurred since [the Order on Application] was issued."⁵ Staff explained that those changes: (1) "modified the [Commission's] market tests by effectively eliminating the need to have at least one traditional (not wireless) facilities-based competitor (*e.g.*, a cable company) in an exchange before it could be determined to be competitive"; and (2) required the Commission "to treat services in noncompetitive areas in the same manner as those services in competitive areas" when 75% or more of customers in an incumbent provider's territory are in areas determined to be competitive under the statute.⁶ Staff also noted that "the Joint Stipulation does not prevent the Commission from initiating a future proceeding under § 56-235.5 G of the Code to consider whether competition still effectively regulates the price of a telephone service previously found to be competitive."⁷

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds as follows. The Joint Motion is granted. The Joint Stipulation is approved, and Verizon is directed to comply therewith.

The price caps required by the Order on Application – which limited annual price increases for residential and business BLETS to \$1.00 and \$3.00, respectively – automatically expire under the terms of that order on January 1, 2013. No additional proceedings or factual findings are necessary in order for those price caps to expire automatically pursuant to the explicit requirements set forth in the Order on Application.

The Order on Application also noted that § 56-235.5 G of the Code directs the Commission to "monitor the competitiveness of any telephone service previously found by it to be competitive" and permits the Commission to "change that conclusion, if, after notice and opportunity for hearing, it finds that competition no longer effectively regulates the price of that service."⁸ In view of this statute, the Commission expressed its intent – when the Order on

¹ *Application of Verizon Virginia Inc. and Verizon South Inc., For a Determination that Retail Services are Competitive and Deregulating and Detariffing of the Same*, Case No. PUC-2007-00008, 2007 S.C.C. Ann. Rept. 225, 245-46, Order on Application (Dec. 14, 2007).

² Order on Application, 2007 S.C.C. Ann. Rept. at 240-41.

³ Consumer Counsel's April 13, 2012 Comments at 4. The Joint Stipulation provides that the Staff shall request from Verizon, pursuant to § 56-249 of the Code, reports on the number of its residential BLETS lines and lines subscribing to bundled services by exchange as of the end of year 2012, 2013, and 2014.

⁴ Verizon's May 4, 2012 Reply at 2, 10.

⁵ Staff's May 4, 2012 Reply at 5.

⁶ *Id.*

⁷ *Id.* at 12.

⁸ Va. Code § 56-235.5 G.

Application was issued in December 2007 – to initiate a proceeding by March 1, 2012, in order to review the status of the telecommunications market in Virginia.

Subsequent to the Order on Application, the General Assembly enacted legislation altering the market competitiveness tests adopted by the Commission. For example, changes to § 56-235.5 F of the Code removed the Commission's requirement that a telephone exchange must have at least one traditional facilities-based (*i.e.*, non-wireless) competitor before it could be found competitive. In addition, the General Assembly added § 56-235.5 I of the Code, which deems 100% of a territory competitive if 75% or more of "the residential households or businesses in a telephone company's incumbent territory" are in areas that have been determined to be competitive. As a result of these changes, residential and business BLETS – in all exchanges for Verizon Virginia LLC and Verizon South Inc. – have now been found competitive pursuant to Virginia statute.⁹

In addition, we note that our Staff continues to monitor the telecommunications services found competitive under Virginia law. For example, Staff explained that it: (1) "routinely monitors the competitive marketplace in Virginia"; (2) "collect[s] revenue, line, and geographic data from local exchange carriers (LECs)"; (3) reviews "pricing and other information" of wireless and broadband carriers; (4) has "developed various databases on LEC rates as well as other information that is helpful in [its] monitoring efforts"; and (5) obtains other relevant data through varied sources" such as the Federal Communications Commission, the National Cable Telecommunications Association, the National Telecommunications and Information Administration, and the North American Numbering Plan Administration.¹⁰

Given the statutory changes since 2007, our orders in the intervening cases cited in footnote 9 above, as well as Staff's continuing efforts in monitoring competitive telephone markets in Virginia, we do not find it necessary – at this time – to initiate a proceeding under § 56-235.5 G of the Code. This finding, however, does not change the Commission's duty and authority under § 56-235.5 G to monitor the competitiveness of telephone service in the Commonwealth. The Commission can initiate a future proceeding under the provisions of § 56-235.5 G – upon our own motion or upon formal complaint – to determine, after notice and opportunity for hearing, if competition effectively regulates the price of a telephone service previously found competitive under Virginia law.

We find that the Joint Stipulation, which extends the residential price caps until January 1, 2015, and will result in the reporting of specific market information, is in the public interest, and is hereby approved.

Accordingly, IT IS ORDERED THAT:

- (1) The Joint Motion is granted.
- (2) The Joint Stipulation is approved, and Verizon is directed to comply therewith.
- (3) This case is dismissed.

⁹ See Staff's May 4, 2012 Reply at 5-6 (citing Case Nos. PUC-2009-00042 and PUC-2011-00001). Business BLETS in these cases are Individual Line service. PBX Trunk and Centrex services are treated as separate business BLETS and have not been determined to be competitive in any exchanges.

¹⁰ *Id.* at 7-8.

**CASE NO. PUC-2012-00013
MARCH 29, 2012**

APPLICATION OF
VERIZON VIRGINIA INC.

For amendment and reissuance of certificates of public convenience and necessity to reflect new company name

ORDER REISSUING CERTIFICATES

On February 27, 2012, Verizon Virginia Inc. ("Verizon Virginia" or "Company"), filed an application with the State Corporation Commission ("Commission") requesting that its certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services in the Commonwealth of Virginia be amended to reflect the name change associated with its conversion from a corporation to a limited liability company ("Application"). Verizon Virginia submitted with this Application proof that the Company converted from a Virginia corporation to a Virginia limited liability company, Verizon Virginia LLC, effective December 31, 2011. The Company also stated that upon approval of this Application by the Commission, Verizon Virginia LLC will file replacement tariffs to reflect the name change.

NOW THE COMMISSION, having considered the Application and applicable law, is of the opinion and finds that the existing certificates in the name of Verizon Virginia Inc. should be cancelled and reissued in the name of Verizon Virginia LLC.

Accordingly, IT IS ORDERED THAT:

- (1) The case is docketed and assigned Case No. PUC-2012-00013.
- (2) Each certificate of public convenience and necessity heretofore issued to Verizon Virginia Inc. is hereby cancelled and reissued to Verizon Virginia LLC using the same certificate number and the next sequential alphabetical suffix.

(3) Verizon Virginia LLC shall provide replacement tariffs to the Commission's Division of Communications reflecting the name change within forty-five (45) days of the date of this Order.

(4) There being nothing further to come before the Commission, this case is dismissed from the active docket, and the papers filed herein shall be placed in the file for ended causes

**CASE NO. PUC-2012-00014
MARCH 23, 2012**

PETITION OF
LTS OF ROCKY MOUNT, LLC

For cancellation of a certificate of public convenience and necessity to provide local exchange telecommunications services

ORDER CANCELLING CERTIFICATE

On January 16, 2007, the State Corporation Commission ("Commission") issued a certificate of public convenience and necessity No. T-662 permitting the provision of local exchange telecommunications services to LTS of Rocky Mount, LLC ("LTS" or "Company").¹

On March 1, 2012, LTS filed a Petition requesting approval of discontinuation of service, effective April 1, 2012; cancelling the Company's tariffs; and cancelling certificate of public convenience and necessity No. T-662.² The Petition states that there are fifteen (15) prepaid customers who will be affected by the discontinuation of service in Virginia.³ Those customers were mailed notice on February 24, 2012, of the Company's plans to cease operations, and LTS does not plan to transfer the affected customers to any other carrier.⁴

NOW THE COMMISSION, being sufficiently advised, will approve the Company's discontinuation of service and cancel Certificate No. T-662, as well as any tariffs associated therewith, previously issued to LTS of Rocky Mount, LLC.

Accordingly, IT IS ORDERED THAT:

- (1) This matter shall be docketed as Case No. PUC-2012-00014.
- (2) LTS of Rocky Mount, LLC, is hereby granted approval to discontinue service to Virginia customers, effective April 1, 2012.
- (3) Certificate No. T-662, issued to LTS of Rocky Mount, LLC, is hereby cancelled, effective April 1, 2012.
- (4) Any tariffs on file associated with the above-referenced certificate are hereby cancelled, effective April 1, 2012.
- (5) This matter is hereby dismissed from the Commission's docket of active cases.

¹ Application of LTS of Rocky Mount, LLC, For a certificate of public convenience and necessity to provide local exchange telecommunications services, Case No. PUC-2006-00116, 2007 S.C.C. Ann. Rept. 207, Order (Jan. 17, 2007).

² The Commission has received a Notice of Cancellation of the Performance/Surety Bond for LTS. In lieu of replacing the Bond, the Company has elected to surrender its certificate of public convenience and necessity and cease operations in Virginia.

³ LTS offers prepaid, month-to-month local exchange telecommunications services.

⁴ Petition at 2.

**CASE NO. PUC-2012-00015
MARCH 29, 2012**

APPLICATION OF
NA COMMUNICATIONS, INC.

For approval to cancel certificates of public convenience and necessity to provide local and interexchange telecommunications services

ORDER CANCELING CERTIFICATES

On March 15, 2012, NA Communications, Inc. ("NA Communications"), filed a request ("Application") with the State Corporation Commission ("Commission") requesting approval to cancel its Intrastate Local Exchange and Interexchange Carrier certificates authorizing it to provide local and interexchange telecommunications services in Virginia. NA Communications also requests that the Commission cancel its applicable tariffs, VA SCC No. 1 and VA Tariff SCC No. 2.

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The Commission granted NA Communications certificate number T-408 to provide local exchange service and certificate number TT-48A as an interexchange carrier in 1998. According to the Application, on October 31, 2011, the Commission issued a Certificate of Merger for NA Communications to be merged into Lumos Networks Inc. The Company states that there are no local or interexchange customers being billed under NA Communications tariffs in Virginia.

NOW THE COMMISSION, having considered the pleading and applicable law, is of the opinion and finds that NA Communications' request to cancel its local and interexchange carrier certificates and tariffs should be granted.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed and assigned Case No. PUC-2012-00015.
- (2) Certificate Nos. TT-48A and T-408 shall be cancelled, and all authority granted thereby to provide telecommunications services in Virginia shall terminate as of the date of this Order.
- (3) Any tariffs associated with NA Communications shall terminate as of the date of this Order.
- (4) This case shall be closed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. PUC-2012-00016
MAY 1, 2012**

APPLICATION OF
R&B NETWORK, INC.

For approval to cancel certificates of public convenience and necessity to provide local and interexchange telecommunications services

ORDER CANCELING CERTIFICATES

On March 15, 2012, R&B Network, Inc. ("R&B Network" or the "Company"), filed a request ("Application") with the State Corporation Commission ("Commission") requesting approval to cancel its Local Exchange and Interexchange Carrier certificates authorizing it to provide local and interexchange telecommunications services in Virginia.

The Commission granted R&B Network Certificate No. TT-18A as an interexchange carrier in 1991 and Certificate No. T-373 to provide local exchange service in 1996. According to the Application, on October 31, 2011, the Commission issued a Certificate of Merger for R&B Network to be merged into Lumos Networks Inc. ("Lumos").¹ The Company states that R&B Network customers are now being served by Lumos and were notified of the name change in October and November 2011 by bill messages, billing inserts, and direct mailings.

NOW THE COMMISSION, having considered the Application and applicable law, is of the opinion and finds that R&B Network's request to cancel its local and interexchange carrier certificates should be granted.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed and assigned Case No. PUC-2012-00016.
- (2) Certificate Nos. TT-18A and T-373 shall be cancelled and all authority granted thereby to provide telecommunications services in Virginia shall terminate as of the date of this Order.
- (3) This case shall be closed, and the papers herein shall be placed in the file for ended causes.

¹ See *Petition of NTELOS Holdings Corp., NTELOS Inc., Quadrangle Capital Partners LP, Quadrangle NTELOS Holdings II LP, NTELOS Wireline One Inc., NTELOS Wireline Two Inc., NTELOS Telephone Inc., NA Communications Inc., R&B Network, Inc., and Fibernet of Virginia, Inc. For an Order Authorizing Transfer of Control Pursuant to Va. Code § 56-88 et seq.*, Case No. PUC-2011-00025, Final Order (July 26, 2011).

**CASE NO. PUC-2012-00018
MAY 1, 2012**

APPLICATION OF
NTELOS NETWORK INC.

To amend its certificates of public convenience and necessity to provide local and interexchange telecommunications services to reflect a new corporate name

ORDER AMENDING CERTIFICATES

On March 15, 2012, NTELOS Network Inc. ("NTELOS" or the "Company") filed a request ("Application") with the State Corporation Commission ("Commission") requesting that the Commission amend and reissue its Certificates of Public Convenience and Necessity ("Certificates") to reflect its new corporate name, Lumos Networks Inc.¹

The Commission granted NTELOS Certificate No. T-368b to provide local exchange service and Certificate No. TT-14B to provide interexchange service in 2001. According to the Application, on September 1, 2011, the Commission issued a Certificate of Amendment for NTELOS, changing its name to Lumos Networks Inc.

NOW THE COMMISSION, having considered the Application and applicable law, is of the opinion and finds that NTELOS's Certificates for local exchange and interexchange telecommunications services should be updated to reflect NTELOS's new name.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed and assigned Case No. PUC-2012-00018.
- (2) Certificate No. TT-14B authorizing NTELOS to provide interexchange service is hereby cancelled and shall be reissued as amended Certificate No. TT-14C in the name of Lumos Networks Inc.
- (3) Certificate No. T-368b authorizing NTELOS to provide local exchange telecommunications services is hereby cancelled and shall be reissued as amended Certificate No. T-368c in the name of Lumos Networks Inc.
- (4) NTELOS shall file tariffs with the Commission's Division of Communications within ninety (90) days of the date of this Order reflecting its correct corporate name.
- (5) There being nothing further to be done, this case shall be closed, and the papers herein shall be placed in the file for ended causes.

¹ See *Petition of NTELOS Holdings Corp., NTELOS Inc., Quadrangle Capital Partners LP, Quadrangle NTELOS Holdings II LP, NTELOS Wireline One Inc., NTELOS Wireline Two Inc., NTELOS Telephone Inc., NA Communications Inc., R&B Network, Inc., and Fibernet of Virginia, Inc. For an Order Authorizing Transfer of Control Pursuant to Va. Code § 56-88 et seq.*, Case No. PUC-2011-00025, Final Order (July 26, 2011).

**CASE NO. PUC-2012-00019
MAY 1, 2012**

APPLICATION OF
NTELOS TELEPHONE INC.

To amend its certificates of public convenience and necessity to provide local and interexchange telecommunications services to reflect a new corporate name

ORDER AMENDING CERTIFICATES

On March 15, 2012, NTELOS Telephone Inc. ("NTELOS" or the "Company") filed a request ("Application") with the State Corporation Commission ("Commission") requesting that the Commission amend and reissue its Certificates of Public Convenience and Necessity ("Certificates") to reflect its new corporate name, Lumos Telephone Inc.¹

The Commission granted NTELOS Certificate No. TT-54a to provide interexchange service and Certificate Nos. T-114c, T-115g, T-116i, T-117e and T-118c to provide local exchange service in 2001.² According to the Application, on December 19, 2011, the Commission issued a Certificate of Amendment for NTELOS, changing its name to Lumos Telephone Inc.

¹ See *Petition of NTELOS Holdings Corp., NTELOS Inc., Quadrangle Capital Partners LP, Quadrangle NTELOS Holdings II LP, NTELOS Wireline One Inc., NTELOS Wireline Two Inc., NTELOS Telephone Inc., NA Communications Inc., R&B Network, Inc., and Fibernet of Virginia, Inc. For an Order Authorizing Transfer of Control Pursuant to Va. Code § 56-88 et seq.*, Case No. PUC-2011-00025, Final Order (July 26, 2011).

² NTELOS is a rural incumbent local exchange carrier serving the counties of Alleghany, Augusta, Bath, Botetourt, and Nelson.

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NOW THE COMMISSION, having considered the Application and applicable law, is of the opinion and finds that NTELOS's Certificates for local exchange and interexchange telecommunications services should be updated to reflect NTELOS's new name.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed and assigned Case No. PUC-2012-00019.
- (2) Certificate No. TT-54a authorizing NTELOS to provide interexchange service is hereby cancelled and shall be reissued as amended Certificate No. TT-54b in the name of Lumos Telephone Inc.
- (3) Certificate No. T-114c authorizing NTELOS to provide local exchange telecommunications services is hereby cancelled and shall be reissued as amended Certificate No. T-114d in the name of Lumos Telephone Inc.
- (4) Certificate No. T-115g authorizing NTELOS to provide local exchange telecommunications services is hereby cancelled and shall be reissued as amended Certificate No. T-115h in the name of Lumos Telephone Inc.
- (5) Certificate No. T-116i authorizing NTELOS to provide local exchange telecommunications services is hereby cancelled and shall be reissued as amended Certificate No. T-116j in the name of Lumos Telephone Inc.
- (6) Certificate No. T-117e authorizing NTELOS to provide local exchange telecommunications services is hereby cancelled and shall be reissued as amended Certificate No. T-117f in the name of Lumos Telephone Inc.
- (7) Certificate No. T-118c authorizing NTELOS to provide local exchange telecommunications services is hereby cancelled and shall be reissued as amended Certificate No. T-118d in the name of Lumos Telephone Inc.
- (8) NTELOS shall file tariffs with the Commission's Division of Communications within ninety (90) days of the date of this Order reflecting its correct corporate name.
- (9) There being nothing further to be done, this case shall be closed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. PUC-2012-00021
OCTOBER 4, 2012**

APPLICATION OF
PEG BANDWIDTH VA, LLC

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

FINAL ORDER

On May 16, 2012, PEG Bandwidth VA, LLC ("PEG Bandwidth" or "Company"), completed an application with the State Corporation Commission ("Commission") for certificates of public convenience and necessity ("certificates") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia ("Application"). The Company also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia ("Code"). In accordance with 5 VAC 5-20-170 of the Commission's Rules of Practice and Procedure, PEG Bandwidth filed a Motion for Protective Order ("Motion") to cover information in the Application that the Company asserted should be treated as confidential.

By Order for Notice and Comment dated June 5, 2012 ("June 5 Order"), the Commission directed the Company to provide notice to the public of its Application and directed the Staff of the Commission ("Staff") to conduct an investigation and file a report. The Commission also stated that it would hold PEG Bandwidth's Motion in abeyance until a party sought access to the information that the Company designated as confidential. On July 16, 2012, PEG Bandwidth filed proof of publication and proof of service, respectively, as required by the June 5 Order. On July 20, 2012, the Commission entered an Order Extending Procedural Schedule, which (i) granted a request from the Company that was filed July 10, 2012, for additional time to submit its required bond; and (ii) extended the procedural schedule for this proceeding.

On September 13, 2012, the Staff filed its report ("Staff Report") finding that PEG Bandwidth's Application was in compliance with the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers, 20 VAC 5-417-10 *et seq.*, and the Rules Governing the Certification of Interexchange Carriers, 20 VAC 5-411-10 *et seq.* Based upon its review of PEG Bandwidth's Application, the Staff determined it would be appropriate to grant the Company certificates to provide local exchange and interexchange telecommunications services subject to the following condition: PEG Bandwidth should notify the Division of Communications no less than thirty (30) days prior to the cancellation or lapse of its bond and should provide a replacement bond at that time. This requirement should be maintained until such time as the Commission determines it is no longer necessary.

NOW THE COMMISSION, having considered the Application and the Staff Report, finds that the Company should be granted certificates to provide local exchange and interexchange telecommunications services. Having considered § 56-481.1 of the Code, the Commission further finds that the Company may price its interexchange telecommunications services competitively. The Commission also finds that PEG Bandwidth's Motion is no longer necessary; therefore, the Motion should be denied.¹

¹ The Commission has received no request for leave to review the information that the Company designated confidential. Accordingly, we deny the Motion as moot but direct the Clerk of the Commission to retain the confidential information, to which the Motion pertains, under seal.

Accordingly, IT IS ORDERED THAT:

(1) PEG Bandwidth VA, LLC, is hereby granted a certificate of public convenience and necessity, No. T-720, to provide local exchange telecommunications services subject to the restrictions set forth in the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(2) PEG Bandwidth VA, LLC, is hereby granted a certificate of public convenience and necessity, No. TT-269A, to provide interexchange telecommunications services subject to the restrictions set forth in the Commission's Rules Governing the Certification of Interexchange Carriers, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(3) Pursuant to § 56-481.1 of the Code of Virginia, the Company may price its interexchange telecommunications services competitively.

(4) Prior to providing telecommunications services under the certificates granted by this Order, PEG Bandwidth VA, LLC, shall provide to the Division of Communications tariffs that conform to all applicable Commission rules and regulations or written notification pursuant to Rule 20 VAC 5-417-50 A 2 if the Company elects to provide retail services on a non-tariffed basis.

(5) PEG Bandwidth VA, LLC, shall notify the Division of Communications no less than thirty (30) days prior to the cancellation or lapse of its bond and shall provide a replacement bond at that time. This requirement shall be maintained until such time as the Commission determines it is no longer necessary.

(5) The Company's Motion for Protective Order is hereby denied; however, we direct the Clerk of the Commission to retain the confidential information, to which the Motion pertains, under seal.

(6) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

**CASE NO. PUC-2012-00023
APRIL 30, 2012**

JOINT APPLICATION OF
ABOVENET, INC.,
ABOVENET COMMUNICATIONS, INC.,
ABOVENET OF VA, L.L.C.,
and
ZAYO GROUP, LLC

For approval of the transfer of indirect control of AboveNet of VA, L.L.C., to Zayo Group, LLC, pursuant to Va. Code § 56-88 *et seq.*

ORDER GRANTING APPROVAL

On April 3, 2012, AboveNet, Inc. ("ABN-Parent"), AboveNet Communications, Inc. ("AboveNet"), AboveNet of VA, L.L.C. ("AboveNet-VA"), and Zayo Group, LLC ("Zayo") (collectively, "Applicants"),¹ filed a Joint Application and Request for Streamlined Review ("Joint Application") with the State Corporation Commission ("Commission"), pursuant to the Utility Transfers Act, Chapter 5 of Title 56 of the Code of Virginia ("Code"),² for approval of the transfer of indirect control of AboveNet-VA to Zayo. The Applicants also filed an Application with the Federal Communications Commission ("FCC") under the FCC's Streamlined Review procedures ("FCC Application"). On April 9, 2012, the Commission Staff ("Staff") filed a Memorandum of Completeness, which deemed the Joint Application complete as of April 3, 2012. On April 12, 2012, the Applicants filed a Supplement to the Joint Application with the Commission, in which they advised that the FCC Application had been accepted under the FCC's Streamlined Review procedures as of April 10, 2012. Therefore, on April 13, 2012, Staff filed a second Memorandum of Completeness, which accepted the Joint Application under the Commission's Streamlined Review procedures as of April 13, 2012.

The Applicants request Commission approval to consummate a transaction whereby Zayo, and ultimately Zayo Holdings and CII, will acquire indirect control of AboveNet-VA, which holds certificates of public convenience and necessity in Virginia, through its acquisition of direct control of AboveNet-VA's ultimate parent company, ABN-Parent ("Proposed Transaction"). Pursuant to the terms of an Agreement and Plan of Merger dated March 18, 2012, between Zayo, Voila Sub, Inc. ("Merger Sub"),³ and ABN-Parent, Zayo will acquire all of the outstanding equity interests in ABN-Parent. Specifically, Merger Sub will merge with and into ABN-Parent, with ABN-Parent as the surviving corporation. As a result, ABN-Parent will become a wholly owned direct subsidiary of Zayo and, therefore, AboveNet and AboveNet-VA will become indirect wholly owned subsidiaries of Zayo.

¹ The Applicants represent that the verification provided for Zayo is also applicable to Zayo's parent companies, Zayo Group Holdings, Inc. ("Zayo Holdings"), and Communications Infrastructure Investments, LLC ("CII"), which are the entities that will ultimately be acquiring control of AboveNet-VA. Accordingly, the Applicants request that Zayo Holdings and CII be considered Applicants in this proceeding.

² Va. Code § 56-88 *et seq.*

³ Merger Sub is a wholly owned direct subsidiary of Zayo that was created solely for the purposes of the Proposed Transaction.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The only change that will occur as a result of the Proposed Transaction will be the acquisition of ultimate, indirect control of AboveNet-VA by Zayo, and ultimately Zayo Holdings and CII, resulting in a change in ultimate ownership but not direct ownership. No other changes will take place. The Applicants represent that, immediately following the completion of the Proposed Transaction, AboveNet-VA will continue to operate under the same name and will remain certificated to provide telecommunications services in Virginia.⁴

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the above-described Proposed Transaction will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates and should, therefore, be approved.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to §§ 56-88.1 and 56-90 of the Code, the Applicants are hereby granted approval of the Proposed Transaction as described herein.

(2) The Applicants shall file a report of the action taken pursuant to the approval granted herein within thirty (30) days of the Proposed Transaction taking place, subject to administrative extension by the Commission's Director of Utility Accounting and Finance. Such report shall include the date the Proposed Transaction took place.

(3) There appearing nothing further to be done in this matter, it hereby is dismissed.

⁴ AboveNet-VA does not currently provide any regulated telecommunications services in Virginia.

**CASE NO. PUC-2012-00026
APRIL 25, 2012**

APPLICATION OF
24/7 CABLE COMPANY LLC

For cancellation of surety bond

ORDER

By Order dated January 12, 2011, the State Corporation Commission ("Commission") issued Certificates of Public Convenience and Necessity ("CPCN") No. T-704, permitting the provision of local exchange telecommunications services, and No. TT-258A, permitting the provision of interexchange telecommunications services, to 24/7 Cable Company LLC ("24/7 Cable" or "Company").¹ As a condition for holding these CPCNs, the Commission ordered 24/7 Cable to maintain a \$50,000 bond.²

On December 15, 2011, 24/7 Cable filed a letter application with the Commission requesting cancellation of the CPCNs previously issued. The Company advised that it did not provide any regulated services to customers in Virginia at that time. By Order dated January 3, 2012, the Commission cancelled CPCN No. T-704 and No. TT-258A.³

By letter dated March 29, 2012, 24/7 Cable requested that its original bond be returned or a formal release be provided by the Commission.

NOW THE COMMISSION, upon consideration of the matter, finds that 24/7 Cable's request should be granted.

Accordingly, IT IS ORDERED THAT:

(1) This matter is hereby docketed and assigned Case No. PUC-2012-00026.

(2) The bond associated with Certificate No. T-704 shall be returned to 24/7 Cable Company LLC as requested.

(3) There being nothing further to be done in this matter, this case shall be removed from the Commission's docket of active proceedings and the papers filed herein placed in the Commission's file for ended causes.

¹ *Application of 24/7 Cable Company LLC, For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services*, Case No. PUC-2010-00052, Doc. Con. Cen. No. 110110294, Final Order (Jan. 12, 2011).

² *Id.* at 3.

³ *Application of 24/7 Cable Company LLC, For cancellation of certificates of public convenience and necessity for the provision of local exchange and interexchange telecommunications services*, Case No. PUC-2011-00082, Doc. Con. Cen. No. 120110036, Order Cancelling Certificates (Jan. 3, 2012).

**CASE NO. PUC-2012-00027
APRIL 30, 2012**

APPLICATION OF
RCN NEW YORK COMMUNICATIONS, LLC

For amendment and reissuance of certificates of public convenience and necessity to reflect new company name

ORDER REISSUING CERTIFICATES

On April 23, 2012, RCN New York Communications, LLC ("RCN" or "Company"), filed an application with the State Corporation Commission ("Commission") requesting that its certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services in the Commonwealth of Virginia (Certificate Nos. T-672 and TT-237A, respectively) be amended to reflect a corporate name change ("Application"). RCN submitted with its Application proof of the corporate name change to Sidera Networks, LLC ("Sidera"), as of April 18, 2012. The Company also stated that upon approval of the Application by the Commission, Sidera will file replacement tariffs to reflect the corporate name change.

NOW THE COMMISSION, having considered the Application and applicable law, is of the opinion and finds that the existing certificates in the name of RCN New York Communications, LLC, should be cancelled and reissued in the name of Sidera Networks, LLC.

Accordingly, IT IS ORDERED THAT:

- (1) The case is docketed and assigned Case No. PUC-2012-00027.
- (2) The certificate of public convenience and necessity to provide local exchange telecommunications services in the Commonwealth of Virginia (Certificate No. T-672) heretofore issued to RCN New York Communications, LLC, is hereby cancelled and reissued to Sidera Networks, LLC, using the same certificate number and the next sequential alphabetical suffix.
- (3) The certificate of public convenience and necessity to provide interexchange telecommunications services in the Commonwealth of Virginia (Certificate No. TT-237A) heretofore issued to RCN New York Communications, LLC, is hereby cancelled and reissued to Sidera Networks, LLC, using the same certificate number and the next sequential alphabetical suffix.
- (4) Sidera Networks, LLC, shall provide replacement tariffs to the Commission's Division of Communications reflecting the name change within forty-five (45) days of the date of entry of this Order.
- (5) There being nothing further to come before the Commission, this case is dismissed from the active docket, and the papers filed herein shall be placed in the file for ended causes.

**CASE NO. PUC-2012-00029
JUNE 15, 2012**

JOINT PETITION OF
FIRST COMMUNICATIONS, LLC,
and
FIRSTENERGY CORP.

For approval of acquisition of control under Utility Transfers Act

ORDER GRANTING APPROVAL

On April 27, 2012, First Communications, LLC ("FCL"), and FirstEnergy Corp. ("FirstEnergy") (collectively, "Petitioners") filed a Joint Petition and Request for Streamlined Review ("Joint Petition") with the State Corporation Commission ("Commission"), pursuant to the Utility Transfers Act, Chapter 5 of Title 56 of the Code of Virginia ("Code"),¹ for approval of the acquisition of indirect control of FCL.

The Petitioners filed the Joint Petition with the Commission under seal, pursuant to 5 VAC 5-20-170, *Confidential information*, of the Commission's Rules of Practice and Procedure ("Commission's Rules") in order to obtain confidential treatment of Exhibits E and F of the Joint Petition ("Confidential Exhibits"). Rule 5 VAC 5-20-170 states, in part: "When an application (including supporting documents and prefiled testimony) contains information that the applicant claims to be confidential, the filing shall be made under seal and accompanied by a motion for protective order or other confidential treatment." Therefore, on April 27, 2012, concurrently with the Joint Petition and pursuant to 5 VAC 5-20-110, *Motions*, and 5 VAC 5-20-170 of the Commission's Rules, the Petitioners filed with the Commission a Motion for Confidential Treatment ("Motion") requesting that the Commission grant confidential treatment and issue a protective order covering the confidential information contained in the Confidential Exhibits.

On May 7, 2012, Staff filed a Memorandum of Completeness, which deemed the Joint Petition complete as of April 27, 2012.

The Petitioners request Commission approval to consummate a transaction whereby FirstEnergy will increase its indirect control of FCL, which holds a certificate of public convenience and necessity ("CPCN") in Virginia, through its further acquisition ("Proposed Transaction") of FCL's direct parent company, First Communications, Inc. ("FCI"). Pursuant to the terms of the Proposed Transaction, FirstEnergy will increase its control of FCI and, indirectly, FCL by a combination of acquiring FCI common stock from Gores FC Holdings, LLC ("Gores") and converting FCI issued warrants into

¹ Va. Code § 56-88 *et seq.*

common stock. As a result, FirstEnergy will have equity ownership of approximately 36% in FCI and, indirectly, in FCL, and Gores will no longer have any interest in FCI or FCL.

The only change that will occur as a result of the Proposed Transaction will be the increase in indirect equity ownership of FCL by FirstEnergy to approximately 36%. No other changes will take place. The Joint Petitioners represent that immediately following the completion of the Proposed Transaction, FCL will remain certificated to provide telecommunications services in Virginia and will continue to offer the same services to its customers under the same name and at the same rates, terms, and conditions of service as is currently provided pursuant to its CPCN. Therefore, the Proposed Transaction is expected to be virtually transparent to FCL's Virginia customers.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the above-described Proposed Transaction will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates and should, therefore, be approved.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to §§ 56-88.1 and 56-90 of the Code, the Petitioners are hereby granted approval of the Proposed Transaction as described herein.
- (2) The Petitioners shall file a report of the action taken pursuant to the approval granted herein within thirty (30) days of the Proposed Transaction taking place, subject to administrative extension by the Commission's Director of Utility Accounting and Finance. Such report shall include the date the Proposed Transaction took place.
- (3) The Petitioners' Motion is moot; however, we direct the Clerk of the Commission to retain the confidential information to which the Motion pertains under seal.
- (4) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUC-2012-00030
OCTOBER 4, 2012**

APPLICATION OF
24/7 MID-ATLANTIC NETWORK OF VIRGINIA, LLC

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

FINAL ORDER

On June 1, 2012, 24/7 Mid-Atlantic Network of Virginia, LLC ("24/7 Mid-Atlantic" or "Company"), completed an application with the State Corporation Commission ("Commission") for certificates of public convenience and necessity ("certificates") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia ("Application"). The Company also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia ("Code"). In accordance with 5 VAC 5-20-170 of the Commission's Rules of Practice and Procedure, 24/7 Mid-Atlantic filed a Motion for Protective Order ("Motion") to cover information in the Application that the Company asserted should be treated as confidential.

By Order for Notice and Comment dated June 20, 2012 ("June 20 Order"), the Commission directed the Company to provide notice to the public of its Application and directed the Staff of the Commission ("Staff") to conduct an investigation and file a Staff Report. The Commission also stated that it would hold 24/7 Mid-Atlantic's Motion in abeyance until a party sought access to the information that the Company designated as confidential. On August 2, 2012, the Commission entered an Order Extending Procedural Schedule, which (i) granted a request from the Company for additional time to submit its required bond; (ii) and extended the procedural schedule for this proceeding. On August 15, 2012, 24/7 Mid-Atlantic filed proof of publication and proof of service, respectively, as required by the June 20 Order. On September 13, 2012, the Commission issued an Order Further Extending Procedural Schedule granting 24/7 Mid-Atlantic's second request for additional time to submit the required bond to the Division of Communications.

On September 21, 2012, the Staff filed its Staff Report finding that 24/7 Mid-Atlantic's Application was in compliance with the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers, 20 VAC 5-417-10 *et seq.*, and the Rules Governing the Certification of Interexchange Carriers, 20 VAC 5-411-10 *et seq.* Based upon its review of 24/7 Mid-Atlantic's Application, the Staff determined it would be appropriate to grant the Company certificates to provide local exchange and interexchange telecommunications services subject to the following condition: 24/7 Mid-Atlantic should notify the Division of Communications no less than thirty (30) days prior to the cancellation or lapse of its bond and should provide a replacement bond at that time. This requirement should be maintained until such time as the Commission determines it is no longer necessary.

On September 26, 2012, 24/7 Mid-Atlantic filed a letter waiving the allotted time to file a response to the Staff Report and requesting that the Commission issue an order approving the Application.

NOW THE COMMISSION, having considered the Application and the Staff Report, finds that the Company should be granted certificates to provide local exchange and interexchange telecommunications services. Having considered § 56-481.1 of the Code, the Commission further finds that the Company may price its interexchange telecommunications services competitively. The Commission also finds that 24/7 Mid-Atlantic's Motion is no longer necessary; therefore, the Motion should be denied.¹

¹ The Commission has received no request for leave to review the information that the Company designated confidential. Accordingly, we deny the Motion as moot but direct the Clerk of the Commission to retain the confidential information, to which the Motion pertains, under seal.

Accordingly, IT IS ORDERED THAT:

(1) 24/7 Mid-Atlantic Network of Virginia, LLC, is hereby granted a certificate of public convenience and necessity, No. T-721, to provide local exchange telecommunications services subject to the restrictions set forth in the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(2) 24/7 Mid-Atlantic Network of Virginia, LLC, is hereby granted a certificate of public convenience and necessity, No. TT-270A, to provide interexchange telecommunications services subject to the restrictions set forth in the Commission's Rules Governing the Certification of Interexchange Carriers, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(3) Pursuant to § 56-481.1 of the Code of Virginia, the Company may price its interexchange telecommunications services competitively.

(4) Prior to providing telecommunications services under the certificates granted by this Order, 24/7 Mid-Atlantic Network of Virginia, LLC, shall provide to the Division of Communications tariffs that conform to all applicable Commission rules and regulations or written notification pursuant to Rule 20 VAC 5-417-50 A 2 if the Company elects to provide retail services on a non-tariffed basis.

(5) 24/7 Mid-Atlantic Network of Virginia, LLC, shall notify the Division of Communications no less than thirty (30) days prior to the cancellation or lapse of its bond and shall provide a replacement bond at that time. This requirement shall be maintained until such time as the Commission determines it is no longer necessary.

(5) The Company's Motion for Protective Order is hereby denied; however, we direct the Clerk of the Commission to retain the confidential information, to which the Motion pertains, under seal.

(6) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

CASE NO. PUC-2012-00033
JUNE 27, 2011

PETITION OF
CORETEL VIRGINIA, LLC

For resolution of billing issues with Verizon Virginia LLC and Verizon South Inc.

DISMISSAL ORDER

On May 24, 2012, CoreTel Virginia, LLC ("CoreTel"), filed with the State Corporation Commission ("Commission") a petition for resolution of billing issues with Verizon Virginia LLC and Verizon South Inc. ("Petition") and a motion for a preliminary injunction ("Motion"). In these filings, CoreTel asserted that this Petition stems from the notice provided by Verizon Virginia LLC and Verizon South Inc. (collectively, "Verizon"), that they plan to discontinue service to CoreTel on or after July 16, 2012, if CoreTel does not pay \$158,490.45 to Verizon for services rendered pursuant to the interconnection agreement between the companies.¹ For the reasons set forth in its filings, CoreTel asked the Commission to issue a preliminary injunction barring Verizon from discontinuing service and terminating interconnection with CoreTel pending resolution of the billing issues set forth in its Petition by the Commission.

On May 31, 2012, the Commission issued a Preliminary Order which, *inter alia*, adopted a procedural schedule for the filing by Verizon of an answer or other responsive pleading to CoreTel's Petition; for the filing by Verizon of a response to CoreTel's Motion; and for the filing by CoreTel of a reply to any of the Verizon filings.

On June 15, 2012, Verizon filed a motion to dismiss CoreTel's Petition ("Motion to Dismiss") and in the alternative an answer and affirmative defenses to CoreTel's Petition. Verizon's Motion to Dismiss, for the reasons set forth in the filing, asked the Commission to dismiss the current proceeding. The Commission issued an Order on June 18, 2012, requiring CoreTel to file a response to Verizon's Motion to Dismiss by June 22, 2012.

On June 20, 2012, CoreTel filed a response to Verizon's Motion to Dismiss and its reply to the answer and affirmative defenses filed by Verizon in response to CoreTel's Petition. CoreTel's response, in part, and for the reasons set out in its filings, asks the Commission to resolve this dispute.

NOW THE COMMISSION, having considered the pleadings and applicable law, is of the opinion and finds that CoreTel's Petition and Motion should be dismissed without prejudice. In prior proceedings before the Commission, we have explained that contractual disputes under an interconnection agreement may be more appropriately addressed by courts of general jurisdiction.² In addition, we have declined previously to require payments pursuant to

¹ Verizon's notice of discontinuance was filed with the Commission on May 11, 2012, and is docketed in Case No. PUC-2012-00031.

² *Petition of Cavalier Telephone, LLC v. Verizon Virginia Inc., To require payment of access charges*, Case No. PUC-2005-00119, 2006 S.C.C. Ann. Rept. 210, Dismissal Order (Jan. 12, 2006); *Petition of Cavalier Telephone, LLC v. Verizon Virginia Inc., For enforcement of interconnection agreement*, Case No. PUC-2002-00089, 2003 S.C.C. Ann. Rept. 203, Final Order (Jan. 31, 2003).

interconnection agreements, noting the Commission's limited authority to award money damages.³ The instant proceeding is rooted in the terms of an arbitrated interconnection agreement, which has been approved by the Federal Communications Commission and entered into by Verizon and CoreTel. Consistent with our prior rulings, we find that CoreTel's Petition should be dismissed without prejudice.

Accordingly, IT IS ORDERED THAT:

(1) CoreTel's Petition and Motion are dismissed without prejudice.

(2) There being nothing further to come before the Commission, this matter is dismissed and the record developed herein shall be placed in the file for ended causes.

³ *Petition of Cavalier Telephone, LLC v. Verizon Virginia Inc., To require payment of access charges*, Case No. PUC-2005-00119, 2006 S.C.C. Ann. Rept. 210, Dismissal Order (Jan. 12, 2006); *Petition of Cavalier Telephone, LLC v. Verizon Virginia Inc., For enforcement of interconnection agreement*, Case No. PUC-2002-00089, 2003 S.C.C. Ann. Rept. 203, Final Order (Jan. 31, 2003).

**CASE NO. PUC-2012-00035
JUNE 15, 2012**

PETITION OF
NAVIGATOR TELECOMMUNICATIONS, LLC

For cancellation of certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

ORDER CANCELLING CERTIFICATES

On September 29, 2005, the State Corporation Commission ("Commission") issued certificate of public convenience and necessity No. T-642 permitting the provision of local exchange telecommunications services and certificate of public convenience of necessity No. TT-212A permitting the provision of interexchange telecommunications services to Navigator Telecommunications, LLC ("Navigator" or "Company").¹

On May 31, 2012, Navigator filed a Petition requesting approval of discontinuation of service, effective June 29, 2012; cancelling the Company's tariffs; and cancelling certificates of public convenience and necessity No. T-642 and No. TT-212A. The Petition states that there are fourteen (14) customers who will be affected by the discontinuation of service in Virginia.² Those customers were mailed notice on May 31, 2012, of the Company's plans to cease operations.³ On June 5, 2012, Navigator filed an amendment to the Petition requesting that the Commission also release Navigator's letter of credit currently on file with the Commission.

NOW THE COMMISSION, being sufficiently advised, will approve the Company's discontinuation of service, cancel Certificate Nos. T-642 and TT-212A, release Navigator's letter of credit on file with the Commission, and cancel any tariffs associated therewith, previously issued to Navigator Telecommunications, LLC.

Accordingly, IT IS ORDERED THAT:

- (1) This matter shall be docketed as Case No. PUC-2012-00035.
- (2) Navigator Telecommunications, LLC, is hereby granted approval to discontinue service to Virginia customers, on and after June 29, 2012.
- (3) Certificate No. T-642, issued to Navigator Telecommunications, LLC, is hereby cancelled, effective July 2, 2012.
- (4) Certificate No. TT-212A, issued to Navigator Telecommunications, LLC, is hereby cancelled, effective July 2, 2012.
- (5) Any tariffs on file associated with the above-referenced certificates are hereby cancelled, effective July 2, 2012.
- (6) Navigator Telecommunications, LLC's letter of credit currently on file with the Commission is hereby released, effective July 2, 2012.
- (7) This matter is hereby dismissed from the Commission's docket of active cases.

¹ *Application of Navigator Telecommunications, LLC, For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services*, Case No. PUC-2005-00067, 2005 S.C.C. Ann. Rept. 272, Order (Sept. 29, 2005).

² Petition at 1.

³ Petition at 4.

**CASE NO. PUC-2012-00037
AUGUST 20, 2012**

APPLICATION OF
LIBERTY-BELL TELECOM LLC OF VIRGINIA

For amendment and reissuance of a certificate of public convenience and necessity to reflect new company name

ORDER REISSUING CERTIFICATES

On June 11, 2012, Liberty-Bell Telecom LLC of Virginia ("Liberty" or "Company"), filed an application with the State Corporation Commission ("Commission") requesting that its certificate of public convenience and necessity to provide local exchange telecommunications services in the Commonwealth of Virginia (Certificate No. T-719) be amended to reflect a corporate name change ("Application"). Liberty submitted with its Application proof of the corporate name change to dishNET Wireline L.L.C. of Virginia ("dishNET"), as of May 16, 2012.¹ The Company also stated that upon approval of the Application by the Commission, dishNET will file replacement tariffs to reflect the corporate name change.

NOW THE COMMISSION, having considered the Application and applicable law, is of the opinion and finds that the existing certificate in the name of Liberty-Bell Telecom LLC of Virginia should be cancelled and reissued in the name of dishNET Wireline L.L.C. of Virginia.

Accordingly, IT IS ORDERED THAT:

(1) The case is docketed and assigned Case No. PUC-2012-00037.

(2) The certificate of public convenience and necessity to provide local exchange telecommunications services in the Commonwealth of Virginia, Certificate No. T-719, heretofore issued to Liberty-Bell Telecom LLC of Virginia, is hereby cancelled and shall be reissued as Certificate No. T-719a in the name of dishNET Wireline L.L.C. of Virginia.

(3) dishNET Wireline L.L.C. of Virginia shall provide replacement tariffs to the Commission's Division of Communications reflecting the name change within forty-five (45) days of the date of entry of this Order.

(4) There being nothing further to come before the Commission, this case is dismissed from the active docket, and the papers filed herein shall be placed in the file for ended causes.

¹ On August 7, 2012, the Division of Communications received a General Surety Rider for the bond currently on file for Liberty, reflecting the company name change to dishNet Wireline L.L.C. of Virginia.

**CASE NO. PUC-2012-00039
AUGUST 3, 2012**

JOINT APPLICATION OF
NETWORK BILLING SYSTEMS, L.L.C.,
FUSION TELECOMMUNICATIONS INTERNATIONAL, INC.,
and
FUSION NBS ACQUISITION CORP.

For approval of the transfer of control of Network Billing Systems, L.L.C., pursuant to Virginia Code § 56-88 *et seq.*

ORDER GRANTING APPROVAL

On June 18, 2012, Network Billing Systems, L.L.C. ("NBS"), Fusion Telecommunications International, Inc. ("Fusion"), and Fusion NBS Acquisition Corp. ("Newco") (collectively, "Applicants") filed a Joint Application and Request for Streamlined Review ("Joint Application") with the State Corporation Commission ("Commission"), pursuant to the Utility Transfers Act, Chapter 5 of Title 56 of the Code of Virginia ("Code"),² for approval of the transfer of direct control of NBS to Newco. The Applicants also filed an Application with the Federal Communications Commission ("FCC") under the FCC's Streamlined Review procedures ("FCC Application").

The Applicants filed the Joint Application with the Commission under seal, pursuant to 5 VAC 5-20-170 of the Commission's Rules of Practice and Procedure ("Commission's Rules") regarding confidential information, in order to obtain confidential treatment of Exhibits D, G, and H of the Joint Application ("Confidential Exhibits"). Commission Rule 5 VAC 5-20-170 states, in part: "When an application (including supporting documents and prefiled testimony) contains information that the applicant claims to be confidential, the filing shall be made under seal and accompanied by a motion for protective order or other confidential treatment." Therefore, on June 18, 2012, concurrently with the Joint Application and pursuant to 5 VAC 5-20-110 and

¹ The Applicants represent that the verification of Jonathan Kaufman provided for NBS also is applicable for the LK Trust, which owns 85% of NBS and, therefore, is the entity that will be disposing of control of NBS. As manager of LK Trust, Mr. Kaufman has the authority to dispose of control of NBS on behalf of LK Trust. Accordingly, LK Trust and Mr. Kaufman (on behalf of LK Trust) are considered to be Applicants in this proceeding.

² Va. Code § 56-88 *et seq.*

5 VAC 5-20-170 of the Commission's Rules, the Applicants filed with the Commission a Motion for Protective Order ("Motion") requesting that the Commission issue a protective order to prevent public disclosure of the confidential information contained in the Confidential Exhibits.

On June 25, 2012, the Commission Staff filed a Memorandum of Completeness, which deemed the Joint Application complete as of June 18, 2012. On June 28, 2012, the Applicants filed a Supplement to the Joint Application with the Commission, in which they advised that the FCC Application had been accepted under the FCC's Streamlined Review procedures as of June 22, 2012. Therefore, on July 6, 2012, Staff filed a second Memorandum of Completeness, which accepted the Joint Application under the Commission's Streamlined Review procedures as of July 6, 2012.

The Applicants request Commission approval to consummate a transaction whereby Newco, and ultimately Fusion, will acquire direct control of NBS, which holds a certificate of public convenience and necessity in Virginia (the "Proposed Transaction"). Pursuant to a Membership Interest Purchase and Sale Agreement between NBS, Fusion, Newco, Jonathan Kaufman, and Christiana Trust (as a trustee of the LK Trust), Newco will acquire all of the outstanding equity interests in NBS and, as a result, NBS will become a wholly owned direct subsidiary of Newco and, ultimately, an indirect wholly owned subsidiary of Fusion. No other changes will take place as a result of the Proposed Transaction. The Applicants represent that immediately following the completion of the Proposed Transaction, NBS will remain certificated to provide telecommunications services in Virginia and will continue to provide service to its customers under the same rates, terms and conditions of service as currently provided.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the above-described Proposed Transaction will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates and should, therefore, be approved. The Commission also finds that the Applicants' Motion is no longer necessary and, therefore, should be denied.³

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to §§ 56-88.1 and 56-90 of the Code, the Applicants are hereby granted approval of the Proposed Transaction as described herein.
- (2) The Applicants shall file a report of the action taken pursuant to the approval granted herein within thirty (30) days of the Proposed Transaction taking place, subject to administrative extension by the Commission's Director of Utility Accounting and Finance. Such report shall include the date the Proposed Transaction took place.
- (3) The Applicants' Motion is hereby denied; however, we direct the Clerk of the Commission to retain the confidential information, to which the Motion pertains, under seal.
- (4) There appearing nothing further to be done in this matter, it hereby is dismissed.

³ The Commission held the Applicants' Motion in abeyance. We note that the Commission has received no request for leave to review the confidential information contained in the Confidential Exhibits in this proceeding. Accordingly, we deny the Motion as moot but direct the Clerk of the Commission to retain the confidential information, to which the Motion pertains, under seal.

**CASE NO. PUC-2012-00041
AUGUST 7, 2012**

JOINT APPLICATION OF
FIBERGATE OF VIRGINIA, LLC,
FIBERGATE, INC.,
FIBERGATE HOLDINGS, INC.,
and
ZAYO GROUP, LLC

For approval of the indirect transfer of control of FiberGate of Virginia, LLC, to Zayo Group, LLC, pursuant to Va. Code § 56-88 *et seq.*

ORDER GRANTING APPROVAL

On June 22, 2012, FiberGate of Virginia, LLC ("FiberGate-VA"), FiberGate, Inc. ("FiberGate"), FiberGate Holdings, Inc. ("FiberGate Holdings"), and Zayo Group, LLC ("Zayo") (collectively, "Applicants"),¹ filed a Joint Application ("Joint Application") with the State Corporation Commission ("Commission") pursuant to the Utility Transfers Act, Chapter 5 of Title 56 of the Code of Virginia ("Code"),² for approval of the transfer of indirect control of FiberGate-VA to Zayo.

The Applicants filed the Joint Application with the Commission under seal, pursuant to 5 VAC 5-20-170 of the Commission's Rules of Practice and Procedure ("Commission's Rules") regarding confidential information, in order to obtain confidential treatment of Exhibit E of the Joint Application ("Confidential Exhibit"). Commission Rule 5 VAC 5-20-170 states, in part: "When an application (including supporting documents and prefiled testimony) contains information that the applicant claims to be confidential, the filing shall be made under seal and accompanied by a motion for protective order or

¹ The applicants represent that the verification provided for Zayo also is applicable to Zayo's parent companies, Zayo Group Holdings, Inc. ("Zayo Holdings"), and Communications Infrastructure Investments, LLC ("CII"), which are the entities that will ultimately be acquiring control of FiberGate-VA. Accordingly, the Applicants request that Zayo Holdings and CII be considered Applicants in this proceeding.

² Va. Code § 56-88 *et seq.*

other confidential treatment." Therefore, on June 22, 2012, concurrently with the Joint Application and pursuant to Commission Rules 5 VAC 5-20-110 and 5 VAC 5-20-170, the Applicants filed with the Commission a Motion for Protective Treatment ("Motion") requesting that the Commission grant confidential treatment and issue a protective order covering the confidential information contained in the Confidential Exhibit.

The Applicants request Commission approval to complete a transaction whereby Zayo, and consequently Zayo Holdings and CII, will acquire indirect control of FiberGate-VA, which holds a certificate of public convenience and necessity in Virginia, through its acquisition of FiberGate-VA's ultimate parent company, FiberGate Holdings ("Proposed Transaction"). Pursuant to the terms of an Agreement and Plan of Merger dated June 4, 2012, between FiberGate Holdings, Zayo, Zayo FM Sub, Inc. ("Merger Sub"),³ William J. Boyle, and Louis M. Brown, Jr.,⁴ Zayo will acquire all of the outstanding equity interests in FiberGate Holdings. Specifically, Merger Sub will merge with and into FiberGate Holdings, with FiberGate Holdings being the surviving corporation. As a result, FiberGate Holdings will become a wholly owned direct subsidiary of Zayo, and thus FiberGate and FiberGate-VA will become indirect wholly owned subsidiaries of Zayo.

The primary change that will occur as a result of the Proposed Transaction will be the acquisition of indirect control of FiberGate-VA by Zayo, and similarly Zayo Holdings and CII, meaning a change in ultimate ownership but not direct ownership. No other changes will occur as a result of the Proposed Transaction. The Applicants represent that FiberGate-VA will remain certificated to provide telecommunications services in Virginia.⁵

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the above-described Proposed Transaction will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates and should, therefore, be approved. The Commission also finds that the Applicants' Motion is no longer necessary; therefore, the Motion should be denied.⁶

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to §§ 56-88.1 and 56-90 of the Code, the Applicants are hereby granted approval of the Proposed Transaction as described herein.

(2) The Applicants shall file a report of the action taken pursuant to the approval granted herein within thirty (30) days of the Proposed Transaction taking place, subject to administrative extension by the Commission's Director of Utility Accounting and Finance. Such report shall include the date the Proposed Transaction took place.

(3) The Joint Applicants' Motion for Entry of a Protective Order is hereby denied; however, we direct the Clerk of the Commission to retain the confidential information, to which the Motion pertains, under seal.

(4) There appearing nothing further to be done in this matter, it hereby is dismissed.

³ Merger Sub is a Virginia corporation and a wholly owned direct subsidiary of Zayo created for the purposes of the Proposed Transaction.

⁴ William J. Boyle and Louis M. Brown, Jr., are parties in the Agreement and Plan of Merger solely in their capacity as agents to act on behalf of shareholders of the FiberGate companies in the consummation of the Proposed Transaction.

⁵ FiberGate-VA does not currently provide any regulated telecommunications services in Virginia.

⁶ The Commission held the Joint Applicants' Motion in abeyance. We note that the Commission has received no request for leave to review the confidential information contained in the Joint Application in this proceeding. Accordingly, we deny the Motion as moot but direct the Clerk of the Commission to retain the confidential information, to which the Motion pertains, under seal.

**CASE NO. PUC-2012-00042
JULY 3, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

Ex Parte: In the matter of investigating 911 emergency call service outages and problems

ORDER ESTABLISHING INVESTIGATION

The State Corporation Commission ("Commission"), pursuant to Article IX of the Constitution of Virginia and Title 56 of the Code of Virginia ("Code"), is charged with the duty of supervising, regulating, and controlling all public service companies doing business in the Commonwealth of Virginia ("Commonwealth") relating to the performance of their public duties, and correcting any abuses committed by such companies.

The Commission is authorized pursuant to §§ 56-35, 56-36, 56-247 and 56-249 of the Code to make investigations of utilities in the performance of their public duties, and to order correction of any practice, act, or service that is found to be unjust, unreasonable, insufficient, or inadequate.

The Commission has received reports of 911 emergency call service outages and problems in the Commonwealth of Virginia in territories served by Verizon Virginia LLC and Verizon South Inc. (collectively, "Verizon"), and unconfirmed reports of 911 service problems in the service territories of other providers, following the storms that struck parts of the Commonwealth in June of 2012.

NOW THE COMMISSION, having considered the matter, is of the opinion and finds that a general investigation should be initiated regarding the problems with 911 emergency call services within the Commonwealth of Virginia from the June storms described above. We direct the Staff of the Commission ("Staff"), pursuant to §§ 56-35, 56-36, 56-247, and 56-249 of the Code, to investigate this matter and file a report regarding the same. Verizon

and any other local exchange carrier experiencing 911 service outages and problems are directed to cooperate fully with the Staff during the course of its investigation and to respond to all requests for information, reports, or other data in a timely and efficient manner.

Accordingly, IT IS ORDERED THAT:

- (1) This case is docketed and assigned Case No. PUC-2012-00042.
- (2) The Staff shall investigate the loss of 911 emergency call services described above and file a report containing the Staff's preliminary findings by September 14, 2012, and a final report containing the Staff's final findings and recommendations by December 31, 2012.
- (3) This matter is continued generally pending further order of the Commission.

**CASE NO. PUC-2012-00046
OCTOBER 12, 2012**

JOINT APPLICATION OF
BROADVIEW NETWORKS OF VIRGINIA, INC.,
BROADVIEW NETWORKS HOLDINGS, INC.,
BROADVIEW NETWORKS, INC.,
ATX TELECOMMUNICATIONS SERVICES OF VIRGINIA, LLC,
EUREKA TELECOM OF VA, INC.,
INFOHIGHWAY OF VIRGINIA, INC.,
and
MCG CAPITAL CORPORATION

For approval of an indirect transfer of control pursuant to Va. Code § 56-88 *et seq.*

ORDER GRANTING APPROVAL

On July 30, 2012, Broadview Networks of Virginia, Inc., ATX Telecommunications Services of Virginia, LLC, Eureka Telecom of VA, Inc., InfoHighway of Virginia, Inc. (collectively, the "Virginia Entities"), Broadview Networks Holdings, Inc. ("Broadview Holdings"), Broadview Networks, Inc. ("Broadview"), and MCG Capital Corporation ("MCG") (collectively with Broadview Holdings, Broadview, and the Virginia Entities, the "Applicants"),¹ filed a Joint Application with the State Corporation Commission ("Commission"), pursuant to the Utility Transfers Act, Chapter 5 of Title 56 of the Code of Virginia ("Code"),² for approval of an indirect transfer of control of the Virginia Entities. On August 13, 2012, the Applicants filed a Supplement to the Joint Application with the Commission, in which they corrected certain typographical errors in the Joint Application and advised that the verifications provided for Broadview Holdings are also applicable to Broadview and the Virginia Entities. On August 15, 2012, the Staff of the Commission ("Staff") filed a Memorandum of Completeness, which deemed the Joint Application complete as of August 13, 2012.

The Applicants request Commission approval to consummate a transaction whereby Broadview Holdings will exchange outstanding notes for equity in Broadview Holdings, which will ultimately result in the disposal of indirect control of the Virginia Entities, each of which holds a certificate of public convenience and necessity in Virginia, by MCG (the "Proposed Transaction"). The Applicants state that Broadview Holdings has entered into an agreement with a majority of the equity holders and note holders for a restructuring of its outstanding obligations, including its \$300 million in 11 3/8% senior secured notes due in September 2012.³ Pursuant to that agreement, the existing note holders will obtain approximately 97% of Broadview Holdings' common shares and approximately \$150 million in principal amount of new 10 1/2% senior secured notes. Following the completion of the Proposed Transaction, no single entity will own control of Broadview Holdings or the Virginia Entities. The Applicants represent that two entities, MSD Credit Opportunity Fund, L.P., and High River Limited Partnership, will hold an equity interest of 10% or more in Broadview Holdings upon completion of the Proposed Transaction (approximately 16% each), and neither Baker Capital nor MCG will retain a 10% or greater equity interest in Broadview Holdings. As such, the Proposed Transaction will effect a disposition of control of Broadview Holdings and, indirectly, the Virginia Entities by MCG.

On August 31, 2012, the Applicants filed a second Supplement to the Joint Application with the Commission, in which they advised that on August 22, 2012, Broadview Holdings and its subsidiaries, including the Virginia Entities, filed a voluntary petition ("Petition") with the United States Bankruptcy Court for the Southern District of New York ("Bankruptcy Court") to reorganize under Chapter 11 of the United States Bankruptcy Code. The Applicants also advised that the filing of the Petition with the Bankruptcy Court served to convert the legal status of Broadview Holdings and its subsidiaries to debtors-in-possession. The Applicants represent that, while the reorganization of Broadview Holdings has the support of the majority of Broadview Holdings' secured note holders and existing stockholders, the filing of the Petition for relief under Chapter 11 was necessary to implement the Proposed Transaction because Broadview Holdings has not been able to obtain consent from each and every secured note holder and existing stockholder.

¹ In addition to the verifications for Broadview Holdings, the Applicants provided verifications for MCG, which, as the entity that holds a controlling interest (approximately 50.9%) in Broadview Holdings and, indirectly, the Virginia Entities, is the entity that will ultimately be disposing of control of the Virginia Entities. Accordingly, the Applicants requested that MCG be considered an Applicant in this proceeding. The Applicants further represented that the verifications provided for Broadview Holdings are also applicable to the following intermediate entities between the Virginia Entities and Broadview Holdings and, therefore, requested that they also be considered Applicants in this proceeding: ATX Communications, Inc., CoreComm Communications, Inc., CoreComm-ATX, Inc., ATX Licensing, Inc., Eureka Broadband Corporation, Eureka Holdings, LLC, and InfoHighway Communications Corporation.

² Va. Code § 56-88 *et seq.*

³ The Applicants state that at the time of the filing of the instant Joint Application, Broadview Holdings had reached an agreement with the note holders who hold approximately two-thirds of the aggregate principal amount of outstanding senior secured notes and the equity holders who hold approximately 70% of the existing preferred equity interests.

Accordingly, in addition to the Proposed Transaction, the Applicants request any other approval that may be deemed necessary in connection with the bankruptcy process, including specifically the pro forma change associated with the conversion of Broadview Holdings and the Virginia Entities into debtors-in-possession.⁴

The only change that will occur as a result of the Proposed Transaction will be the disposition of ultimate control of Broadview Holdings and, indirectly, the Virginia Entities by MCG. No other changes will take place. The Applicants represent that, upon completion of the Proposed Transaction, the Virginia Entities will continue to provide service to their customers with no immediate change in the rates, terms, and conditions of service.

NOW THE COMMISSION, upon consideration of the applicable law and having been advised by the Staff, is of the opinion and finds that the above-described Proposed Transaction should be approved.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to §§ 56-88.1 and 56-90 of the Code, the Applicants are hereby granted approval of the Proposed Transaction as described herein.

(2) The Applicants shall file a Report of Action ("Report") with the Commission in its Document Control Center within ninety (90) days after completion of the Proposed Transaction. The Report shall include the date of the Proposed Transaction and all legal documentation supporting the Proposed Transaction.

(3) There appearing nothing further to be done in this matter, it hereby is dismissed.

⁴ The Applicants anticipate that Broadview Holdings will emerge from bankruptcy by the end of October 2012.

**CASE NO. PUC-2012-00051
SEPTEMBER 14, 2012**

JOINT APPLICATION OF
SHENANDOAH TELECOMMUNICATIONS COMPANY,
SHENTEL SERVICE, LLC,
and
SHENTEL COMMUNICATIONS COMPANY

For approval of internal reorganization transactions pursuant to the Utility Transfers Act, § 56-88 *et seq.* of the Code of Virginia

DISMISSAL ORDER

On August 10, 2012, Shenandoah Telecommunications Company, Shentel Service, LLC, and Shentel Communications Company ("ShenCom") (collectively, "Joint Applicants") filed a Joint Application with the State Corporation Commission ("Commission"), seeking Commission approval of a corporate reorganization that would, in part, result in the transfer of control of ShenCom, a competitive local exchange carrier certificated by the Commission to provide telecommunications services in the Commonwealth of Virginia.

On September 4, 2012, the Joint Applicants, by counsel, filed a letter with the Commission requesting that they be allowed to withdraw the Joint Application and that the case be dismissed. In support of the request, the Joint Applicants state that they have elected to pursue a reorganization that will not result in the transfer of control of ShenCom.

NOW THE COMMISSION, upon consideration of the filings herein, is of the opinion and finds that the requested withdrawal should be granted and the case should be dismissed from the Commission's docket of active cases.

Accordingly, IT IS ORDERED THAT:

(1) The request for withdrawal is hereby granted, and the Joint Application is hereby dismissed without prejudice.

(2) There being nothing further to be done herein, this case shall be dismissed from the Commission's docket of active proceedings, and the papers filed herein shall be placed in the Commission's files for ended causes.

**CASE NO. PUC-2012-00053
SEPTEMBER 10, 2012**

APPLICATION OF
BALDWIN COUNTY INTERNET/DSSI SERVICE, L.L.C.

For cancellation of certificates of public convenience and necessity for the provision of local exchange and interexchange telecommunications services and of the associated bond and tariffs

**ORDER CANCELLING CERTIFICATES
AND ASSOCIATED BOND AND TARIFFS**

On August 21, 2012, Baldwin County Internet/DSSI Service, L.L.C. ("DSSI" or "Company"), filed a letter application with the Commission requesting cancellation of the certificates of public convenience and necessity No. T-673 permitting the provision of local exchange telecommunications services, and No. TT-238A permitting the provision of interexchange telecommunications services previously issued and the associated bond and tariffs, pursuant to the Commission's Order Granting Approval in Case No. PUC-2007-00073.¹ DSSI noted that it had no customers in Virginia.

NOW UPON CONSIDERATION of the matter, the Commission finds that Certificate Nos. T-673 and TT-238A issued to DSSI should be cancelled, as well as the associated bond and tariffs.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is hereby docketed and assigned Case No. PUC-2012-00053.
- (2) Certificate of public convenience and necessity No. T-673, issued to Baldwin County Internet/DSSI Service, L.L.C., to provide local exchange telecommunications services throughout the Commonwealth, is hereby cancelled.
- (3) Certificate of public convenience and necessity No. TT-238A, issued to Baldwin County Internet/DSSI Service, L.L.C., to provide interexchange telecommunications services throughout the Commonwealth, is hereby cancelled.
- (4) Any tariffs on file associated with certificate Nos. T-673 and TT-238A are hereby cancelled.
- (5) The performance bond associated with the foregoing certificates, Bond No. 41131301, is hereby released in full, and pursuant to DSSI's request, shall be returned to the Company.
- (6) There being nothing further to be done in this matter, this case shall be removed from the Commission's docket of active proceedings and the papers filed herein placed in the Commission's file for ended causes.

¹ *Application of Baldwin County Internet/DSSI Service, L.L.C., For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services*, Case No. PUC-2007-00053, Final Order (December 21, 2007).

**CASE NO. PUC-2012-00056
DECEMBER 14, 2012**

APPLICATION OF
EARTHLINK BUSINESS, LLC

For Certificates of Public Convenience and Necessity to Provide Local Exchange and Interexchange Telecommunications Services in the Commonwealth of Virginia

FINAL ORDER

On September 17, 2012, EarthLink Business, LLC ("EarthLink" or "Applicant"), completed an application with the State Corporation Commission ("Commission") for certificates of public convenience and necessity ("Certificates") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia ("Application"). Applicant also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia ("Code"). In accordance with 5 VAC 5-20-170 of the Commission's Rules of Practice and Procedure, EarthLink filed a Motion for Protective Order ("Motion") to protect information in the Application that EarthLink asserted should be treated as confidential.

By Order for Notice and Comment dated September 25, 2012 ("September 25 Order"), the Commission directed EarthLink to provide notice to the public of its Application and directed the Staff of the Commission ("Staff") to conduct an investigation and file a report ("Staff Report"). The Commission also ordered EarthLink's Motion to be held in abeyance until a party sought access to the information that Applicant designated as confidential. On October 3, 2012 and October 31, 2012, EarthLink filed proof of service and proof of publication, respectively, as required by the September 25 Order.

On November 30, 2012, the Staff filed its Staff Report finding that EarthLink's Application was in compliance with the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers, 20 VAC 5-417-10 *et seq.*, and the Rules Governing the Certification of Interexchange Carriers, 20 VAC 5-411-10 *et seq.* Based upon its review of EarthLink's Application, the Staff determined it would be appropriate to grant Applicant Certificates to provide local exchange and interexchange telecommunications services subject to the following condition: EarthLink should notify

the Division of Communications no less than thirty (30) days prior to the cancellation or lapse of its bond and should provide a replacement bond at that time. This requirement should be maintained until such time as the Commission determines it is no longer necessary.

The September 25 Order provided an opportunity for EarthLink to file a response to the Staff Report on or before December 7, 2012. EarthLink did not file a response to the Staff Report.

NOW THE COMMISSION, having considered the Application and the Staff Report, finds that EarthLink should be granted Certificates to provide local exchange and interexchange telecommunications services. Having considered § 56-481.1 of the Code, the Commission further finds that Applicant may price its interexchange telecommunications services competitively. The Commission also finds that EarthLink's Motion is no longer necessary; therefore, the Motion should be denied.¹

Accordingly, IT IS ORDERED THAT:

(1) EarthLink is hereby granted a Certificate, No. T-722, to provide local exchange telecommunications services subject to the restrictions set forth in the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers, § 56-265.4:4 of the Code, and the provisions of this Order.

(2) EarthLink is hereby granted a Certificate, No. TT-271A, to provide interexchange telecommunications services subject to the restrictions set forth in the Commission's Rules Governing the Certification of Interexchange Carriers, § 56-265.4:4 of the Code, and the provisions of this Order.

(3) Pursuant to § 56-481.1 of the Code, Applicant may price its interexchange telecommunications services competitively.

(4) Prior to providing telecommunications services pursuant to the Certificates granted by this Order, Earthlink shall provide to the Division of Communications tariffs that conform to all applicable Commission rules and regulations. If Earthlink elects to provide retail services on a non-tariffed basis, Earthlink shall provide written notification pursuant to Rule 20 VAC 5-417-50 A 2.

(5) EarthLink shall notify the Division of Communications no less than thirty (30) days prior to the cancellation or lapse of its bond and shall provide a replacement bond at that time. This requirement shall be maintained until such time as the Commission determines it is no longer necessary.

(5) Applicant's Motion for Protective Order is hereby denied; however, we direct the Clerk of the Commission to retain the confidential information, to which the Motion pertains, under seal.

(6) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

¹ The Commission has received no request for leave to review the information that Applicant designated confidential. Accordingly, we deny the Motion as moot but direct the Clerk of the Commission to retain the confidential information, to which the Motion pertains, under seal.

**CASE NO. PUC-2012-00057
SEPTEMBER 27, 2012**

APPLICATION OF
PLAN B COMMUNICATIONS OF VIRGINIA, INC.

For reissuance of a certificate of public convenience and necessity to provide local exchange telecommunications services to reflect company name change

ORDER REISSUING CERTIFICATES

On September 11, 2012, Plan B Communications of Virginia, Inc. ("Plan B" or "Company"), filed an application with the State Corporation Commission ("Commission") requesting that its certificate of public convenience and necessity to provide local exchange telecommunications services in the Commonwealth of Virginia (Certificate No. T-599) and its certificate of public convenience and necessity to provide interexchange telecommunications services in the Commonwealth of Virginia (Certificate No. TT-185A) be amended to reflect the Company's corporate name change ("Application"). Plan B submitted with its Application proof of the corporate name change to Spectrotel of Virginia, LLC, as of August 22, 2012.

Plan B's certificate of public convenience and necessity to provide interexchange telecommunications services in the Commonwealth of Virginia (Certificate No. TT-185A) was cancelled at the request of the Company on March 5, 2004.¹

NOW THE COMMISSION, having considered the Application and applicable law, is of the opinion and finds that the existing certificate in the name of Plan B Communications of Virginia, Inc., should be cancelled and reissued in the name of Spectrotel of Virginia, LLC.

¹ *Application of Plan B Communications of Virginia, Inc., For cancellation of certificates of public convenience and necessity*, Case No. PUC-2004-00021, 2004 S.C.C. Ann. Rept. 232, Order (Mar. 5, 2004).

Accordingly, IT IS ORDERED THAT:

- (1) The case is docketed and assigned Case No. PUC-2012-00057.
- (2) The certificate of public convenience and necessity to provide local exchange telecommunications services in the Commonwealth of Virginia, Certificate No. T-599, heretofore issued to Plan B Communications of Virginia, Inc., is hereby cancelled and shall be reissued as Certificate No. T-599a in the name of Spectrotel of Virginia, LLC.
- (3) Spectrotel of Virginia, LLC shall provide replacement tariffs to the Commission's Division of Communications reflecting the name change within forty-five (45) days of the date of entry of this Order.
- (4) There being nothing further to come before the Commission, this case is dismissed from the active docket, and the papers filed herein shall be placed in the file for ended causes.

**CASE NOS. PUC-1997-00135 AND PUC-2012-00059
DECEMBER 14, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

Ex Parte: In re: Implementation of Requirements of § 214 (e) of the Telecommunications Act of 1996

APPLICATION OF COX VIRGINIA TELCOM, L.L.C.

For designation as an eligible telecommunications carrier under 47 U.S.C. § 214 (e)

ORDER

On September 15, 1997, the State Corporation Commission ("Commission") established Case No. PUC-1997-00135 to consider the requests of local exchange carriers ("LECs") to be designated as eligible telecommunications carriers ("ETCs") to receive universal service support pursuant to § 214 (e) of the Telecommunications Act of 1996, 47 U.S.C. § 214 (e), and associated federal regulations.¹

On September 19, 2012, Cox Virginia Telcom, L.L.C. ("Cox" or "Company"), filed an application for designation as a Lifeline-only ETC in non-rural areas of its service territory in which it currently has cable facilities so that the Company would be eligible to receive low income universal support from the federal Universal Service Fund ("Application").² Cox is a Competitive Local Exchange Carrier ("CLEC") that is certificated in the Commonwealth of Virginia to provide local exchange telecommunications services. Cox's Application notes that the Company has previously sought, received, and relinquished an ETC designation by the Commission.³

In this Application, Cox sets out that, as a facilities-based CLEC, its Application: (i) meets the requirements of 47 U.S.C. § 214 (e)(2) and 47 C.F.R. § 54.201; (ii) contains the filing requirements set forth by the Commission in Case No. PUC-1997-00135; and (iii) is consistent with federal initiatives regarding ETCs and Lifeline service.⁴ Cox requests ETC designation in certain non-rural service areas in the Virginia exchanges identified in Exhibit A of its Application in which the Company has cable facilities.

On November 1, 2012, the Commission issued an Order Requesting Comments, Objections, or Requests for Hearing on Cox's Application. All such comments, objections, or requests for hearing were to be filed on or before November 15, 2012. To date, none have been filed.

NOW THE COMMISSION, upon consideration of the Application and of applicable law, is of the opinion and finds that Cox's Application requesting ETC designation to receive federal universal service support for Lifeline service in certain non-rural LEC exchanges pursuant to 47 U.S.C. § 214 (e) and associated federal regulations should be granted.

¹ 47 C.F.R. §§ 54.201-.207.

² A list of the Virginia LEC exchanges to be covered by the ETC designation is set out in Exhibit A of Cox's Application.

³ See Case Nos. PUC-1997-00135 and PUC-2003-00167.

⁴ See *In the Matter of Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform – Mobility Fund*; WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, 26 F.C.C.R. 17663 (Rel. Nov. 18, 2011), *appeal docketed*, *In re: FCC 11-161*, No. 11-9900 (10th Cir.); *In the Matter of Lifeline and Link Up Reform and Modernization; Lifeline and Link Up; Federal-State Joint Board on Universal Service; Advancing Broadband Availability Through Digital Literacy Training*; WC Docket Nos. 11-42, 03-109, 12-23, CC Docket No. 96-45, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11, 27 F.C.C.R. 665 (Rel. Feb. 6, 2012).

Accordingly, IT IS ORDERED THAT:

- (1) Cox's Application requesting ETC designation to receive federal universal service support for Lifeline service provided in certain non-rural LEC exchanges pursuant to 47 U.S.C. § 214 (e) and associated federal regulations is granted.
- (2) Case No. PUC-2012-00059 is closed.
- (3) Case No. PUC-1997-00135 is continued pending further order of the Commission.

**CASE NO. PUC-2012-00061
NOVEMBER 26, 2012**

JOINT APPLICATION OF
CTC COMMUNICATIONS OF VIRGINIA, INC.,
NEW EDGE NETWORKS OF VIRGINIA, INC.,
EARTHLINK, INC.,
CTC COMMUNICATIONS CORP.,
EARTHLINK BUSINESS, LLC,
EARTHLINK BUSINESS HOLDINGS, LLC,
NEW EDGE HOLDING, LLC,
and
ONE COMMUNICATIONS CORP.,

For approval of the certain pro-forma intra-company changes pursuant to Va. Code § 56-88 *et seq.*

ORDER GRANTING APPROVAL

On September 27, 2012, CTC Communications of Virginia, Inc. d/b/a EarthLink Business ("CTC-VA"), New Edge Networks of Virginia, Inc. d/b/a EarthLink Business ("New Edge-VA"), EarthLink, Inc. ("EarthLink"), CTC Communications Corp. ("CTC"), EarthLink Business, LLC (f/k/a New Edge Network, Inc. d/b/a EarthLink Business) ("New Edge"), EarthLink Business Holdings, LLC (f/k/a EarthLink Business, LLC), New Edge Holding, LLC (f/k/a New Edge Holding Company), and One Communications Corp. (collectively "Applicants") filed a Joint Application ("Joint Application") with the State Corporation Commission ("Commission") pursuant to the Utility Transfers Act, Chapter 5 of Title 56 of the Code of Virginia ("Code"),¹ for approval of certain pro forma intra-company changes.

The Applicants request Commission approval for a series of pro forma changes, which affect two Virginia entities that hold certificates of public convenience and necessity ("CPCNs"), CTC-VA and New Edge-VA. The proposed pro forma changes involve three² specific changes to regulated Virginia entities ("Proposed Transaction"). First, EarthLink Business Holdings, LLC, will become the new direct parent company of New Edge. Second, New Edge will become the new direct parent of CTC, and thus an indirect parent of CTC-VA. Third, New Edge-VA will merge with and into New Edge, with New Edge being the surviving entity.³ The Applicants represent that the Proposed Transaction will simplify EarthLink's corporate structure, reduce the reporting and accounting burdens, and provide operational efficiencies.

The Applicants represent that the Proposed Transaction will not result in any changes to the services currently received by customers in Virginia, including the rates, terms, and conditions of such services. Further, the Applicants represent that the Proposed Transaction should not cause any customer confusion as all the affected customers are already familiar with, and are receiving services and invoices from, the EarthLink Business brand. Finally, the Applicants represent that CTC-VA and New Edge-VA will retain the financial, managerial, and technical resources to render local exchange telecommunications services in Virginia.

NOW THE COMMISSION, upon consideration of the applicable law and having been advised by the Commission Staff, is of the opinion and finds that the above-described Proposed Transaction should be approved, subject to New Edge receiving the requested CPCNs in Case No. PUC-2012-00056.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to §§ 56-88.1 and 56-90 of the Code, the Applicants are hereby granted approval of the Proposed Transaction as described herein, subject to New Edge receiving the requested CPCNs in Case No. PUC-2012-00056.

¹ Va. Code § 56-88 *et seq.*

² The Joint Application also detailed a fourth pro forma change in which ITC^DeltaCom, Inc., becomes the new parent of DeltaCom, LLC d/b/a EarthLink Business (f/k/a DeltaCom, Inc. d/b/a EarthLink Business) ("DeltaCom"). Since DeltaCom provides resold interexchange telecommunications services as an intrastate service, Commission approval under Chapter 5 of the Code is not required for the fourth pro forma change.

³ New Edge has filed an application for certificates to provide local exchange and interexchange telecommunications services in Virginia, in Case No. PUC-2012-00056, and requests that the approval of the merger of New Edge and New Edge-VA be conditioned on the Commission granting New Edge certification.

(2) The Applicants shall file a Report of Action ("Report") with the Commission in its Document Control Center within ninety (90) days of completion of the Proposed Transaction. The Report shall include the date the Proposed Transaction was completed and all legal documentation supporting the Proposed Transaction.

(3) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUC-2012-00062
OCTOBER 17, 2012**

APPLICATION OF
ALLEGHENY COMMUNICATIONS CONNECT OF VIRGINIA, INC.

For cancellation of a certificate of public convenience and necessity to provide interexchange telecommunications services

ORDER CANCELLING CERTIFICATE

On July 12, 2001, the State Corporation Commission ("Commission") issued certificate of public convenience and necessity No. TT-158A permitting the provision of interexchange telecommunications services¹ to Allegheny Communications Connect of Virginia, Inc. ("ACC" or "Company").²

On October 1, 2012, ACC filed a letter application requesting cancellation of the Company's tariffs and certificate of public convenience and necessity No. TT-158A. The letter states that there are no customers in Virginia and that ACC does not intend to provide interexchange services in Virginia.

NOW THE COMMISSION, being sufficiently advised, will approve the Company's request to cancel Certificate No. TT-158A and cancel any tariffs associated therewith, previously issued to Allegheny Communications Connect of Virginia, Inc.

Accordingly, IT IS ORDERED THAT:

- (1) This matter shall be docketed as Case No. PUC-2012-00062.
- (2) Certificate No. TT-158A, issued to Allegheny Communications Connect of Virginia, Inc., is hereby cancelled.
- (3) Any tariffs on file associated with the above-referenced certificate is hereby cancelled.
- (4) This matter is hereby dismissed from the Commission's docket of active cases.

¹ *Application of Allegheny Communications Connect of Virginia, Inc., For a certificate of public convenience and necessity to provide interexchange telecommunications services*, Case No. PUC-2001-00053, 2001 S.C.C. Ann. Rept. 318, Order (July 12, 2001).

² The Company changed its name to ACC of Virginia, Inc., with the Clerk of the Commission in January 2012; however, the certificate is still in the name of Allegheny Communications Connect of Virginia, Inc.

**CASE NO. PUC-2012-00063
DECEMBER 14, 2012**

APPLICATION OF
TELEPORT COMMUNICATIONS AMERICA, LLC

For Certificates of Public Convenience and Necessity to Provide Local Exchange and Interexchange Telecommunications Services in the Commonwealth of Virginia

FINAL ORDER

On October 4, 2012, Teleport Communications America, LLC ("TCAL" or "Applicant"), filed an application with the State Corporation Commission ("Commission") for certificates of public convenience and necessity ("Certificates") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia ("Application"). Applicant also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia ("Code"). In accordance with 5 VAC 5-20-170 of the Commission's Rules of Practice and Procedure, TCAL filed a Motion for Protective Order ("Motion") to protect information in the Application that TCAL asserted should be treated as confidential.

By Order for Notice and Comment dated October, 19, 2012 ("October 19 Order"), the Commission directed TCAL to provide notice to the public of its Application and directed the Staff of the Commission ("Staff") to conduct an investigation and file a report ("Staff Report"). The Commission also ordered TCAL's Motion to be held in abeyance until a party sought access to the information that Applicant designated as confidential. On November 2, 2012 and December 5, 2012, TCAL filed proof of service and proof of publication, respectively, as required by the October 19 Order.

On December 11, 2012, the Staff filed its Staff Report finding that TCAL's Application was in compliance with the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers, 20 VAC 5-417-10 *et seq.*, and the Rules Governing the Certification of Interexchange Carriers, 20 VAC 5-411-10 *et seq.* Based upon its review of TCAL's Application, the Staff determined it would be appropriate to grant Applicant Certificates to provide local exchange and interexchange telecommunications services subject to the following condition: TCAL should notify the Division of Communications no less than thirty (30) days prior to the cancellation or lapse of its bond and should provide a replacement bond at that time. This requirement should be maintained until such time as the Commission determines it is no longer necessary.

On December 11, 2012, TCAL filed a letter waiving its allotted time to file a response to the Staff Report and requesting that the Commission issue an order approving the Application.

NOW THE COMMISSION, having considered the Application and the Staff Report, finds that TCAL should be granted Certificates to provide local exchange and interexchange telecommunications services. Having considered § 56-481.1 of the Code, the Commission further finds that Applicant may price its interexchange telecommunications services competitively. The Commission also finds that TCAL's Motion is no longer necessary; therefore, the Motion should be denied.¹

Accordingly, IT IS ORDERED THAT:

(1) TCAL is hereby granted a Certificate, No. T-723, to provide local exchange telecommunications services subject to the restrictions set forth in the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers, § 56-265.4:4 of the Code, and the provisions of this Order.

(2) TCAL is hereby granted a Certificate, No. TT-272A, to provide interexchange telecommunications services subject to the restrictions set forth in the Commission's Rules Governing the Certification of Interexchange Carriers, § 56-265.4:4 of the Code, and the provisions of this Order.

(3) Pursuant to § 56-481.1 of the Code, Applicant may price its interexchange telecommunications services competitively.

(4) Prior to providing telecommunications services pursuant to the Certificates granted by this Order, TCAL shall provide to the Division of Communications tariffs that conform to all applicable Commission rules and regulations. If TCAL elects to provide retail services on a non-tariffed basis, TCAL shall provide written notification pursuant to Rule 20 VAC 5-417-50 A 2.

(5) TCAL shall notify the Division of Communications no less than thirty (30) days prior to the cancellation or lapse of its bond and shall provide a replacement bond at that time. This requirement shall be maintained until such time as the Commission determines it is no longer necessary.

(5) Applicant's Motion for Protective Order is hereby denied; however, we direct the Clerk of the Commission to retain the confidential information, to which the Motion pertains, under seal.

(6) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

¹ The Commission has received no request for leave to review the information that Applicant designated confidential. Accordingly, we deny the Motion as moot but direct the Clerk of the Commission to retain the confidential information, to which the Motion pertains, under seal.

**CASE NO. PUC-2012-00067
DECEMBER 13, 2012**

JOINT APPLICATION OF
TCG VIRGINIA, INC.
and
TELEPORT COMMUNICATIONS AMERICA, LLC

For approval of merger of TCG Virginia, Inc., and Teleport Communications America, LLC

ORDER GRANTING APPROVAL

On October 15, 2012, TCG Virginia, Inc. ("TCG"), and Teleport Communications America, LLC ("TCAL") (collectively, "Applicants"), filed a joint application with the State Corporation Commission ("Commission") pursuant to Chapter 5 of Title 56 of the Code of Virginia ("Code")¹ for approval of the merger of TCG and TCAL, with TCAL being the surviving entity ("Application").

TCG is a Virginia corporation that provides local, interexchange, and other telecommunications services and products to business and government customers in Virginia pursuant to certificate of public convenience and necessity ("CPCN") Nos. T-365 and TT-26A. TCAL is a newly created company formed for the purpose of consummating the transaction proposed in this case.² TCG and TCAL both are direct subsidiaries of Teleport Communications Group Inc. ("TCGI"), a wholly owned subsidiary of AT&T Corp. AT&T Corp., in turn, is a wholly owned subsidiary of AT&T Inc.

¹ Va. Code § 56-88 *et seq.*

² In Case No. PUC-2012-00063, TCAL filed an application with the Commission requesting CPCNs to provide local exchange and interexchange telecommunications services in Virginia. In that case, the companies request that the issuance of CPCNs to TCAL be considered in conjunction with the merger request in the instant Application.

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The Applicants propose to merge TCG and TCAL. TCAL will survive and will acquire all of the assets, liabilities, and operations of TCG. TCAL will assume full responsibility for providing the services now offered in Virginia by TCG. The Applicants represent that the proposed merger is intended to consolidate all of the state-specific and regional TCGI subsidiaries into one single subsidiary. The Applicants further represent that the proposed transaction is part of a series of like transactions occurring within AT&T Inc. to streamline its corporate structure. No consideration will be paid, and no written agreement exists because the proposed transaction is internal to the involved companies.

The Applicants state that the proposed merger will have no effect on customers' rates, terms, or conditions of service. The proposed transaction is expected to be transparent to customers, with no interruption in service. After the proposed merger, TCAL will become the provider of service and will remain a direct subsidiary of TCGI. The assets and management currently used to provide service in Virginia will continue to be used to service customers. The Applicants represent that TCAL has the financial, managerial, and technical resources to render local exchange telecommunications services in Virginia.

NOW THE COMMISSION, upon consideration of the applicable law and having been advised by the Commission Staff, is of the opinion and finds that the merger described herein should be approved, subject to TCAL receiving the requested CPCNs in Case No. PUC-2012-00063.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to §§ 56-88.1 and 56-90 of the Code, the Applicants are hereby granted approval of the merger of TCG and TCAL as described herein, subject to TCAL receiving the requested CPCNs in Case No. PUC-2012-00063.

(2) The Applicants shall file a Report of Action ("Report") with the Commission in its Document Control Center within ninety (90) days of the closing of the merger. Such report shall include the date the merger took place.

(3) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUC-2012-00069
NOVEMBER 2, 2012**

APPLICATION OF
PEOPLES MUTUAL TELEPHONE COMPANY

For cancellation of a certificate of public convenience and necessity to provide interexchange telecommunications services

ORDER CANCELLING CERTIFICATE

On April 11, 1951, the State Corporation Commission ("Commission") issued certificate of public convenience and necessity No. TT-48 permitting the provision of interexchange telecommunications services to Peoples Mutual Telephone Company ("Peoples" or "Company").

On October 22, 2012, Peoples filed a letter application requesting cancellation of the Company's tariffs and certificate of public convenience and necessity No. TT-48. The Company represents that there are no customers in Virginia and that Peoples' local exchange customers are currently served by an affiliate company or another carrier for their long distance services.

NOW THE COMMISSION, being sufficiently advised, will approve the Company's request to cancel Certificate No. TT-48 and cancel any tariffs associated therewith, previously issued to Peoples Mutual Telephone Company.

Accordingly, IT IS ORDERED THAT:

(1) This matter shall be docketed as Case No. PUC-2012-00069.

(2) Certificate No. TT-48, issued to Peoples Mutual Telephone Company, is hereby cancelled.

(3) Any tariffs on file associated with the above-referenced certificate are hereby cancelled.

(4) This matter is hereby dismissed from the Commission's docket of active cases.

**CASE NO. PUC-2012-00070
NOVEMBER 6, 2012**

APPLICATION OF
SHENTEL COMMUNICATIONS COMPANY

For reissuance of a certificate of public convenience and necessity to provide local exchange telecommunications services to reflect company name change

ORDER REISSUING CERTIFICATE

On October 23, 2012, ShenTel Communications Company ("ShenTel" or "Company") filed an application with the State Corporation Commission ("Commission") requesting that its certificate of public convenience and necessity to provide local exchange telecommunications services in the Commonwealth of Virginia (Certificate No. T-436) be amended to reflect the Company's corporate name change ("Application"). ShenTel submitted with its Application proof of its corporate name change to Shentel Communications, LLC, effective as of August 31, 2012.

NOW THE COMMISSION, having considered the Application and applicable law, is of the opinion and finds that the existing certificate in the name of ShenTel Communications Company should be cancelled and reissued in the name of Shentel Communications, LLC.

Accordingly, IT IS ORDERED THAT:

- (1) The case is docketed and assigned Case No. PUC-2012-00070.
- (2) The certificate of public convenience and necessity to provide local exchange telecommunications services in the Commonwealth of Virginia, Certificate No. T-436, heretofore issued to ShenTel Communications Company, is cancelled and shall be reissued as Certificate No. T-436a in the name of Shentel Communications, LLC.
- (3) For any tariffs currently on file with the Commission, the Company shall provide replacement tariffs to the Commission's Division of Communications reflecting the name change within thirty (30) days of the date of entry of this Order.
- (4) There being nothing further to come before the Commission, this case is dismissed from the active docket, and the papers filed herein shall be placed in the file for ended causes.

**CASE NO. PUC-2012-00072
DECEMBER 18, 2012**

PETITION OF
FIRST COMMUNICATIONS, LLC,
FIRST COMMUNICATIONS, INC.,
and
SUMMIT DATA SERVICES, INC.

For approval of a transfer of control

ORDER GRANTING APPROVAL

On November 9, 2012, First Communications, LLC ("FCL"), First Communications, Inc. ("FCI"), and Summit Data Services ("Summit") (collectively "Petitioners"), filed a Petition ("Petition") with the State Corporation Commission ("Commission") pursuant to the Utility Transfers Act, Chapter 5 of Title 56 of the Code of Virginia ("Code"),² for approval of a transaction to transfer control of FCL to Summit ("Proposed Transaction").

The Petitioners filed the Petition with the Commission under seal, pursuant to 5 VAC 5-20-170 of the Commission's Rules of Practice and Procedure ("Commission's Rules") regarding confidential information, in order to obtain confidential treatment of Exhibits D and F of the Petition ("Confidential Exhibits"). Commission Rule 5 VAC 5-20-170 states, in part: "When an application (including supporting documents and prefiled testimony) contains information that the applicant claims to be confidential, the filing shall be made under seal and accompanied by a motion for protective order or other confidential treatment." Therefore, on November 9, 2012, concurrently with the Petition and pursuant to Commission Rules 5 VAC 5-20-110 and 5 VAC 5-20-170, the Petitioners filed with the Commission a Motion for Confidential Treatment ("Motion") requesting that the Commission grant confidential treatment and issue a protective order covering the confidential information contained in the Confidential Exhibits.

The Petitioners request Commission approval to complete a transaction whereby Summit will acquire direct control of FCL, which holds a certificate of public convenience and necessity in Virginia. Summit is a newly formed Ohio corporation that was formed for the purpose of this transaction and is owned by three individuals who have held positions at FCI and FCL. The Petitioners represent that the Proposed Transaction will be seamless and virtually transparent to the customers of FCL since the Proposed Transaction will not result in a different company or individuals providing service to them. Further, the Petitioners represent that, upon completion of the Proposed Transaction, FCL will continue to provide service to its customers under the same

¹ The Petitioners also provided verification for FirstEnergy Corp. ("FirstEnergy"), which owns more than 25% of FCI and thus holds indirect ownership of FCL, and Joseph R. Morris, who owns more than 25% of Summit and will thus be acquiring indirect control of FCL. Therefore, FirstEnergy and Joseph R. Morris are considered Petitioners in this proceeding.

² Va. Code § 56-88 *et seq.*

rates, terms, and conditions. Finally, the Petitioners represent that Summit has the financial, managerial, and technical qualifications to acquire control of FCL.

NOW THE COMMISSION, upon consideration of the applicable law and having been advised by the Commission Staff, is of the opinion and finds that the above-described Proposed Transaction should be approved. The Commission also finds that the Applicants' Motion is no longer necessary; therefore, the Motion should be denied.³

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to §§ 56-88.1 and 56-90 of the Code, the Petitioners are hereby granted approval of the Proposed Transaction as described herein.
- (2) The Petitioners shall file a Report of Action ("Report") with the Commission in its Document Control Center within ninety (90) days of completion of the Proposed Transaction. The Report shall include the date the Proposed Transaction was completed and all legal documentation supporting the Proposed Transaction.
- (3) The Petitioners' Motion is hereby denied; however, we direct the Clerk of the Commission to retain the confidential information, to which the Motion pertains, under seal.
- (4) There appearing nothing further to be done in this matter, it hereby is dismissed.

³ The Commission held the Petitioners' Motion in abeyance. We note that the Commission has received no request for leave to review the confidential information contained in the Petition in this proceeding. Accordingly, we deny the Motion as moot but direct the Clerk of the Commission to retain the confidential information, to which the Motion pertains, under seal.

**CASE NO. PUC-2012-00076
DECEMBER 7, 2012**

APPLICATION OF
BAY TELCOM, INC.

For cancellation of a certificate of public convenience and necessity to provide local exchange and interexchange telecommunications services

ORDER CANCELLING CERTIFICATE

On November 26, 2012, Bay Telcom, Inc. ("Bay Telcom" or "Company"), filed a letter application with the Commission requesting cancellation of its certificate of public convenience and necessity, No. T-650, permitting the provision of local exchange telecommunications services, pursuant to the Commission's Order Granting Approval in Case No. PUC-2005-00140.¹ Bay Telcom noted that it had no tariffs or customers in Virginia.

NOW UPON CONSIDERATION of the matter, the Commission finds that Certificate No. T-650 issued to Bay Telcom should be cancelled.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is hereby docketed and assigned Case No. PUC-2012-00076.
- (2) Certificate of public convenience and necessity, No. T-650, issued to Bay Telcom, Inc., to provide local exchange telecommunications services throughout the Commonwealth, is hereby cancelled.
- (3) There being nothing further to be done in this matter, this case shall be removed from the Commission's docket of active proceedings and the papers filed herein placed in the Commission's file for ended causes.

¹ *Application of Bay Telcom, Inc., For a certificate of public convenience and necessity to provide local exchange telecommunications services*, Case No. PUC-2005-00140, 2006 S.C.C. Ann. Rept. 216, Final Order (Mar. 3, 2006).

DIVISION OF ENERGY REGULATION

CASE NO. PUE-2001-00072 JUNE 18, 2012

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

DAVID G. PETRUS, RECEIVER FOR AUBON WATER COMPANY

FINAL ORDER

On February 28, 2001, Aubon Water Company ("Aubon") and the Staff ("Staff") of the State Corporation Commission ("Commission") filed with the Commission an Agreed Motion Requesting the Appointment of Receiver ("Motion"). Upon review of the Motion, the Commission found that an emergency existed regarding Aubon's water service and operations and that the appointment of a receiver was required. On March 1, 2001, the Commission entered an Order Appointing Receiver ("Order").¹ That Order, among other things, appointed David G. Petrus ("Petrus" or "Receiver") as emergency Receiver of Aubon; directed the Receiver to file quarterly reports of Aubon's operations and debts to the Commission's Division of Energy Regulation; and required the Receiver to obtain prior written approval of the Commission with respect to disposal or conveyance of real property belonging to Aubon.² The Order also directed the Staff and the Receiver to confer on a Plan of Receivership ("Plan") and to file such Plan with the Commission on or before March 16, 2001. Accordingly, on March 16, 2001, the Staff and the Receiver jointly filed the Plan, which was approved with an amendment by the Commission on March 30, 2001, in its Order Extending Appointment of Receiver and Approving Amended Plan of Receivership.

In December 2009, the Staff initiated a review of various issues related to the receivership for the purpose of verifying Aubon's financial position and concluding the receivership. On September 20, 2010, the Staff filed a status report ("Status Report") that summarized the results of its review. In its Status Report, the Staff provided the Commission with an update of the receivership status and highlighted several issues it believed warranted further investigation. The Staff recommended that the Commission enter a procedural order outlining a schedule to evaluate the need for maintaining the receivership, including a review of the following: Aubon's financial position; the adequacy of Aubon's current rates; the services received from and associated costs paid to Petrus Environmental Services, Inc. ("PES"); and the nature of the sale of a parcel of land ("Lot 9A") by Aubon to Petrus. The Staff also recommended that the Company be required to file income statements, balance sheets, cash flow statements, and federal tax returns for calendar years 2008 and 2009.

On December 15, 2010, the Commission entered its Order Initiating Audit and Investigation which, among other things, assigned the matter to a hearing examiner to conduct further proceedings and file a report, directed the Receiver to file various financial documents, and required the Staff to conduct an audit and investigation for the purpose of determining the need for maintaining the receivership. As part of the audit and investigation, the Commission directed the Staff to examine the nature of the sale of Lot 9A by Aubon to Petrus and to review the services received from and costs paid to PES by Aubon. The Staff also was directed to examine the adequacy of Aubon's current rates.

On June 30, 2011, the Staff filed its Report on Audit and Investigation ("Report"). In its Report, the Staff made several general and booking recommendations. Petrus filed his response to the Staff's Report on August 12, 2011. Hearing Examiner A. Ann Berkebile ("Hearing Examiner") entered a ruling on October 17, 2011, scheduling a hearing, requiring the Staff and the Receiver to designate witnesses to testify at the hearing, and providing an opportunity for the filing of supplemental testimony.

The Staff filed supplemental testimony on January 24, 2012, and on February 2, 2012, an evidentiary hearing convened, as scheduled. Petrus testified in his capacity as Receiver for Aubon, and Paul McLeod, Public Utility Accountant, testified on behalf of the Staff.

On March 23, 2012, the Hearing Examiner filed her report ("Hearing Examiner's Report") wherein she made the following findings and recommendations:

- (1) The sales price of Lot 9A was reasonable;
- (2) The Company's accounts payable to PES should be reduced in the amount of \$29,000 in accordance with the credit offered by Petrus;
- (3) The termination of the receivership and transfer of the Company to Petrus would be in the best interests of the Company's customers (and in the public interest);
- (4) Adequate service and reasonable rates will not be impaired or jeopardized if Petrus is authorized to acquire Aubon;
- (5) Petrus should be required to promptly file a completed Chapter 5 petition for approval of his acquisition of Aubon;³ and

¹ *Commonwealth of Virginia, ex rel., State Corporation Commission v. Aubon Water Company*, Case No. PUE-2001-00072, 2001 S.C.C. Ann. Rept. 544, Order Appointing Receiver (March 1, 2001).

² Order Appointing Receiver at 2, 5, 7.

³ The Hearing Examiner's Report noted that the petition for transfer of control filed pursuant to §§ 56-88.1 and -90 of the Code of Virginia ("Chapter 5 Petition") could be completed rather expeditiously through the submission of a signature page.

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- (6) The Commission should terminate the receivership and, contemporaneous with the termination of the receivership, should authorize the transfer of Aubon to Petrus.

On March 23, 2012, Petrus, by counsel, filed comments urging the Commission to accept and adopt the findings and recommendations made in the Hearing Examiner's Report. The Staff did not file comments.

On June 1, 2012, Petrus filed the signature pages required to complete the Chapter 5 Petition for transfer of control of Aubon Water Company to Petrus.

NOW THE COMMISSION, having considered the matter, is of the opinion and finds that the Hearing Examiner's Report should be adopted.

Based on the record in this case, we find that the receivership should be terminated, that it is in the public interest⁴ to transfer Aubon Water Company to Petrus, and that such transfer will not impair or jeopardize adequate service to the public at just and reasonable rates.

We further find that by filing the signature pages, Petrus has completed his Chapter 5 Petition and satisfied the requirements of the Transfers Act; therefore, he need not file additional support for the transfer sought in this proceeding.

Accordingly, IT IS ORDERED THAT:

- (1) The findings and recommendation of the Hearing Examiner's Report are hereby adopted;
- (2) The Company shall reduce its accounts payable to PES in the amount of \$29,000;
- (3) Pursuant to §§ 56-88.1 and 56-90 of the Code of Virginia, Petrus is hereby granted approval of the acquisition of control of Aubon;
- (4) The approval granted herein shall have no ratemaking implications. Specifically, it will not guarantee the recovery of any costs directly or indirectly related to the transfer;
- (5) Aubon shall implement the booking recommendations made by the Staff in its June 30, 2011 Staff Report;
- (6) Aubon shall continue to file an annual financial and operating report with the Commission's Division of Utility Accounting and Finance. A description of the implemented efficiencies to streamline the operations of Aubon, as discussed by Petrus at the evidentiary hearing on February 2, 2012, shall be included in the annual financial and operating report based on 2012 operations. Additionally, moving forward Aubon's annual financial and operating report shall include a report on the status of the Company's tax obligations;
- (7) Aubon shall operate in accordance with 20 VAC 5-200-40, *Rules implementing the Small Water and Sewer Public Utility Act*;
- (8) Aubon shall file a report of action with the Commission's Division of Utility Accounting and Finance within thirty (30) days after the closing. The report shall include the date of the transfer, the actual purchase price, the settlement sheet, any legal documentation, and the accounting entries recording the transfer;
- (9) Aubon shall maintain a high degree of cooperation with Staff and shall take all action necessary to ensure timely responses to the Staff's inquires regarding Aubon's provision of service in Virginia; and
- (10) This matter is dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

⁴ The Hearing Examiner's Report noted, and we agree, that the record reflects that Aubon's customers have received safe and clean water during the receivership and that the Commission has not received complaints regarding the quality of service provided to Aubon's customers during the receivership. *See* Hearing Examiner's Report at 12. We further note that following the investigation of this matter, Petrus has sought to increase revenues by implementing a rate increase -- an action that should address Aubon's revenue deficiencies. Further, in our December 16, 2003 Order Denying Staff Motion and Issuing Rule to Show Cause, we expressed concern over the Receiver's history of regulatory noncompliance leaving the Commission "uninformed as to Aubon's financial condition." While continued delinquencies regarding regulatory compliance and payment of gross receipts and special taxes highlighted in the record do not fully allay such concerns, Petrus has nonetheless taken steps to address these deficiencies. *See id.* at 13.

**CASE NOS. PUE-2006-00031, PUE-2007-00024,
PUE-2008-00028, PUE-2009-00025, AND PUE-2010-00041
FEBRUARY 17, 2012**

APPLICATION OF
VIRGINIA NATURAL GAS, INC.

For an Annual Informational Filing for 2005

APPLICATION OF
VIRGINIA NATURAL GAS, INC.

For an Annual Informational Filing for 2006

APPLICATION OF
VIRGINIA NATURAL GAS, INC.

For an Annual Informational Filing for 2007

APPLICATION OF
VIRGINIA NATURAL GAS, INC.

For an Annual Informational Filing for 2008

APPLICATION OF
VIRGINIA NATURAL GAS, INC.

For an Annual Informational Filing for 2009

ORDER CLOSING CASES

The above-captioned cases are Annual Informational Filings ("AIFs") submitted to the State Corporation Commission ("Commission") by Virginia Natural Gas, Inc. ("VNG" or "Company"), pursuant to 20 VAC 5-201-30 of the Commission's Rules Governing Utility Rate Applications and Annual Informational Filings during the effective period of its performance based regulatory ("PBR") Plan.

Throughout the effective period of VNG's PBR Plan, the Staff and the Company maintained differing positions with regard to accounting and capital structure issues in the above-captioned AIF proceedings. On March 4, 2010, in Case No. PUE-2009-00025, the Staff filed a motion requesting, among other things, that the issues in the AIFs be preserved for a later proceeding.¹ On March 24, 2010, the Company filed its response to the Staff's motion and agreed that the issues should be preserved for future determination in a later, open forum where they could be more fully and appropriately addressed.²

On February 2, 2011, VNG filed an application for a general increase in rates, Case No. PUE-2010-00142 ("Rate Case"),³ and on August 1, 2011, VNG's PBR Plan expired.⁴ On November 4, 2011, a hearing was convened on the Rate Case, at which time the Company and the Staff presented a Proposed Stipulation and Recommendation ("Stipulation"), which, in addition to addressing the issues in the Rate Case, also resolved the outstanding accounting and capital structure matters that were at issue in the AIF proceedings. On November 17, 2011, Hearing Examiner Michael D. Thomas issued his report wherein he recommended, among other things, that the Commission adopt the Stipulation. On December 20, 2011, the Commission entered its Final Order adopting the Stipulation.

NOW THE COMMISSION, upon consideration of the foregoing, finds that the captioned cases should be closed.

Accordingly, IT IS ORDERED THAT these matters are hereby dismissed from the Commission's active docket, and the papers filed herein shall be placed in the Commission's file for ended causes.

¹ Motion of the Staff to Accept Recommendations of the Staff Report and Response of the Staff to Request of Virginia Natural Gas, Inc. to Reject the Staff Report.

² Response of Virginia Natural Gas, Inc. to the Motion of the Staff to Accept Recommendations of the Staff Report and Response at 10.

³ *Application of Virginia Natural Gas, Inc., For an increase in base rates and for authority to revise the terms and conditions applicable to natural gas service pursuant to Chapter 10 (§ 56-232 et seq.) of Title 56 of the Code of Virginia*, Case No. PUE-2010-00142, Final Order (Dec. 20, 2011).

⁴ In its application in Case No. PUE-2010-00142, the Company indicated that it was not proposing to renew, modify, or extend the PBR Plan.

**CASE NO. PUE-2006-00072
FEBRUARY 17, 2012**

PETITION OF
ATMOS ENERGY CORPORATION

For renewal and extension of certificate of public convenience and necessity

DISMISSAL ORDER

On June 13, 2006, Atmos Energy Corporation ("Atmos" or "Company") filed an application requesting approval of a certificate of public convenience and necessity ("CPCN") with the State Corporation Commission ("Commission"), pursuant to § 56-265.2 of the Code of Virginia ("Code"). On July 19, 2006, Atmos filed an amended application requesting that approval of the requested CPCN be granted pursuant to § 56-265.3 of the Code.¹

In its Application, Atmos requested a CPCN to provide natural gas distribution service to the remaining geographic area within Carroll County, Virginia, not already certificated to the Company.² Atmos was previously authorized to provide gas service in part of Carroll County, and by its Application sought authority to serve the entire geographic area within Carroll County.

On December 5, 2006, the Commission issued its Final Order in this case granting the Company the CPCN requested in its Application. However, the Commission limited the authority granted and stated that "[i]f Atmos does not provide natural gas utility service to the newly certificated area of Carroll County, Virginia, within five (5) years of the date of this Final Order . . . the authority granted to furnish natural gas service in the newly certificated area shall be terminated and this certificate voided."³

On October 14, 2011, the Company filed a Petition to Renew and Extend Certificate of Public Convenience and Necessity ("Petition") in which it requested that the Commission renew and extend the CPCN previously issued in Case No. PUE-2006-00072 until December 5, 2013. In support of its request, Atmos indicated that an industrial customer ("Customer") had agreed, provisionally, to seek service from the Company pending resolution of easement rights.

On November 7, 2011, Frontier Natural Gas Company, LLC ("Frontier"), filed the "Comments of Frontier Natural Gas, LLC Opposing the Petition and in the Alternative Notice of Participation as a Respondent" ("Comments"). Frontier urged the Commission to deny the Petition in its entirety or to establish a new proceeding pursuant to § 56-265.3 of the Code, in which Frontier and others could participate.

On November 16, 2011, Atmos filed a Response to Frontier's Comments in which it requested that the Commission grant the relief requested in its Petition without scheduling a hearing on the matter or initiating a new certification proceeding. On November 22, 2011, the County Administrator of Carroll County also submitted a letter supporting the Company's Petition.

On November 30, 2011, the Commission entered an Order for Notice and Hearing ("Procedural Order") which, among other things, reopened this case for the receipt of testimony and evidence on the Petition, suspended the Company's CPCN during the pendency of this proceeding, scheduled a public hearing associated with the Petition, required publication of notice of the Petition, and appointed a Hearing Examiner to conduct all further proceedings in this matter on behalf of the Commission and to file a final report. The Procedural Order also deemed Frontier to be a respondent in the proceeding and established a schedule for the filing of notices of participation and testimony.

On January 18, 2012, Carroll County, Virginia (the "County"), filed a notice of participation in this proceeding.

On January 26, 2012, the Company filed a pleading ("Withdrawal Motion") requesting leave to withdraw its Petition. The Company represented that it has decided not to pursue an extension of its CPCN at this time because of a number of "issues" that have "surfaced" with respect to providing natural gas service to the Customer.⁴ Atmos also indicated that the Customer did not object to its withdrawal of the Petition and that the Company understood the County (or the County's Industrial Development Authority) intends to provide natural gas services to the Customer.⁵

On January 27, 2011, the Hearing Examiner issued her Report ("Hearing Examiner's Report") recommending that the Commission enter an order that grants the Withdrawal Motion and dismisses the Petition.

On February 3, 2012, Frontier filed comments to the Hearing Examiner's Report. Frontier stated that, as it interprets the Withdrawal Motion, "should the Commission grant the Motion, Carroll County will be an uncertificated locality, except for CPCN No G-73b, issued October 21, 1997 to Atmos."⁶ Frontier further stated that it neither opposes the Withdrawal Motion nor the Hearing Examiner's recommendations.⁷

¹ The June 13, 2006, and July 19, 2006, filings are collectively referred to herein as the "Application."

² Atmos was previously authorized to provide gas service in part of Carroll County, Virginia, under S.C.C. Certificate No. G-73b, issued October 21, 1997.

³ *Application of Atmos Energy Corporation, For a certificate of public convenience and necessity pursuant to Virginia Code § 56-265.3, Case No. PUE-2006-00072, 2006 S.C.C. Ann. Rept. 462, Final Order (Dec. 5, 2006).*

⁴ Withdrawal Motion at 3.

⁵ *Id.*

⁶ Frontier's Comments to Hearing Examiner's Report at 2.

⁷ *Id.*

NOW THE COMMISSION, having considered the matter, is of the opinion and finds that the Hearing Examiner's recommendations should be adopted and that this case should be dismissed.

Accordingly, IT IS ORDERED THAT:

- (1) The Hearing Examiner's recommendations are hereby adopted.
- (2) This case is dismissed from the Commission's docket, and the record developed herein shall be placed in the file for ended causes.

**CASE NO. PUE-2007-00014
FEBRUARY 14, 2012**

APPLICATION OF
APPALACHIAN POWER COMPANY

For authority to factor its accounts receivables to an affiliate

ORDER EXTENDING AUTHORITY

On February 22, 2007, Appalachian Power Company ("APCo" or "the Company") filed an application with the State Corporation Commission ("Commission") under Chapter 4 of Title 56 of the Code of Virginia.¹ In its application, APCo proposed to factor its accounts receivables to AEP Credit, Inc. ("Credit"), an affiliate. Through this arrangement, APCo sells its accounts receivables to Credit on a daily basis. APCo acts as a collection agent for the receipt of customer payments and remits the payments to Credit. The accounts receivables are purchased based on a discount rate. According to the Company, this process allows APCo to finance its accounts receivables at a lower cost of capital than it could otherwise.

On March 30, 2007, the Commission entered an Order Granting Authority authorizing APCo to sell its accounts receivables to Credit. This authority was initially limited to two years, or through March 31, 2009, since ratemaking implications of the factoring program were being addressed in Case No. PUE-2006-00065, a then pending APCo rate case.²

By letter filed on March 12, 2009, APCo requested an extension of the authority granted to sell its accounts receivables to Credit for an additional three-year period, or through March 31, 2012. The Company represented that the issues concerning the ratemaking treatment associated with the factoring program had been resolved in Case No. PUE-2006-00065. On March 24, 2009, the Commission entered an Order Extending Authority granting APCo's request to continue to participate in the affiliated factoring agreement with Credit through March 31, 2012.

By letter filed on January 18, 2012, APCo requested an extension of the authority granted to sell its accounts receivables to Credit for an additional three-year period, or March 31, 2015. The Company represented that there have been no changes to the terms and conditions of the factoring program since the entry of the Commission's March 24, 2009 Order Extending Authority. Moreover, the Company represents that the Commission Staff has no objection to a further extension.

NOW THE COMMISSION, upon consideration of the Company's January 18, 2012 request to continue to participate in the accounts receivables factoring program with Credit through March 31, 2015, finds that it is in the public interest and should be approved. However, we note that on March 31, 2015, the agreement will have been in place for over eight years since it was last reviewed comprehensively by our Staff under Chapter 4. Therefore, should the Company wish to continue participation in the factoring program with Credit beyond March 31, 2015, the Company should file with the Commission a new application seeking such authority at least 90 days prior to the requested effective date of such authority.

Accordingly, IT IS ORDERED THAT:

- (1) APCo is hereby granted approval to continue to sell its accounts receivables to Credit through March 31, 2015, under the terms and conditions and for the purposes as detailed in its December 12, 2007 application, and as amended by the Commission's January 11, 2008 Order Granting Authority.
- (2) All other provisions outlined in our March 30, 2007 Order shall remain in full force and effect.
- (3) This matter shall be continued generally subject to the continuing review, audit, and appropriate directive of the Commission.

¹ Va. Code § 56-77 *et seq.*

² Order Granting Authority at 2.

**CASE NO. PUE-2008-00096
OCTOBER 16, 2012**

APPLICATION OF
APPALACHIAN POWER COMPANY

For approval of electrical facilities under § 56-46.1 of the Code of Virginia and for certification of such facilities under the Utility Facilities Act

ORDER

By order issued December 21, 2009, the State Corporation Commission ("Commission") granted authority to Appalachian Power Company ("APCo" or the "Company") to construct and operate the Company's proposed single-circuit 138 kV transmission line in the City of Roanoke and the Town of Vinton in Roanoke County, Virginia ("Final Order"). Ordering paragraph (5) of the Final Order required that the transmission line be constructed and in service by December 21, 2012.

On September 24, 2012, the Company filed a Motion for Extension of Date for Completion of Construction ("Motion"). In its Motion, the Company stated that while the Company has made significant progress developing the project since the issuance of the Final Order,

for the following reasons APCo cannot complete construction by December 21, 2012, and estimates that it will need nine additional months to do so. First, a number of environmental issues have been encountered, including contaminated groundwater along the route and the presence of more rock than anticipated. Second, construction crews have been diverted to assist with service restoration due to extensive damage caused by storms in Virginia and elsewhere. Third, there have been unanticipated delays in the delivery of certain materials. Finally, APCo has been unable to obtain easements through voluntary negotiations across two parcels of land traversed by the project and has instituted condemnation proceedings with respect to those properties.¹

The Commission Staff indicates that it does not oppose the Company's request.

NOW THE COMMISSION, having considered this matter, is of the opinion and finds that the Company's request to extend the deadline for construction of the transmission line should be granted.

Accordingly, IT IS ORDERED THAT:

- (1) Case No. PUE-2008-00096 is reopened for the limited purpose of this order.
- (2) Ordering Paragraph (5) of the Commission's December 21, 2009 Final Order shall be revised to read as follows: "The transmission line approved herein must be constructed and in service by September 21, 2013; provided, however, the Company is granted leave to apply for an extension for good cause shown."
- (3) All other provisions of the Commission's December 21, 2009 Final Order shall remain unchanged.

¹ Motion at 1-2.

**CASE NO. PUE-2009-00049
AUGUST 21, 2012**

APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY

For approval and certification of electric transmission facilities under Va. Code § 56-46.1 and the Utility Facilities Act, Va. Code § 56-265.1 *et seq.*, Hayes-Yorktown 230 kV transmission line

ORDER

By Final Order issued June 18, 2010, the State Corporation Commission ("Commission") granted authority to Virginia Electric and Power Company ("Dominion Virginia Power" or the "Company") to construct and operate the Company's proposed 230 kV transmission line in York and Gloucester Counties ("Final Order"). Ordering paragraph (5) of the Final Order required that the transmission line be constructed and operational by June 18, 2012.

On July 30, 2012, the Company filed a Motion for Extension of Construction and In-Service Date ("Motion"). In its Motion, the Company stated that while the Company

has made significant progress in developing the project and is proceeding to complete installation of the underground segments and construction of the Hayes Substation towards fully energizing Line #2122 at 230 kV, it was not able to complete the project in its entirety by June 18, 2012. The project schedule has been significantly impacted by Hurricane Irene and other circumstances described above; therefore, the Company requires an additional three to six months to complete the project.

The Commission Staff, the only other participant in this proceeding, indicates that it does not oppose the Company's request.

NOW THE COMMISSION, having considered this matter, is of the opinion and finds that the Company's request to extend the deadline for construction of the transmission line should be granted.

Accordingly, IT IS ORDERED THAT:

- (1) Case No. PUE-2009-00049 is reopened for the limited purpose of this Order.
- (2) Ordering Paragraph (5) of the Commission's Final Order shall be revised to read as follows:

The transmission line approved herein must be constructed and operational by December 1, 2012; provided, however, the Company is granted leave to apply for an extension for good cause shown.

- (3) All other provisions of the Commission's Final Order shall remain unchanged.

**CASE NO. PUE-2009-00049
NOVEMBER 29, 2012**

APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY

For approval and certification of electric transmission facilities under Va. Code § 56-46.1 and the Utility Facilities Act, Va. Code § 56-265.1 *et seq.*, Hayes-Yorktown 230 kV transmission line

ORDER

By Final Order issued June 18, 2010, the State Corporation Commission ("Commission") granted authority to Virginia Electric and Power Company ("Dominion Virginia Power" or "Company") to construct and operate the Company's proposed 230 kV transmission line and associated facilities in York and Gloucester Counties. Ordering Paragraph (5) of the June 18, 2010 Final Order required that the transmission line be constructed and operational by June 18, 2012, though Dominion Virginia Power was granted leave to apply for an extension for good cause shown.

On July 30, 2012, Dominion Virginia Power filed a Motion for Extension of Construction and In-Service Date. By Order issued August 21, 2012, the Commission granted the Company an extension until December 1, 2012, to place the transmission line in service.

On November 21, 2012, the Company filed a second Motion for Extension of Construction and In-Service Date ("Motion"). In this Motion, the Company stated that while it

has made significant progress in developing the project and is proceeding to complete installation towards fully energizing [the transmission line] at 230 kV, it is not possible to complete the project in its entirety by December 1, 2012. The project schedule has again been materially impacted by Hurricane Sandy and therefore the Company requires additional time to complete the project.¹

The Company states that Hayes Substation is "substantially complete, and the remaining work to be performed is the installation of one submarine pipe and final testing, after which the project will be placed into service."² The Company requests that the December 1, 2012 deadline set in the Commission's August 21, 2012 Order be extended to March 1, 2013.³

In its Motion, Dominion Virginia Power represented that the Commission Staff does not oppose the Company's request.⁴

NOW THE COMMISSION, having considered this matter, is of the opinion and finds that the Company's request to extend the deadline for construction of the transmission line should be granted.

Accordingly, IT IS ORDERED THAT:

- (1) Case No. PUE-2009-00049 is reopened for the limited purpose of this Order.
- (2) Ordering Paragraph (5) of the Commission's June 18, 2010 Final Order, as revised by the Commission's August 21, 2012 Order, shall be revised to read as follows:

¹ Motion at 3.

² *Id.*

³ *Id.*

⁴ *Id.* at 4.

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The transmission line approved herein must be constructed and operational by March 1, 2013; provided, however, the Company is granted leave to apply for an extension for good cause shown.

- (3) All other provisions of the Commission's June 18, 2010 Final Order shall remain unchanged.

**CASE NO. PUE-2009-00050
MARCH 12, 2012**

APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY

For approval and certification of electric transmission facilities under Va. Code § 56-46.1 and the Utility Facilities Act, Va. Code § 56-265.1 *et seq.*, Remington CT-Gainesville 230 kV transmission line

ORDER

By order issued March 10, 2010, the State Corporation Commission ("Commission") granted authority to Virginia Electric and Power Company ("Dominion Virginia Power" or the "Company") to construct and operate the Company's proposed Remington CT - Gainesville 230 kV transmission line in Fauquier and Prince William Counties ("Final Order"). Ordering Paragraph (5) of the Final Order required that the transmission line and associated substation must be constructed and in-service within twenty-four months, or by March 10, 2012.

On February 14, 2012, the Company filed a Motion for Extension of Construction and In-Service Date ("Motion"). In its Motion, the Company stated that while it "has made significant progress in developing the project and is proceeding promptly to terminate and fully energize Line #2114 at 230 kV, it cannot complete the project in its entirety by March 10, 2012." The Company states that it cannot complete the project until Rappahannock Electric Cooperative has installed a new 230 kV substation, which is expected to be in place by May 1, 2012. Accordingly, the Company requested that the deadline in Ordering Paragraph (5) of the Final Order be extended until June 1, 2012. The Commission received no objection to the Company's request.

NOW THE COMMISSION, having considered this matter, is of the opinion and finds that the Company's request to extend the deadline for construction of the transmission line and associated substation should be granted.

Accordingly, IT IS ORDERED THAT:

- (1) Ordering Paragraph (5) of the Commission's March 10, 2010 Final Order shall be revised to read as follows:

The transmission line approved herein must be constructed and operational by June 1, 2012; provided, however, the Company is granted leave to apply for an extension for good cause shown.

- (2) All other provisions of the Commission's March 10, 2010 Final Order shall remain unchanged

**CASE NO. PUE-2009-00081
DECEMBER 14, 2012**

APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY

For approval to implement new demand-side management programs and for approval of two rate adjustment clauses pursuant to § 56-585.1 A 5 of the Code of Virginia

ORDER CLOSING CASE

On July 28, 2009, Virginia Electric and Power Company ("Company") filed an application with the State Corporation Commission ("Commission") for approval to implement twelve new demand-side management ("DSM") programs and two rate adjustment clauses to recover the costs associated with the DSM programs. On March 24, 2010, the Commission entered an Order Approving Demand-Side Management Programs wherein it, among other things, approved five of the proposed DSM programs and the two rate adjustment clauses, required additional filings by the Company, and continued the matter.

NOW THE COMMISSION, upon consideration of the foregoing, finds that there is nothing further to be decided in the captioned case and it therefore should be closed.

Accordingly, IT IS ORDERED THAT this matter hereby is dismissed from the Commission's active docket and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. PUE-2009-00115
DECEMBER 18, 2012**

APPLICATION OF
ATMOS ENERGY CORPORATION

For authority to implement a universal shelf registration

ORDER GRANTING MOTION TO EXTEND AUTHORITY

On November 13, 2009, the State Corporation Commission ("Commission") entered an Order Granting Authority ("November 13, 2009 Order") that, among other things, granted Atmos Energy Corporation ("Atmos" or "Company") authority to issue senior debt securities and common stock from the date of the Order through February 1, 2013, up to a maximum of \$1.3 billion, under the terms and conditions and for the purposes set forth in Atmos' application.

On December 11, 2012, Atmos filed a Motion to Extend Authority ("Motion") with the Commission requesting that the authority granted by the Commission's November 13, 2009 Order be extended for an additional two (2) months or through March 31, 2013. In support of its Motion, Atmos represents that at the time the Commission's November 13, 2009 Order was entered in this proceeding, Atmos did not know the exact date that the universal shelf registration statement would be filed and implemented in early 2010 due to the uncertain timing of securing sufficient state regulatory approvals prior to the filing of the universal shelf registration with the Securities and Exchange Commission ("SEC"). Atmos further represents in its Motion that its universal shelf filing was not implemented until March 31, 2010, and under the SEC's current term for such universal shelf filings, will continue through March 31, 2013. Finally, Atmos represents in its Motion that it is filing an application with the Commission requesting authority to implement a new universal shelf registration beginning on March 31, 2013. In order to ensure there is no gap in the authority granted by the Commission in the November 13, 2009 Order and any authority that may be granted with regard to Atmos' application for authority to implement a new universal shelf registration, Atmos requests that the authority granted by the Commission's November 13, 2009 Order be extended for an additional two (2) months or through March 31, 2013.

NOW THE COMMISSION, having considered Atmos' Motion to Extend Authority, is of the opinion and finds that the Motion should be granted and that the authority granted by the Commission's November 13, 2009 Order should be extended for an additional two (2) months or through March 31, 2013.

Accordingly, IT IS ORDERED THAT:

- (1) Atmos' Motion is hereby granted.
- (2) The authority granted by the November 13, 2009 Order is hereby extended for an additional two (2) months or through March 31, 2013.
- (3) The date for filing a Final Report of Action as contained in Ordering Paragraph (7) of the Commission's November 13, 2009 Order shall be extended from May 31, 2013, to July 31, 2013.
- (4) All other directives in the Commission's November 13, 2009 Order shall remain in full effect, except as modified above.
- (5) This matter is continued subject to the continuing review, audit, and appropriate directive of the Commission.

**CASE NO. PUE-2010-00004
OCTOBER 23, 2012**

APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY

For approval and certificates of public convenience and necessity for facilities in Arlington County: Glebe-Radnor Heights 230 kV Transmission Line; Davis-Radnor Heights 230 kV Transmission Line; Ballston-Radnor Heights 230 kV Transmission Line; and Radnor Heights Substation

ORDER EXTENDING PROJECT COMPLETION DATE

On October 9, 2012, Virginia Electric and Power Company d/b/a Dominion Virginia Power Company ("Dominion Virginia Power" or "Company") filed with the State Corporation Commission ("Commission") its Motion for Extension of Construction and In-Service Date ("Motion") for the transmission project that was approved by Final Order issued on July 21, 2010, in this proceeding ("Final Order"). As the Company notes in its Motion, the Commission's Final Order included the requirement that the transmission lines and associated substation approved therein be constructed and in service by June 30, 2012, but allowed the Company to apply for an extension of this date for good cause.¹ In moving for such an extension, Dominion Virginia Power states that, although it has made significant progress constructing the project, its completion has been delayed by a combination of permitting and scheduling complications beyond the Company's control.² The Company requests extension of the project's completion date to July 31, 2013.³

¹ *Application of Virginia Electric and Power Company, for approval and certificates of public convenience and necessity for facilities in Arlington County: Glebe-Radnor Heights 230 kV Transmission Line; Davis-Radnor Heights 230 kV Transmission Line; Ballston-Radnor Heights 230 kV Transmission Line; and Radnor Heights Substation*, Case No. PUE-2010-00004, 2010 S.C.C. Ann. Rept. 443, Final Order (July 21, 2010).

² Motion at 2-4.

³ *Id.* at 4-5.

NOW THE COMMISSION, having considered this matter, is of the opinion and finds that the Company's request to extend the deadline for constructing and placing in service the project should be granted.

Accordingly, IT IS ORDERED THAT:

- (1) Case No. PUE-2010-00004 is reopened for the limited purpose of this Order.
- (2) Ordering Paragraph (6) of the Commission's Final Order shall be revised to read as follows:

The transmission lines and associated substation approved herein must be constructed and in service by July 31, 2013; however, the Company is granted leave to apply for an extension for good cause shown.

- (3) All other provisions of the Final Order shall remain in full force and effect.

**CASE NO. PUE-2010-00011
FEBRUARY 27, 2012**

APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY

For authority to issue debt and preferred securities

ORDER EXTENDING AUTHORITY

On February 9, 2010, Virginia Electric and Power Company ("Virginia Power" or "Applicant") filed an application with the State Corporation Commission ("Commission") under Chapters 3¹ and 4² of Title 56 of the Code of Virginia requesting authority to issue up to \$3 billion in debt and preferred securities. The securities were to be in the form of Senior Notes, Junior Subordinated Notes, Sub-Junior Subordinated Notes and preferred securities (collectively "the Securities"). Virginia Power also proposed to issue debt to its parent, Dominion Resources, Inc. ("DRI") which, according to Virginia Power, would in all material aspects mimic the provisions of similar debt issued to the capital markets by DRI. The specific terms and conditions will be determined at the time of issuance and will be based on then market conditions.

Virginia Power also proposed to enter into anticipatory hedging transactions related to the issuance of the Securities. Virginia Power stated that entering into anticipatory hedging transactions provides a mechanism to mitigate the risk that economic circumstances underlying decisions to refund an outstanding security or to issue a new security will change adversely by the time the transaction is executed.

On March 5, 2010, the Commission entered an Order Granting Authority authorizing Virginia Power to issue up to \$3 billion in aggregate of its Securities, under the terms and conditions and for the purposes set forth in the application through February 28, 2012, provided that any refinancing results in demonstrated savings to Virginia Power.

By letter filed on January 30, 2012, Virginia Power stated that it has issued \$1.03 billion across five offerings of securities under the March 5, 2010 Order. The Company further stated that it expects its external funding needs to approximate the remaining \$1.97 billion of authorization by the end of 2013. Therefore, the Company requests an extension of the authority granted to issue the remaining \$1.97 billion in Securities for an additional two-year period ending February 28, 2014.

NOW THE COMMISSION, upon consideration of the Company's January 30, 2012 request and having been advised by its Staff, is of the opinion and finds that extending the period of time through February 28, 2014 to issue the remaining \$1.97 billion in Securities will not be detrimental to the public interest. However, we further note that in its reports of action filed in this case, the Company reported that it entered into numerous interest rate swap transactions in anticipation of issuing Securities. Ultimately the Company did not issue the Securities, thus leaving itself exposed to interest rate risk. Recovery of any costs incurred in such hedging activities will be considered in subsequent proceedings under the cost recovery standards established by the Code of Virginia. Accordingly,

IT IS ORDERED THAT:

- (1) Applicant is hereby granted approval to issue the remaining \$1.97 billion in Securities under the terms and conditions and for the purposes as detailed in its February 9, 2010 application through February 28, 2014.
- (2) Applicant shall submit a preliminary report of action within ten days after the issuance of any Securities pursuant to this Order to include the type of security, the date of issuance, the amount of issuance, the applicable interest rate or dividend rate, the maturity date, and net proceeds to Applicant.
- (3) Within 60 days of the end of the calendar quarter in which Securities are issued, Applicant shall file a more detailed report to include the information required in Ordering Paragraph (2), as well as an itemized list of actual expenses to date associated with the Securities issuances, a comparison of the effective rate of Securities issued and any refunded securities, use of proceeds, and a balance sheet reflecting the actions taken.

¹ Va. Code § 56-55 *et seq.*

² Va. Code § 56-76 *et seq.*

- (4) On or before April 30, 2014, Applicant shall file a final report of action to include all information required in Ordering Paragraph (3) which incorporates then-current actual expenses and fees paid for the proposed Securities issuances.
- (5) All other provisions outlined in our March 5, 2010 Order Granting Authority shall remain in full force and effect.
- (6) This matter shall remain under the continued review, audit and appropriate directive of the Commission.

**CASE NO. PUE-2010-00025
DECEMBER 14, 2012**

APPLICATION OF
KESWICK UTILITIES, INC.

For certificates of public convenience and necessity to provide water and sewerage services

ORDER CLOSING CASE

On December 9, 2010, Keswick Utilities, Inc. ("Keswick" or "Company"), filed with the State Corporation Commission ("Commission") pursuant to the Utilities Facilities Act, §§ 56-265.1, *et seq.* of the Code of Virginia an application ("Application") for a certificate of public convenience and necessity to provide water and sewerage services to Keswick Estates in Albemarle County, Virginia. Subsequently, the staff ("Staff") of the Commission discovered that the assets of Keswick Utilities, Inc., had been transferred to Keswick Estates Utilities, LLC. Further, the Staff was advised by representatives of Keswick Estates Utilities, LLC, that it would be filing with the Commission an application for approval of the transfer of assets and for a certificate of public convenience and necessity to provide water and sewerage services to Keswick Estates.

NOW THE COMMISSION, upon consideration of the foregoing, finds that the captioned case should be closed.

Accordingly, IT IS ORDERED THAT this matter hereby is dismissed from the Commission's active docket and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. PUE-2010-00054
FEBRUARY 14, 2012**

APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY

For approval of the annual filing as required by Final Order of the State Corporation Commission in Case No. PUE-2007-00066 granting approval of a rate adjustment clause, Rider S, with respect to the Virginia City Hybrid Energy Center generation and transmission facilities located in Wise County, Virginia

ORDER DISMISSING APPLICATION

On June 25, 2010, Virginia Electric and Power Company d/b/a Dominion Virginia Power ("Dominion Virginia Power" or "Company") filed with the State Corporation Commission ("Commission") its annual update with respect to its rate adjustment clause ("RAC"), Rider S ("Application"). In its Application, Dominion Virginia Power sought to recover costs associated with the development of the Virginia City Hybrid Energy Center generating plant and associated transmission facilities. The Commission approved a revised Rider S, which became effective on April 1, 2011.¹ The approved Rider S incorporated a placeholder rate of return on common equity ("ROE").

On November 30, 2011, the Commission set the Company's revised ROE in the biennial review proceeding.² For the period April 1, 2011, to November 29, 2011, the Commission prescribed an ROE of 11.3% for Rider S, plus a generating unit statutory adder of 100 basis points. Effective

¹ Order Approving Rate Adjustment Clause at 4 (Mar. 22, 2011).

² *Application of Virginia Electric and Power Company, For a 2011 biennial review of the rates, terms, and conditions for the provision of generation, distribution and transmission services pursuant to § 56-585.1 A of the Code of Virginia*, Case No. PUE-2011-00027, Final Order at 23-24 (Nov. 30, 2011), *Order Granting Reconsideration* (Dec. 16, 2011).

November 30, 2011, the ROE for Rider S is 10.4%.³ Dominion Virginia Power filed on December 22, 2011, and January 12, 2012, revised tariffs and terms and conditions of service, which included revisions governing Rider S.⁴

There being nothing further for the Commission to consider and rule upon in this proceeding, this case may be closed.⁵

Accordingly, IT IS ORDERED THAT this case is hereby dismissed from the Commission's docket of active cases and placed in closed status in the records maintained by the Clerk of the Commission.

³ *Id.*

⁴ Letter of Dec. 22, 2011, from Joseph K. Reid, III, Esq., with attachments, filed in Case No. PUE-2011-00027; Letter of Jan. 12, 2012, from William H. Baxter, II, Esq., with attachments, filed in Case No. PUE-2011-00027.

⁵ In approving a RAC for the Virginia City Hybrid Energy Center, the Commission provided for adjustment for the over- or under-recovery of lawful costs of the facility through Rider S. Application of Virginia Electric and Power Company, For approval of the Annual Filing as required by Final Order of the State Corporation Commission in Case No. PUE-2007-00066 granting approval of the rate adjustment clause, Rider S, with respect to the Virginia City Hybrid Energy Center generation and transmission facilities located in Wise County, Virginia, Case No. PUE-2009-00011, 2009 S.C.C. Ann. Rept. 398, Order Approving Rate Adjustment Clause (Dec. 16, 2009), modified, 2010 S.C.C. Ann. Rept. 301, Order Approving Stipulation and Addendum (Mar. 11, 2010). Thus, any under- or over-recovery attributable to the revision in ROE may be addressed in the next filing for Rider S.

**CASE NO. PUE-2010-00055
FEBRUARY 14, 2012**

APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY D/B/A DOMINION VIRGINIA POWER

For revision of rate adjustment clause: Rider R, Bear Garden Generating Station for 2011-2012

ORDER DISMISSING APPLICATION

On June 25, 2010, Virginia Electric and Power Company d/b/a Dominion Virginia Power ("Dominion Virginia Power" or "Company") filed with the State Corporation Commission ("Commission") its application for approval of the annual revision of its rate adjustment clause ("RAC"), Rider R, with respect to the Bear Garden Generating Station and Bear Garden-Bremo 230 kV Transmission Interconnection Line. The Commission approved a revised Rider R, which became effective on April 1, 2011.¹ The prescribed Rider R incorporated a placeholder return on equity ("ROE").²

On November 30, 2011, the Commission prescribed the Company's revised rate of return in the biennial review proceeding.³ For the period April 1, 2011, to November 29, 2011, the Commission prescribed an ROE of 11.3% for Rider R. Effective November 30, 2011, the ROE for Rider R is 10.4%.⁴ Dominion Virginia Power filed on December 22, 2011, and January 12, 2012, revised tariffs and terms and conditions of service, which included revisions governing Rider R.⁵ There being nothing further for the Commission to consider and rule upon in this proceeding, this case may be closed.⁶

Accordingly, IT IS ORDERED THAT Case No. PUE-2010-00055 be, and hereby is, dismissed from the Commission's docket and placed in closed status in the records maintained by the Clerk of the Commission

¹ Order Approving Rate Adjustment Clause at 4 (Mar. 22, 2011).

² *Id.* at 3, 4.

³ *Application of Virginia Electric and Power Company, For a 2011 biennial review of the rates, terms, and conditions for the provision of generation, distribution and transmission services pursuant to § 56-585.1 A of the Code of Virginia*, Case No. PUE-2011-00027, Final Order at 23-24 (Nov. 30, 2011), Order Granting Reconsideration (Dec. 16, 2011).

⁴ *Id.*

⁵ Letter of Dec. 22, 2011, from Joseph K. Reid, III, Esq., with attachments, filed in Case No. PUE-2011-00027; Letter of Jan. 12, 2012, from William H. Baxter, II, Esq., with attachments, filed in Case No. PUE-2011-00027.

⁶ In approving a RAC for the Bear Garden Generating Station, the Commission provided for adjustment for over- or under-recovery of the lawful costs of the facility through Rider R. *Application of Virginia Electric and Power Company, For approval of a Rate Adjustment Clause for Recovery of the Costs of the Bear Garden Generating Station and Bear Garden-Bremo 230 kV Transmission Interconnection Line*, Case No. PUE-2009-00017, 2009 S.C.C. Ann. Rept. 416, Order Approving Rate Adjustment Clause (Dec. 16, 2009), modified, 2010 S.C.C. Ann. Rept. 301, Order Approving Stipulation and Addendum (Mar. 11, 2010). Any under- or over-recovery attributable to the revision in ROE may be addressed in the next revision of Rider R.

**CASE NO. PUE-2010-00062
DECEMBER 19, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

CAPTAIN'S COVE UTILITY COMPANY, INC.

FINAL ORDER

On December 29, 2010, Captain's Cove Utility Company, Inc. ("CCUC" or "Company"), pursuant to the Small Water or Sewer Public Utility Act (§§ 56-265.13:1 *et seq.* of the Code of Virginia ("Code")), notified its customers and the State Corporation Commission's ("Commission") Division of Energy Regulation of its intent to increase rates and fees effective for service rendered on and after February 15, 2011.¹

On February 14, 2011, the Commission issued a Preliminary Order in this proceeding directing that a hearing be held on the Company's proposed rate increase, making the proposed rates interim, subject to refund with interest, until such time as the Commission has made its final decision in this case. Pursuant to § 56-265.13:6 C of the Code, the Commission directed CCUC to hold the funds generated by the interim rate increase in escrow until the Commission has made its final decision in this case. The Commission assigned this case to a Hearing Examiner to conduct further proceedings. An evidentiary hearing was convened on July 19, 2011.

Following the evidentiary hearing, on September 16, 2011, Michael D. Thomas, Hearing Examiner, filed his Hearing Examiner's Report ("Hearing Examiner's 2011 Report") recommending, among other things, that the Commission approve interest expense based on three promissory notes with a total face value of \$4,015,850.² Of this total, \$3,745,530 represents an amount payable by CCUC to CCG, LLC, an affiliated entity (the "CCUC Note" or "Note").

On October 6, 2011, the Captain's Cove Golf and Yacht Club, Inc. ("CCGYC"), filed objections to the Hearing Examiner's Report, alleging that including interest expense related to the CCUC Note was improper because the promissory note did not represent a true debt obligation of the utility. On October 18, 2011, the Company objected to the CCGYC filing, on the grounds that CCGYC had not filed to participate as a respondent.

On January 27, 2012, the Commission remanded the case to the Hearing Examiner for further consideration of the CCUC Note ("Remand Order"). The Commission also rejected the objections to the Hearing Examiner's Report filed by CCGYC, because CCGYC was not a respondent in this matter. Following the Commission's Remand Order, three additional parties filed timely notices of participation: CCGYC; Victoria M. Williams; and George Dattore.

Pursuant to the Remand Order, the Hearing Examiner convened an evidentiary hearing on May 24, 2012. On June 25, 2012, the Hearing Examiner filed a report on remand ("Remand Report" or "Hearing Examiner's 2012 Report"). After summarizing the procedural history and the additional evidence presented in the May 24, 2012 Remand Hearing, the Hearing Examiner recommended, among other things, that the Commission enter an order approving the Company's rate increase as modified in the Remand Report.

On July 12, 2012, CCGYC filed objections to the Hearing Examiner's 2012 Report. On July 13, 2012, Commission Staff filed comments on the Hearing Examiner's 2012 Report. On August 6, 2012, the Company filed a Motion seeking leave to reply to CCGYC's objections.³ On November 16, 2012, the Company filed a Motion for Expedited Consideration and Approval of Interim Billing.⁴

NOW THE COMMISSION, having considered this matter, approves an annual revenue requirement of \$889,084.

This revenue requirement reflects an approved rate base of \$2,461,726. Specifically, we reduce the Hearing Examiner's recommended rate base of \$2,741,928⁵ to remove the cost of the Virginia Pollutant Discharge Elimination System ("VPDES") sewer permit. As acknowledged by the Company, the cost of this permit should not have been capitalized; rather, it should have been expensed.⁶ This reduces rate base by \$326,277 for sewer plant in service, and increases it by \$46,075 for accumulated depreciation applicable to the permit.⁷ This results in a just and reasonable rate base of \$2,461,726.

¹ The Commission issued an Order and Rule to Show Cause on June 17, 2010, in this docket directing CCUC to continue providing adequate service to its customers and not to cease or reduce water or wastewater service pending further orders of the Commission. As a result of this and developments at a subsequent hearing, CCUC represented that the Company would be filing a petition for emergency rate relief.

² Hearing Examiner's 2011 Report at 26.

³ We reject CCUC's reply, which is prohibited by 5 VAC 5-20-120 of the Commission's Rules of Practice and Procedure, absent leave of the Commission, and CCUC has not established good cause as to why such leave should be granted. Moreover, such reply would not alter the findings made herein.

⁴ As a result of this Final Order, such motion is now moot.

⁵ See, e.g., Hearing Examiner's 2011 Report, Attachment 1, page 1.

⁶ See, e.g., Staff's July 13, 2012 Comments at 7; Ex. 26 (Simpson rebuttal) at 3; 2012 Tr. at 199; Hearing Examiner's 2012 Report at 30.

⁷ See, e.g., Hearing Examiner's 2012 Report at 17. CCUC shall make the appropriate accounting adjustments to restate plant and accumulated depreciation balances on its sewer books.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Next, we find that a rate of return on rate base of 6% is just and reasonable based on this record (which equates to \$147,704 of required net operating income). The Company's operation is mainly supported by promissory notes that carry an interest rate of 5%.⁸ Thus, a rate of return of 6% on rate base permits the Company to recover its financing costs for the rate base approved herein, plus a reasonable amount of working capital.⁹

We also find that \$726,618 represents a reasonable amount for operation and maintenance expenses, depreciation, and taxes (collectively, operating expenses).¹⁰ Netting the above reasonable level of expenses with current revenues of \$218,086 produces a net operating loss of \$508,532.¹¹ Combining this loss with the \$147,704 of required net operating income and grossing up for taxes, produces an increase in revenues of \$670,998.¹² This increase in revenues plus current revenues of \$218,086 produces a total revenue requirement of \$889,084.¹³

Next, for purposes of this proceeding, we approve the rate design proposed by Staff, agreed to by the Company, and recommended by the Hearing Examiner.¹⁴ This rate design, when applied to the revenue requirement approved herein, results in the following monthly rates:

<u>Customer</u>	<u>Water</u>	<u>Wastewater</u>
Service Customers	\$40.86	\$56.40
Marina Building	\$1,052.98	\$1,386.23
Availability Customers	\$6.21	\$18.65

We also find, however, that the CCUC shall file class cost of service data for its next rate case in order to evaluate further reasonable rate design options, including but not limited to the appropriate level and assignment of availability fees.¹⁵ For example, if reasonable, a modification to availability fees could lessen the rate burden on service customers.

In sum, we find that the revenue requirement approved herein is reasonable and allows CCUC to provide adequate service to its customers while maintaining its financial integrity. In addition, we recognize that the relatively large rate increase will have a direct impact on customers. Such a large one-step increase, however, is necessary based on the record herein and because of the Company's failure – over an extended period of time – to see if smaller increases were warranted.

Accordingly, IT IS ORDERED THAT:

- (1) CCUC's water and wastewater rates are approved as set forth in this Final Order.
- (2) CCUC shall comply with the requirements set forth in this Final Order.
- (3) The water availability rates, charges, and terms and conditions approved herein are fixed and substituted for those that took effect on an interim basis on February 14, 2011. The water service, marina building, wastewater service, and wastewater availability rates, charges, and terms and conditions approved herein shall be implemented for service on and after the the date of this Final Order. The Company shall forthwith file revised tariff sheets incorporating the findings herein on rates and charges and terms and conditions of service with the Clerk of the Commission and the Commission's Division of Energy Regulation in accordance with this Final Order. The Clerk of the Commission shall retain such filing for public inspection in person and on the Commission's website: <http://www.scc.virginia.gov/case>. Refunds of interim rates shall be made as required below.
- (4) The Company shall recalculate, using the rates and charges approved herein, each bill it rendered that used, in whole or in part, the rates and charges that took effect on an interim basis and subject to refund on and after February 14, 2011, and, where application of the new rates results in a reduced bill, refund the difference with interest as set out below within one-hundred fifty (150) days of the issuance of this Final Order.
- (5) Interest upon the ordered refunds shall be computed from the date payments of monthly bills were due to the date each refund is made at the average prime rate for each calendar quarter, compounded quarterly. The average prime rate for each calendar quarter shall be the arithmetic mean, to the nearest one-hundredth of one percent, of the prime rate values published in the Federal Reserve Bulletin or in the Federal Reserve's Selected Interest Rates (Statistical Release H. 15) for the three (3) months of the preceding calendar quarter.

⁸ See, e.g., 2011 Tr. at 65-66; 2012 Tr. at 209, 215; Ex. 4 at 39-41.

⁹ The Company's revenue requirement herein – and in the future – shall be based on the rate base and expenses found reasonable by the Commission, not on the value of the Note. For example, although the Note includes operational losses from prior years, such losses should not impact customers' rates on a forward-looking basis. Rates are set for utilities such as CCUC to recover reasonable expenses on a going-forward basis, not to recover past losses or a return on those losses, or to refund past gains.

¹⁰ This amount is determined by taking the \$736,406 operating expenses found by the Hearing Examiner and eliminating \$9,788 of depreciation expense on the VPDES sewer permit. See, e.g., Hearing Examiner's 2011 Report at Attachment 1, page 1; Hearing Examiner's 2012 Report at 17.

¹¹ See e.g., Hearing Examiner's 2011 Report, Attachment 1, page 1.

¹² The increase in revenues approved herein also provides for the recovery of the 2.20% Virginia Gross Receipts tax applicable to CCUC, which creates a conversion factor of 97.8%.

¹³ The Company shall also implement the seven booking recommendations that were made by Staff, agreed to by CCUC, and recommended by the Hearing Examiner. Hearing Examiner's 2011 Report at 27.

¹⁴ See, e.g., Hearing Examiner's 2011 Report at 27, 31.

¹⁵ We also adopt the Hearing Examiner's recommendation that "[t]he issue of transitioning the Company's books and records to the [Uniform System of Accounts] for Class A utilities should be deferred to the Company's next rate case." Hearing Examiner's 2011 Report at 31.

(6) On or before June 30, 2013, CCUC shall submit to the Divisions of Utility Accounting and Finance and Energy Regulation a report showing that all refunds have been made pursuant to this Order and itemizing the cost of the refund and accounts charged. The Company shall not recover the interest paid or the expenses incurred in making such refunds from water rates and charges subject to the Commission's jurisdiction.

(6) This case is dismissed.

**CASE NO. PUE-2010-00084
DECEMBER 12, 2012**

APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY

For approval to continue two rate adjustment Clauses, Riders C1 and C2, as required by the Order Approving Demand-Side Management Programs of the State Corporation Commission in Case No. PUE-2009-00081

ORDER CLOSING CASE

On July 30, 2010, Virginia Electric and Power Company ("Company") filed an application with the State Corporation Commission ("Commission") for approval to continue two rate adjustment clauses to recover the costs associated with the demand-side management programs approved in Case No. PUE-2009-00081.¹ On March 22, 2011, the Commission entered an Order Approving Rate Adjustment Clauses wherein it, among other things, approved the two rate adjustment clauses; required additional filings by the Company; and continued the matter. The additional filings have been made by the Company.

NOW THE COMMISSION, upon consideration of the foregoing, finds that there is nothing further to be decided in the captioned case and it should therefore be closed.

Accordingly, IT IS ORDERED THAT this matter is hereby dismissed from the Commission's active docket and the papers filed herein shall be placed in the Commission's file for ended causes.

¹ *Application of Virginia Electric and Power Company, For approval to implement new demand-side management programs and for approval of two rate adjustment clauses pursuant to § 56-585.1 A 5 of the Code of Virginia, Case No. PUE-2009-00081, 2010 S.C.C. Ann. Rept. 362, Order Approving Demand-Side Management Programs (Mar. 24, 2010).*

**CASE NO. PUE-2010-00104
SEPTEMBER 17, 2012**

APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY

For authority to establish a credit facility

ORDER EXTENDING AUTHORITY GRANTED

On September 1, 2010, Virginia Electric and Power Company ("Virginia Power" or the "Company") filed an application with the State Corporation Commission ("Commission") under Chapters 3 of Title 56 of the Code of Virginia seeking approval of a \$120 million, three-year syndicated revolving credit facility ("Credit Facility") to be used to support the Company's variable rate tax-exempt securities. The Company represented that the initial term of the Credit Facility would be three years from the date of execution of the Credit Facility but the Company would have the option to extend the maturity for two one-year periods. By Order Granting Authority dated September 23, 2010, the Commission granted Virginia Power authority to establish the Credit Facility.

On September 6, 2011, Virginia Power filed a Request for Authorization to Amend its \$120 Million Revolving Credit Facility, which requested authorization to extend the original term of the Credit Facility from September 2013 to September 2016 and to modify the associated fee schedules. Virginia Power indicated that the annual facility fees, which are based on the Company's credit ratings, would be reduced upon execution of the extension. In addition, the margin added to the interest rate index used to calculate interest expense also would be reduced. On September 21, 2011, the Commission, in its Order Extending Authority Granted, authorized Virginia Power to extend the term of the Credit Facility for three years beyond the initial three-year term, or through September 2016.

On August 27, 2012, the Company filed a Request for One-Year Extension of Authorization in which the Company represents that it has elected to exercise a one-year extension of the maturity date in order to lock in favorable pricing for an additional year. The Company has negotiated an up-front fee of six basis points on the committed amount of the Credit Facility in addition to the ongoing facility fees, letter of credit fees, and borrowing spreads as amended in September 2011.

NOW THE COMMISSION, upon consideration of the Company's request, is of the opinion and finds that approval of a one-year extension of the Credit Facility will not be detrimental to the public interest. Further, the Commission finds that the Company shall be permitted to exercise the remaining one-year option, without further application, provided that the terms of said option are equal or superior to those approved herein as not detrimental to the public interest.

Accordingly, IT IS ORDERED THAT:

- (1) Virginia Power is hereby authorized to extend the term of the Credit Facility for one year, or through September 2017, under the terms and conditions and for the purposes set forth in the Company's September 1, 2010 application and its filing request of August 27, 2012.
- (2) Virginia Power is further authorized to extend the term of the Credit Facility for an additional one-year period, or through September 2018, provided that the terms and conditions at the time of its exercise of said option are equal or superior to those approved herein.
- (3) Virginia Power shall file a copy of the extension agreement(s) promptly after it becomes available.
- (4) Virginia Power shall file a report on or before December 31, 2017, detailing the use of the Credit Facility for the extension period ending September 2017 to include the date, amount, and applicable interest rate of each loan under the Credit Facility. If it exercises the further option authorized herein, Virginia Power shall file an additional report on or before December 31, 2018, providing the same information.
- (5) Except to the extent modified herein, all other provisions of the Commission's September 23, 2010 Order Granting Approval shall remain in full force and effect.
- (6) This matter shall remain under the continued review, audit, and appropriate directive of the Commission.

**CASE NO. PUE-2010-00105
SEPTEMBER 17, 2012**

APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY

For authority to establish a credit facility

ORDER EXTENDING AUTHORITY GRANTED

On September 1, 2010, Virginia Electric and Power Company ("Virginia Power" or the "Company") filed an application with the State Corporation Commission ("Commission") under Chapters 3 and 4 of Title 56 of the Code of Virginia seeking approval of a \$500 million, three-year syndicated letter of credit facility with its parent company, Dominion Resources, Inc. ("LOC Facility"). The LOC Facility would be established pursuant to a credit agreement between the Company, Dominion Resources Inc., the administrative agent, and the lenders ("Credit Agreement"). The Company represented that the initial term of the LOC Facility would be three years from the date of execution of the Credit Agreement, but the Company would have the option to extend the maturity for two one-year periods. By Order Granting Authority dated September 23, 2010, the Commission granted Virginia Power authority to establish the LOC Facility.

On September 6, 2011, Virginia Power filed a Request for Authorization to Amend its \$500 Million Letter of Credit Facility, which requested authorization to extend the original term of the LOC Facility from September 2013 to September 2016 and to modify the associated fee schedules. Virginia Power indicated that the annual facility fees, which are based on the Company's credit ratings, would be reduced upon execution of the extension. In addition, the margin added to the interest rate index used to calculate interest expense also would be reduced. On September 21, 2011, the Commission, in its Order Extending Authority Granted, authorized the Company to extend the term of the LOC Facility for three years beyond the initial three-year term, or through September 2016.

On August 27, 2012, the Company filed a Request for One-Year Extension of Authorization in which the Company represents that it has elected to exercise a one-year extension of the maturity date in order to lock in favorable pricing for an additional year. The Company has negotiated an up-front fee of six basis points on the committed amount of the Credit Facility in addition to the ongoing facility fees, letter of credit fees, and borrowing spreads as amended in September 2011.

NOW THE COMMISSION, upon consideration of the Company's request, is of the opinion and finds that approval of a one-year extension of the LOC Facility will not be detrimental to the public interest. Further, the Commission finds that the Company shall be permitted to exercise the remaining one-year option, without further application, provided that the terms of said option are equal or superior to those approved herein as not detrimental to the public interest.

Accordingly, IT IS ORDERED THAT:

- (1) Virginia Power is hereby authorized to extend the term of the LOC Facility for one year, or through September 2017, under the terms and conditions and for the purposes set forth in the Company's September 1, 2010 application and its filing request of August 27, 2012.
- (2) Virginia Power is further authorized to extend the term of the LOC Facility for an additional one-year period, or through September 2018, provided that the terms and conditions at the time of its exercise of said option are equal or superior to those approved herein.
- (3) Virginia Power shall file a copy of the extension agreement(s) promptly after it becomes available.
- (4) Virginia Power shall file a report on or before December 31, 2017, detailing the use of the LOC Facility for the extension period ending September 2017 to include the date, amount, and applicable interest rate of each loan under the LOC Facility. If it exercises the further option authorized herein, Virginia Power shall file an additional report on or before December 31, 2018, providing the same information.

(5) Except to the extent modified herein, all other provisions of the Commission's September 23, 2010 Order Granting Approval shall remain in full force and effect.

(6) This matter shall remain under the continued review, audit, and appropriate directive of the Commission.

**CASE NO. PUE-2010-00106
SEPTEMBER 17, 2012**

APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY

For authority to establish a credit facility

ORDER EXTENDING AUTHORITY GRANTED

On September 1, 2010, Virginia Electric and Power Company ("Virginia Power" or the "Company") filed an application with the State Corporation Commission ("Commission") under Chapters 3 and 4 of Title 56 of the Code of Virginia seeking approval of a shared \$3 billion, three-year syndicated revolving credit and competitive loan facility ("Credit Facility") with its parent company, Dominion Resources, Inc. ("DRI"). The Credit Facility was to be established pursuant to a credit agreement between the Company, DRI, the administrative agent, and the lenders ("Credit Agreement"). The Company represented that the initial term of the Credit Facility was to be three years from the date of execution of the Credit Agreement but the Company would have the option to extend the maturity for two one-year periods. By Order Granting Authority dated September 23, 2010, the Commission granted Virginia Power authority to establish the Credit Facility to be shared with DRI.

On September 6, 2011, Virginia Power filed a Request for Authorization to Amend its \$3 Billion Revolving Credit and Competitive Loan Facility, which requested authorization to extend the original term of the Credit Facility from September 2013 to September 2016 and to modify the associated fee schedules. Virginia Power indicated that the annual facility fees, which are based on the Company's credit ratings, would be reduced upon execution of the extension. In addition, the margin added to the interest rate index used to calculate interest expense also would be reduced. On September 21, 2011, in its Order Extending Authority Granted, the Commission authorized Virginia Power to extend the term of the Credit Facility for three years beyond the initial three-year term, or through September 2016.

On August 27, 2012, the Company filed a Request for One-Year Extension of Authorization in which the Company represents that it has elected to exercise a one-year extension of the maturity date in order to lock in favorable pricing for an additional year. The Company has negotiated an up-front fee of six basis points on the committed amount of the Credit Facility in addition to the ongoing facility fees, letter of credit fees, and borrowing spreads as amended in September 2011.

NOW THE COMMISSION, upon consideration of the Company's request, is of the opinion and finds that approval of a one-year extension of the Credit Facility will not be detrimental to the public interest. Further, the Commission finds that the Company shall be permitted to exercise the remaining one-year option, without further application, provided that the terms of said option are equal or superior to those approved herein as not detrimental to the public interest.

Accordingly, IT IS ORDERED THAT:

(1) Virginia Power is hereby authorized to extend the term of the Credit Facility for one year, or through September 2017, under the terms and conditions and for the purposes set forth in the Company's September 1, 2010 application and its filing request of August 27, 2012.

(2) Virginia Power is further authorized to extend the term of the Credit Facility for an additional one-year period, or through September 2018, provided that the terms and conditions at the time of its exercise of said option are equal or superior to those approved herein.

(3) Virginia Power shall file a copy of the extension agreement(s) promptly after it becomes available.

(4) Virginia Power shall file a report on or before December 31, 2017, detailing the use of the Credit Facility for the extension period ending September 2017 to include the date, amount, and applicable interest rate of each loan under the Credit Facility. If it exercises the further option authorized herein, Virginia Power shall file an additional report on or before December 31, 2018, providing the same information.

(5) Except to the extent modified herein, all other provisions of the Commission's September 23, 2010 Order Granting Authority shall remain in full force and effect.

(6) This matter shall remain under the continued review, audit, and appropriate directive of the Commission.

**CASE NO. PUE-2010-00139
JULY 2, 2012**

APPLICATION OF
WASHINGTON GAS LIGHT COMPANY

For a general increase in rates and charges and to revise its terms and conditions for gas service

ORDER

On January 31, 2011, Washington Gas Light Company ("WGL" or the "Company") filed an application with the State Corporation Commission ("Commission") for a general increase in base rates and to revise its terms and conditions for gas service, effective October 1, 2011 ("Application"). WGL's Application proposed rates and charges designed to increase the Company's annual operating revenues by \$29.6 million, or approximately 6.0% in total operating revenues.¹ WGL reduced its requested increase from \$29.6 million to \$28.5 million, based on the results of a new depreciation study filed with the Commission on May 12, 2011.²

The proposed rate increase is based on the Company's operations, as adjusted, for the test year ended September 30, 2010. The proposed increase is based, in part, on an overall rate of return of 8.58% on rate base and a return on common equity capital of 10.5%.³

For the period October 1, 2007, through September 30, 2011, WGL's rates were subject to a performance-based rate regulation plan ("PBR Plan") approved by the Commission in Case No. PUE-2006-00059.⁴ Pursuant to the Stipulation adopted by the Commission in Case No. PUE-2006-00059, the Company was required to file a proposal for a new PBR Plan, a request to extend its PBR Plan, or a general rate application, by February 1, 2011.⁵ WGL elected to file an Application for a general increase in rates pursuant to § 56-237 of the Code of Virginia ("Code") and the Commission's Rules Governing Utility Rate Applications and Annual Informational Filings (20 VAC 5-201-10 et seq.) ("Rate Case Rules").

On February 24, 2011, the Commission issued an Order for Notice and Hearing that, among other things, docketed this proceeding; directed WGL to provide public notice of its Application; established a procedural schedule for the filing of comments, notices of participation, and testimony; directed the Commission's Staff ("Staff") to investigate and file testimony regarding the Application; scheduled a hearing on the Company's Application; and assigned a Hearing Examiner to conduct all further proceedings in this matter on behalf of the Commission and to file a report. Additionally, the Order for Notice and Hearing allowed WGL's proposed rates and charges to go into effect, on an interim basis and subject to refund with interest, for gas service rendered on and after October 1, 2011, which was the day after the Company's PBR Plan expired.

Notices of participation were filed by the Apartment and Office Building Association of Metropolitan Washington ("AOBA"); the Fairfax County Board of Supervisors ("Fairfax County"); the Board of Supervisors of Frederick County, Virginia ("Frederick County"); the County Board of Arlington County, Virginia ("Arlington County"); the City of Winchester, Virginia ("Winchester"); and the Office of the Attorney General's Division of Consumer Counsel ("Consumer Counsel").

On August 17, 2011, AOBA and Fairfax County filed the testimony and exhibits of their expert witnesses. On October 6, 2011, Staff filed the testimonies and exhibits of its expert witnesses. On October 27, 2011, the Company filed its rebuttal testimony.

On October 5, 2011, a hearing was convened for the limited purpose of receiving testimony from any public witnesses. No public witnesses appeared at the hearing.

On November 16, 2011, a second hearing was convened as scheduled. During the hearing, the Hearing Examiner granted a continuation of the evidentiary hearing until December 5, 2011. This extension was granted to allow certain parties and Staff additional time to finalize and file an agreement that had been reached in principle.

On November 30, 2011, WGL filed a Motion to Accept Stipulation along with a proposed stipulation designed to address all outstanding issues in the case ("Stipulation").⁶ The signatories to the Stipulation are WGL, Consumer Counsel, Arlington County, Fairfax County, Frederick County, and Staff. Among other things, the proposed Stipulation would increase annual revenues by \$20.0 million based upon the Stipulation's proposed return on common equity for WGL of 9.75%.

On December 5 and 6, 2011, the evidentiary hearing on the Application was convened and evidence was received into the record.⁷ At the hearing, witnesses from WGL and Staff testified in support of the Stipulation. AOBA's witness testified in support of his pre-filed testimony and in opposition to the Stipulation.⁸ All witness testimony was subject to cross-examination.

¹ Ex. 2 (Application) at 1, 4-6.

² Ex. 17.

³ Ex. 2 (Application) at 5.

⁴ *Application of Washington Gas Light Company, For a general increase in rates, fees, charges and revisions to the terms and conditions of service as well as approval of a performance-based rate regulation methodology under Va. Code § 56-235.6*, Case No. PUE-2006-00059, 2007 S.C.C. Ann. Rept. 315, Final Order (Sept. 19, 2007) ("PBR Order").

⁵ PBR Order, Attachment A at 15.

⁶ Ex. 41.

⁷ Evidence also was received into the record during the November 16, 2011 hearing, subject to any cross-examination during the subsequent evidentiary hearing.

On or before January 26, 2012, WGL, AOBA, Consumer Counsel, Fairfax County, Frederick County, and Staff filed post-hearing briefs.

On March 15, 2012, the Report of Alexander F. Skirpan, Jr., Senior Hearing Examiner ("Hearing Examiner's Report" or "Report") was filed. In the Report, the Hearing Examiner summarized the history and record in this case and recommended that the Commission enter an order that: (1) adopts the findings in the Report and the Stipulation; (2) grants the Company an increase in gross annual base rate revenues of \$20.0 million; and (3) dismisses this case from the Commission's docket of active cases and passes the papers herein to the file for ended causes.⁹ Specifically, the Hearing Examiner made the following findings:

- (1) WGL's current cost of equity is within a range of 9.25% - 10.25%, and that rates should be based on the midpoint of the return on equity range of 9.75%;
- (2) Based on the record and Stipulation, WGL requires \$20.0 million in additional gross annual base rate revenues;
- (3) WGL should be required to implement the rates and terms and conditions set forth in the Stipulation and attached revised tariffs;
- (4) WGL should be directed to write off the remaining Virginia portion of the regulatory asset associated with the repeal of the tax treatment of the Medicare Part D subsidy;
- (5) WGL should be required to implement the new depreciation rates filed in this proceeding effective from the date of the study, January 1, 2010;
- (6) WGL should be directed to submit to Staff, no later than June 30, 2015, a depreciation study with plant balances as of December 31, 2014. If WGL becomes aware of events or circumstances that could significantly impact the reserve imbalance, WGL may accelerate the time table for the depreciation study;
- (7) WGL should be permitted to recover hexane costs as provided in the Stipulation;
- (8) WGL should be permitted to implement the asset management arrangement as provided in the Stipulation;
- (9) WGL should be required to implement the miscellaneous tariff provisions as set forth in the Stipulation and attached revised tariffs;
- (10) WGL should be directed to produce a semi-annual report on the timeliness of customer refunds and on the usage of the fee-free credit/debit payment option, and work with the Staff to determine the performance metrics on which the Company will report;
- (11) WGL should be directed to provide a report to Staff within 180 days of the date of the Final Order in this proceeding on the potential cost of a document identification location for Virginia customers and to work with Staff on expanding the types of acceptable electronic identity verification methods that can be offered to customers;
- (12) WGL should be directed to file within 180 days of the date of the Final Order in this proceeding: (i) the seven affiliate service agreements identified by Staff witness Armstrong; and (ii) a study of pricing, exclusive of the labor component;
- (13) WGL should be required to continue the earnings test and earnings sharing mechanism under the PBR Plan for fiscal year 2011;
- (14) The increase in non-gas operating revenues includes the return on and of the gross investment of \$15,341,901 related to the SAVE Act for the period from June 2010 to September 30, 2011. WGL should be directed to file within 60 days of the Final Order in this proceeding an adjustment to the SAVE Rider to remove the net investment to reflect this finding; and
- (15) WGL should be directed to perform a study for submission in its next base rate case on persistent, above-average class returns.¹⁰

On or before April 5, 2012, WGL, Staff, Consumer Counsel, and Fairfax County filed comments supporting the Hearing Examiner's Report and recommending its adoption. AOBA filed comments recommending that the Commission find the Stipulation is not consistent with the public interest and

⁸ At this hearing, counsel for Winchester stated that the city did not support or oppose the Stipulation. Tr. at 53-55. However, on December 15, 2011, Winchester, by counsel, filed a letter stating the city was "unable to support the [Stipulation] . . . as a fair, just, and reasonable resolution of all issues of the proceeding. . . ."

⁹ Hearing Examiner's Report at 68.

¹⁰ Hearing Examiner's Report at 66-68.

should not be adopted. AOBA asks the Commission to review certain findings of the Hearing Examiner and to focus on three issues identified by AOBA: (1) the appropriate combination of capital structure and cost of equity; (2) justification of WGL's hexane costs and the recovery of the non-Btu component of those costs through base rates; and (3) asset management revenue sharing.¹¹

NOW THE COMMISSION, having considered this matter, is of the opinion and finds that the findings and recommendations of the Hearing Examiner should be adopted and the Stipulation approved, with the exception of the Hearing Examiner's finding that WGL should be required to implement the rates and terms and conditions of service set forth in the Stipulation and attached revised tariffs. More specifically, we find that the revenue allocation proposed by the Stipulation should be revised to allocate no portion of the proposed \$20 million rate increase to the Company's Commercial and Industrial Non-Heating and Non-Cooling customers served under Rate Schedule No. 2 – Commercial and Industrial Service, or to Group Metered Apartment Non-Heating and Non-Cooling customers served under Rate Schedule No. 3 – Group Metered Apartment Service. Otherwise, we find the Stipulation is just and reasonable and satisfies the relevant statutory requirements attendant to this case.

Code

WGL filed its Application pursuant to the Rate Case Rules and § 56-237 of Chapter 10 of Title 56 of the Code. Among other things, just and reasonable rates are defined in Chapter 10 by § 56-235.2 A, which provides, in part, as follows:

Any rate, toll, charge or schedule of any public utility operating in this Commonwealth shall be considered to be just and reasonable only if: (1) the public utility has demonstrated that such rates, . . . in the aggregate provide revenues not in excess of the aggregate actual costs incurred by the public utility in serving customers within the jurisdiction of the Commission, including such normalization for nonrecurring costs and annualized adjustments for future costs as the Commission finds reasonably can be predicted to occur during the rate year, and a fair return on the public utility's rate base used to serve those jurisdictional customers . . . ; and (2) the public utility has demonstrated that such rates, . . . contain reasonable classifications of customers. . . . In determining costs of service, the Commission may use the test year method of estimating revenue needs. . . .

Stipulation

The Stipulation, which is attached hereto and has been executed by most parties to this proceeding and Staff, is a fair and reasonable resolution on all issues presented in this proceeding, with the exception of the Stipulation's proposed revenue allocation among the Company's customer classes. The Stipulation's proposed \$20.0 million base rate increase represents a substantial reduction from WGL's original requested increase. While we understand that this rate increase may represent a hardship on some customers, we find that this rate increase is consistent with the facts and laws that govern this case. Through its testimony and exhibits, WGL has demonstrated, among other things, that the stipulated base rate increase is "not in excess of the aggregate actual costs incurred by [WGL] in serving customers within the jurisdiction of the Commission."¹² Additionally, the Stipulation includes, among other things: (1) an asset management revenue sharing mechanism by which customers will receive a larger level of annual guaranteed payments than previously provided; (2) an agreement for WGL to write-off, rather than charge to its customers, a regulatory asset related to a deferred tax expense; and (3) an authorized return on common equity of 9.75%, the midpoint of the range of 9.25% – 10.25%.¹³ Taken as a whole, the Stipulation, as modified herein, is in the public interest and establishes rates that are just and reasonable for both the customers and WGL.

As discussed below, we agree with the Hearing Examiner's findings and recommendations regarding the three issues AOBA has specifically asked us to review. We therefore do not find that the record on these issues supports rejection of the Stipulation, as advocated by AOBA.

Cost of Common Equity and Capital Structure

A public utility's capital structure consists of its balance of common equity, debt, and other forms of capital used to provide service to customers. A utility's management of its capital structure can impact its financial risk, debt ratings, and costs of capital.¹⁴ When setting public utility rates, a capital structure is necessary to calculate a weighted average cost of capital, which, in turn, affects revenue requirement determinations.

As the Hearing Examiner recognizes, the Commission has previously expressed a preference for using an actual, rather than hypothetical, capital structure when setting the rates of public utilities, including WGL.¹⁵ Where the equity ratio in a utility's capital structure is sufficiently different than those of comparable companies, we have made adjustments to either increase or decrease that utility's authorized return on common equity.¹⁶ Additionally, we have expressed our expectation that a public utility, in making decisions that affect its capital structure, shall pursue a proper balance that avoids unnecessary upward pressure on rates.¹⁷

¹¹ AOBA's Comments at 3. On April 18, 2012, WGL filed a Motion For Leave to File Reply and Reply to AOBA's Comments to the Report of the Senior Hearing Examiner. We hereby deny this request for us to consider untimely arguments.

¹² Va. Code § 56-235.2 A(1).

¹³ Ex. 41 (Stipulation) at 3, 5-9.

¹⁴ See, e.g., Ex. 8 (Nee direct) at 4-6.

¹⁵ Hearing Examiner's Report at 58 (citations omitted).

¹⁶ See, e.g., *Application of Columbia Gas of Virginia, Inc., For general increase in natural gas rates and approval of performance-based rate regulation methodology pursuant to § 56-235.6 of the Code of Virginia*, Case No. PUE-1997-00455, 1999 S.C.C. Ann. Rept. 380, 382-83, Final Order (Feb. 19, 1999).

¹⁷ See, e.g., *Application of Virginia Electric and Power Company and Dominion Resources, Inc., For expedited approval of authority to issue up to \$3 billion in common stock to parent under Chapters 3 and 4 of the Code of Virginia of 1950, as amended*, Case No. PUE-2009-00100, 2009 S.C.C. Ann. Rept. 538, 540, Order Granting Approval (Oct. 30, 2009).

In this case, the Stipulation recommends setting WGL's rates based on the Company's actual capital structure as of September 30, 2010, and setting a return on common equity for WGL at 9.75%, which is the midpoint of the range of 9.25% – 10.25%.¹⁸ In contrast, AOBA recommends that WGL's rates be set based on a five-year average, which includes an equity ratio that is significantly different than WGL's actual capital structure, and a cost of equity of "not greater than 9.4%."¹⁹

We agree with the Hearing Examiner that the use of WGL's actual capital structure with the stipulated cost of common equity and other cost of capital components is reasonable and supported by the record in this case.²⁰ The record supports approval of, and we find to be reasonable, a 9.25% to 10.25% return on common equity range for WGL, which overlaps with the cost of common equity ranges recommended by each witness that provided such testimony.²¹ Additionally, we find that this range, and the stipulated return on common equity of 9.75%, properly reflect, among other things, the common equity balance in WGL's capital structure.

AOBA indicates that the revenue required by WGL, and thus rates paid by customers, would be lower if the capital structures and costs of equity for other utilities were instead used to set WGL's rates.²² While this may be mathematically correct, the Code directs us to set just and reasonable rates – including a reasonable rate of return – for WGL and its customers, and we do so based on our review of the record established regarding WGL's cost of capital and capital structure.²³ Additionally, because we find the stipulated base rate increase of \$20.0 million to be just and reasonable, we do not find that, in this case, the use of WGL's actual capital structure will result in unnecessary upward pressure on rates using the 9.75% return on equity proposed by the Stipulation. Based on the record, we find it reasonable in this case to use the capital structure recommended by the Stipulation, which we find to be more representative of the capital structure and related capital costs that will exist during the period when the rates approved herein will be effective. We further find that the Stipulation's proposed capital structure and weighted cost of capital properly reflect the lower risk associated with this capital structure through a lower authorized return for the Company.²⁴

In approving the return on common equity and capital structure provisions of the Stipulation, however, we reiterate our expectation that utilities, including WGL, will continue to pursue capital structures that properly balance, among other things, the associated impact on customer rates.

Non-Btu Hexane Costs

Since 2006, WGL has been injecting hexane into its distribution system to maintain aging rubber seals found in some sections of the Company's distribution system.²⁵ As explained by the Company, WGL "uses hexane as an additive to restore heavy hydrocarbons into re-gasified [liquefied natural gas ("LNG")] and other gas with a low heavy hydrocarbon content."²⁶

The PBR Plan we approved in Case No. PUE-2006-00059 addressed the recovery of hexane costs in two components: (1) a Btu-component, which represents the fuel value of injected hexane; and (2) a non-Btu component, which represents the cost of injected hexane less its fuel value.²⁷ Specifically, we approved cost recovery related to the Btu-component of hexane through the Company's purchased gas charge ("PGC") and balancing charges while costs related to the non-Btu component were expensed.²⁸

For WGL's rates following the expiration of its PBR Plan, WGL's Application proposed that all jurisdictional hexane costs be recovered from customers through the Company's PGC.²⁹ In the alternative, WGL recommended a continuation of the bifurcated treatment approved in Case No. PUE-2006-00059, with the non-Btu component of hexane costs to be recovered through the Company's base rates and the Btu component recovered through its PGC and balancing charges.³⁰

¹⁸ Ex. 41 (Stipulation) at 3-4.

¹⁹ See, e.g., AOBA's Post-hearing Brief at 7; Ex. 31 (Oliver direct) at 47-49, 58.

²⁰ Hearing Examiner's Report at 58.

²¹ See, e.g., Ex. 9 (Hanley direct) at 47 (recommending a range of 10.0% to 11.0%); Ex. 31 (Oliver direct) at 58 (recommending a return on common equity of "not greater than 9.4%") (emphasis omitted); Ex. 33 (Sinclair direct) at 16 (recommending a range of 8.5% to 9.5%); Ex. 37 (Ballsrud direct) at 39 (recommending a range of 8.5% to 9.5%).

²² See, e.g., AOBA's Comments at 4-5, AOBA's Post-Hearing Brief at 10.

²³ Va. Code § 56-235.2 A.

²⁴ Additionally, we note that the stipulated cost of capital is just one component of a stipulated revenue requirement that we find reasonably balances the interests of customers and the Company, consistent with the Code.

²⁵ See, e.g., Ex. 14 (Buckley direct) at 32.

²⁶ *Id.*

²⁷ PBR Order, Attachment A at 7-9.

²⁸ *Id.* Additionally, WGL could, under certain conditions, request recovery of non-Btu hexane costs in excess of \$400,000. *Id.* at 8-9.

²⁹ Ex. 2 (Application) at 8-9, Ex. 14 (Buckley direct) at 28-35.

³⁰ *Id.*

Through the Stipulation, WGL now supports a continuation of the bifurcated hexane cost treatment approved in Case No. PUE-2006-00059, as do the other signatories to the Stipulation. The Stipulation also specifically adopts Staff's cost of service calculations for hexane, which are based on the volume of hexane injected by WGL for the twelve months ended June 30, 2011, rather than amounts projected by WGL.³¹

AOBA asserts that WGL has made no demonstration that hexane costs are necessary for the provision of safe and reliable service and, therefore, no portion of WGL's hexane costs are appropriate for recovery through WGL's base rates.³² AOBA cites factors that include price volatility; the influence of fuel prices, weather, and demand on hexane costs; and the influence of re-gasified LNG from Cove Point Terminal on the Company's need for hexane injections.³³ Additionally, AOBA asserts further that unless WGL identifies the target levels of heavy hydrocarbons that it seeks to maintain on its system or presents evidence of the actual levels of heavy hydrocarbons in the gas it has been receiving from its pipeline suppliers, neither base rate recovery nor PGC recovery of hexane costs should be permitted for WGL.³⁴

The Hearing Examiner found that the continued base rate recovery of the non-Btu-related component of hexane costs in the Stipulation is reasonable. The Hearing Examiner found that the actual, historic hexane costs provide a reasonable basis for determining the cost for the rate year. Additionally, the Hearing Examiner accepted WGL's expertise to operate its distribution system safely and reliably and found that AOBA failed to present any evidence that suggests WGL's levels of hexane injections are unnecessary.³⁵

We agree with the Hearing Examiner that the continued base rate treatment of the non-Btu-related component of hexane costs, at the level provided in the Stipulation, is reasonable.³⁶ Our decision in this regard takes into consideration not only WGL's burden of proof in this case but also, among other things, WGL's continual obligation to provide reasonably adequate service – which includes safety and service reliability considerations – at just and reasonable rates.³⁷ In this case, WGL has sufficiently demonstrated that the safety and service reliability reasons that supported the recent inclusion of hexane costs as a cost of serving Virginia ratepayers remain legitimate at this time.³⁸ Based on the record, we cannot conclude that these costs should, at this time, be categorically disallowed from recovery by WGL.³⁹

We further find that base rate treatment of the non-Btu portion of hexane costs appropriately limits any upward pressure on customer rates from hexane injections that may occur in the near term. AOBA's concern about base rate treatment of hexane costs potentially exposing WGL to "inappropriate financial penalties"⁴⁰ also is addressed by virtue of the fact that WGL has agreed to the inclusion of a fixed amount of hexane costs in base rates.⁴¹ Additionally, our approval herein addresses AOBA's concern that base rate recovery of hexane costs might jeopardize "the safe and reliable operation of [WGL's] system."⁴² Indeed, our approval of hexane costs in this case – rather than the disallowance of costs recommended by AOBA – explicitly recognizes the safety and reliability reasons that currently support recovery of such costs.⁴³

Finally, we agree with the Hearing Examiner that the actual, historic hexane figures recommended by Staff, and endorsed by the Stipulation, provide a reasonable basis for determining non-Btu hexane cost for the rate year.⁴⁴ The gallons of hexane that the Stipulation adopts for ratemaking purposes are simply an actual figure updated from the test year.⁴⁵ Such updates of actual costs, when appropriate, are regularly adopted as part of the ratemaking methodology used to calculate a utility's Virginia jurisdictional cost of service.

However, we note that our determination herein is without prejudice to future Commission proceedings. If, for example, we determine in the future that hexane costs are no longer appropriately incurred to serve WGL's customers or that these costs are more appropriately recovered in a different manner, then such findings will be reflected in WGL's future rates.

³¹ See, e.g., Ex. 41 (Stipulation) at 6; Ex. 35 (Armstrong direct) at 9-10.

³² AOBA's Comments at 9.

³³ *Id.* at 10-12.

³⁴ *Id.* at 13.

³⁵ Hearing Examiner's Report at 64.

³⁶ *Id.*

³⁷ See, e.g., Va. Code §§ 56-234, 56-235.2.

³⁸ See, e.g., Ex. 29 (Buckley rebuttal) at 18-19; Tr. at 87, lines 7-23 (Buckley); Tr. at 91, lines 1-18 (Buckley); Ex. 71; Ex. 74.

³⁹ Ex. 31 (Oliver direct) at 65, 67.

⁴⁰ AOBA's Comments at 13.

⁴¹ During the hearing, WGL identified base rate treatment of such costs as "a concession from the company's perspective." Tr. at 424, lines 10-11 (Buckley).

⁴² AOBA's Comments at 13.

⁴³ Additionally, we note that the record does not indicate that our prior approval of base rate treatment of hexane costs has, in any way, compromised safety or reliability.

⁴⁴ Hearing Examiner's Report at 64.

⁴⁵ See, e.g., WGL's Post-hearing Brief at 18, n.79 (citations omitted).

Asset Management Sharing

As explained by Staff, "[a]sset management arrangements are intended to optimize the utilization of certain storage and transportation capacity resources contracted for by WGL when these resources are not required to serve the demand of firm sales service customers."⁴⁶ In Case No. PUE-2006-00059, we previously approved an asset management sharing mechanism by which WGL could retain a share of such revenue as an incentive for it to optimize these assets for the mutual benefit of WGL and its ratepayers.⁴⁷ That mechanism, as part of the PBR Plan, expired on September 30, 2011.

For rates beginning October 1, 2011, the Stipulation provides for an asset management sharing mechanism pursuant to provisions that include the following:

Virginia sales customers shall receive an annual guaranteed credit of \$3.2 million of asset management revenues. If asset management activities generate Virginia-allocated net revenues of less than \$3.2 million in any twelve-month period, the Company nonetheless will apply an annual credit to Virginia customers, through the PGC, of \$3.2 million. Therefore, Virginia customers shall receive 100% of the first \$3.2 million of net asset optimization revenues. Of the next \$3,300,000 of Virginia-allocated net revenues, the sharing shall be 75% to customers and 25% to the Company. Virginia-allocated net revenues in excess of \$6,500,000 shall be shared equally between customers (50%) and the Company (50%).⁴⁸

AOBA opposes the asset sharing mechanism of the Stipulation, asserting, among other things, that it "unduly limits the upside asset management revenue sharing potential" for WGL's customers.⁴⁹ Instead, AOBA recommends revenue sharing in which ratepayers would receive at least 80% of all net asset revenues, with a guaranteed minimum of \$2.0 million per year received by ratepayers.⁵⁰

Based on the Hearing Examiner's review of the Stipulation asset management mechanism and AOBA's proposed mechanism, he found that:

In comparing the asset management sharing mechanism of the Stipulation to the proposal of [AOBA], I find that the larger level of guaranteed payment under the Stipulation reduces risk to ratepayers. . . . Given the inherent risks of asset management . . . the sharing mechanism provided in the Stipulation, as opposed to the mechanism proposed by . . . AOBA, yields a higher level of assurance that ratepayers will benefit from the net revenues derived from asset management. Accordingly, I find that the Stipulation's asset management sharing mechanism supports the overall reasonableness of the Stipulation.⁵¹

We agree. The annual customer guarantee of \$3.2 million of net asset optimization revenues – which is a guaranteed amount that is greater than those in WGL's original proposal in this case, AOBA's proposal, or the mechanism approved in Case No. PUE-2006-00059 – serves to beneficially decrease customer risk. Additionally, unlike the mechanism approved in Case No. PUE-2006-00059, "[t]he Stipulation . . . proposes a sharing mechanism that is not tied to a return on equity 'trigger' for the sharing of asset optimization revenues above the guaranteed annual credit."⁵² Based on these aspects of the sharing mechanism included in the Stipulation, along with the mechanism as a whole, we agree with Staff that this proposal is "much more favorable to WGL's customers than the [sharing mechanism] under the Company's PBR Plan, thereby further reducing the total rates of WGL's Virginia customers."⁵³

Revenue Allocation

The Stipulation proposes a revenue allocation methodology that is generally consistent with our policy favoring the development of cost-based rates and moving customer class rates of return toward the Company's overall system rate of return. However, as noted by Staff witness Stevens, the Company's Commercial and Industrial Non-Heating and Non-Cooling Class ("C&I NHC") and Group Metered Apartment Non-Heating and Non-Cooling Class ("GMA NHC") are generating high rates of return relative to the Company's other customer classes.⁵⁴ These relatively high rates of return for the C&I NHC and GMA NHC Classes will continue under the revenue allocation methodology proposed by the Stipulation, but WGL will be required, under the terms and conditions of the Stipulation, to file a plan to address these high returns in its next general base rate case.⁵⁵

Given the high relative rates of return generated by the C&I NHC and GMA NHC Classes, we find that no increase should be allocated to these two customer classes at the present time. The revenue allocation methodology proposed by the Stipulation allocates approximately \$116,477 to the C&I

⁴⁶ Ex. 38 (Stevens direct) at 24.

⁴⁷ PBR Order, Attachment A at 9-11.

⁴⁸ Ex. 41 (Stipulation) at 7.

⁴⁹ AOBA's Comments at 16.

⁵⁰ Ex. 31 (Oliver direct) at 36.

⁵¹ Hearing Examiner's Report at 62.

⁵² Staff's Post-hearing Brief at 7.

⁵³ *Id.*

⁵⁴ Ex. 38 (Stevens direct) at 12-13.

⁵⁵ Ex. 41 (Stipulation) at 5.

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NHC Class and \$100,271 to the GMA NHC Class, totaling approximately \$216,748. We find this additional revenue should be allocated to the volumetric rates in the Company's Residential and Non-Firm Customer classes, with \$143,881 allocated to Rate Schedule No. 1 – Residential Service, \$618 allocated to Rate Schedule No. 1A – Residential Delivery Service, and \$72,250 allocated to Rate Schedule No. 4 – Interruptible Service and Rate Schedule No. 7 – Interruptible Delivery Service. We further find that with the change to the revenue allocation addressed herein, the Stipulation and Hearing Examiner's findings and recommendations are just and reasonable and should be accepted in their entirety.

Accordingly, IT IS ORDERED THAT:

(1) Within ten (10) days from the date of this Order, Washington Gas Light Company, the Staff of the State Corporation Commission, the Office of the Attorney General's Division of Consumer Counsel, the County Board of Arlington County, the Board of Supervisors of Fairfax County, and the Board of Supervisors of Frederick County shall file a notice of acceptance with the Commission if they accept approval of the Stipulation subject to the modified revenue allocation methodology discussed herein. Upon timely filing of such notice of acceptance by all signatories to the Stipulation, the Commission further orders as follows:

(a) The findings and recommendations of the March 15, 2012 Hearing Examiner's Report are hereby adopted, except as modified in this Order. WGL shall comply with the directives stated therein, except as modified in this Order.

(b) In accordance with the findings made herein, the Stipulation presented by the parties and Staff, and designated as Attachment A hereto, is hereby adopted, except as modified by this Order, and made a part of this Order.

(c) The rates and charges and terms and conditions approved herein are fixed and substituted for the rates and charges and terms and conditions that took effect on an interim basis on October 1, 2011. The Company shall forthwith file revised tariff sheets incorporating the findings herein on rates and charges and terms and conditions of service with the Clerk of the Commission and the Commission's Division of Energy Regulation in accordance with this Final Order. The Clerk of the Commission shall retain such filing for public inspection in person and on the Commission's website: <http://www.scc.virginia.gov/case>. Refunds of interim rates shall be made as required below.

(d) WGL shall recalculate, using the rates and charges approved herein, each bill it rendered that used, in whole or in part, the rates and charges that took effect on an interim basis subject to refund on and after October 1, 2011, and, where application of new rates results in a reduced bill, refund the difference with interest as set out below within ninety (90) days of the issuance of this Final Order.

(e) Interest upon the ordered refunds shall be computed from the date payments of monthly bills were due to the date each refund is made at the average prime rate for each calendar quarter, compounded quarterly. The average prime rate for each calendar quarter shall be the arithmetic mean, to the nearest one-hundredth of one percent, of the prime rate values published in the Federal Reserve Bulletin or in the Federal Reserve's Selected Interest Rates (Statistical Release H. 15) for the three (3) months of the preceding calendar quarter.

(f) The refunds ordered herein may be credited to the current customers' accounts. Refunds to former customers shall be made by check mailed to the last known address of such customers when the refund is \$1 or more. WGL may offset the credit or refund to the extent of any undisputed outstanding balance for the current or former customer. No offset shall be permitted against any disputed portion of an outstanding balance. WGL may retain refunds to former customers when such refund is less than \$1. WGL shall maintain a record of former customers for which the refund is less than \$1, and such refunds shall be promptly made upon request. All unclaimed refunds shall be subject to § 55-210.6:2 of the Code.

(g) Within sixty (60) days of completing the refunds ordered herein, the Company shall deliver to the Commission's Divisions of Energy Regulation and Utility Accounting and Finance a report showing that all refunds have been made pursuant to this Final Order and detailing the costs incurred in effecting such refunds and the accounts charged.

(h) WGL shall bear all costs incurred in effecting the refunds ordered herein.

(2) This case is continued pending further order of the Commission.

NOTE: A copy of Attachment A entitled "Stipulation" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. PUE-2010-00139
JULY 24, 2012**

APPLICATION OF
WASHINGTON GAS LIGHT COMPANY

For a general increase in rates and charges and to revise its terms and conditions for gas service

ORDER

On July 2, 2012, the State Corporation Commission ("Commission") entered an Order ("July 2, 2012 Order") in this proceeding that, among other things, adopted the terms and conditions of a Stipulation supported by most of the parties in this case and the Commission Staff,¹ with the exception of the

¹ The Stipulation was supported by Washington Gas Light Company ("W G L " or "Company"); the Commission Staff; the Office of the Attorney General, Division of Consumer Counsel ("Consumer Counsel"); the County Board of Arlington County ("Arlington County"); the Board of Supervisors of Fairfax

Stipulation's proposed allocation of the rate increase among the Company's customer classes and rate schedules. The July 2, 2012 Order further directed all signatories to the Stipulation to file a notice of acceptance with the Commission if they accept approval of the Stipulation subject to the modified revenue allocation methodology adopted by the Commission. The signatories to the Stipulation were directed to file notices of acceptance because the terms and conditions of the Stipulation provide, among other things, that if the Commission does not accept the Stipulation in its entirety, the signatories can modify the Stipulation by unanimous consent or withdraw their support of the Stipulation and an *ore tenus* hearing would be convened for further proceedings. Given our modifications to the Stipulation's proposed revenue allocation methodology, the Commission solicited input from the signatories to the Stipulation regarding whether additional proceedings were necessary before ruling on WGL's application.

Notices of acceptance were filed by WGL, the Commission Staff, Arlington County, Fairfax County, and Frederick County. The Consumer Counsel filed a letter stating that it "continues to support the underlying Stipulation and does not object to the Commission's modified revenue allocation methodology."² The Consumer Counsel therefore requested that its letter be treated as a "notice of acceptance" of the Commission's modification to the Stipulation.

NOW THE COMMISSION, having considered this matter, is of the opinion and finds that our July 2, 2012 Order, including findings (a) through (h) in Ordering Paragraph (1) contained therein, are now final as of the entry date of this Order and its filing with the Clerk of the Commission.

Accordingly, IT IS ORDERED THAT:

(1) The July 2, 2012 Order, including findings (a) through (h) in Ordering Paragraph (1) contained therein, are now final as of the entry date of this Order and its filing with the Clerk of the Commission.

(2) This case is dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

County ("Fairfax County"); and the Board of Supervisors of Frederick County ("Frederick County"). The Apartment and Office Building Association of Metropolitan Washington ("A O B A") opposed the Stipulation. At the hearing, counsel for the City of Winchester ("Winchester") stated that the city did not support or oppose the Stipulation. Tr. at 53-55. However, on December 15, 2011, Winchester, by counsel, filed a letter stating the city was "unable to support the [Stipulation] ... as a fair, just, and reasonable resolution of all issues of the proceeding...."

² Consumer Counsel July 16, 2012 letter.

CASE NO. PUE-2010-00144
AUGUST 27, 2012

APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY
and
DOMINION RESOURCES SERVICES, INC.

For approval of a Revised Services Agreement under Chapter 4 of Title 56 of the Code of Virginia

ORDER GRANTING MOTION

On June 5, 2012, Virginia Electric and Power Company ("DVP" or the "Company") and Dominion Resources Services, Inc. ("DRS") (collectively, "Joint Movants"), filed a Joint Motion to Amend Revised Services Agreement to Reflect Additional Service ("Motion") with the State Corporation Commission ("Commission"), pursuant to Chapter 4 of Title 56 of the Code of Virginia ("Code"),¹ Rule 5 VAC 5-20-110 of the Commission's Rules of Practice and Procedure, and Ordering Paragraph (4) of the Commission's March 9, 2011 Order Granting Approval in this case ("2011 Order").² In the Motion, the Joint Movants are requesting approval of an amendment to the Revised DRS Services Agreement ("Revised Agreement") approved by the Commission in its 2011 Order to reflect an additional service being obtained by DVP from DRS.³

In the 2011 Order, the Commission granted the Joint Movants approval, among other things, to enter into the Revised Agreement effective January 1, 2012, and dismissed the matter. The Joint Movants state that, since January 1, 2012, the Company has been receiving the twenty-two (22) enumerated services available under the Revised Agreement from DRS. Among these services, the Company has received and been charged for facilities services related to its use of corporate office space owned by DRS pursuant to the "Business Services" category of the Revised Agreement. The Joint Movants state, however, that for greater clarity and transparency, the Company has since determined that such facilities services should instead be provided and charged under a new "Office Space and Equipment" services category, and corresponding method of allocation, to be consistent with the category and

¹ Va. Code § 56-76 *et seq.* (the "Affiliates Act").

² *Application of Virginia Electric and Power Company and Dominion Resources Services, Inc., For approval of a Revised Services Agreement under Chapter 4 of Title 56 of the Code of Virginia*, Case No. PUE-2010-00144, 2011 S.C.C. Ann. Rept. 410, Order Granting Approval (Mar. 9, 2011).

³ We are re-opening this docket for the limited purpose of addressing the Motion herein.

method of allocation recently approved by the Commission in Case Nos. PUE-2012-00017 and PUE-2012-00018 for the Company's Revised Support Services Agreement and Affiliate Support Services Agreements, respectively.⁴

Pursuant to Ordering Paragraph (4) of the Commission's 2011 Order, "[a]pproval of the Revised Agreement shall be limited to services specifically identified in the Revised Agreement. Should DVP wish to obtain additional services from DRS, subsequent Commission approval shall be required."⁵ Accordingly, the Joint Movants filed the instant Motion requesting that the Commission approve an amendment to the Revised Agreement to reflect the addition of the new "Office Space and Equipment" services category in Exhibit I (Description of Services Offered by DRS) of the Revised Agreement, and to reflect the corresponding changes to Exhibit II (Services the Company Agrees to Receive from DRS) and Exhibit III (Methods of Allocation for DRS) of the Revised Agreement. The Joint Movants represent that granting the Motion to allow the proposed amendments to the Revised Agreement will be in the public interest because it will result in greater clarity and transparency in the provision of facilities services by DRS to DVP under the Revised Agreement.

NOW THE COMMISSION, upon consideration of the Motion, is of the opinion and finds that the Joint Movants' Motion requesting approval to amend the Revised Agreement approved by the Commission in the 2011 Order is in the public interest and should, therefore, be granted provided that all requirements set forth in the 2011 Order remain in full force and effect.

Accordingly, IT IS ORDERED THAT:

(1) The Joint Movants' Motion requesting approval to amend the Revised Agreement approved by the Commission in the 2011 Order is hereby granted.

(2) The approval granted herein shall supplement the approval granted in the Commission's 2011 Order in this proceeding, and all requirements set forth therein shall remain in full force and effect.

(3) DVP shall file with the Commission a signed and executed copy of the Revised Agreement reflecting the amendments approved herein within thirty (30) days of approval by the North Carolina Utilities Commission of the Revised Agreement.⁶

(4) There appearing nothing further to be done in this matter, it is hereby dismissed.

⁴ See *Application of Virginia Electric and Power Company and Dominion Resources Services, Inc., For approval of a Revised Support Services Agreement under Chapter 4 of Title 56 of the Code of Virginia*, Case No. PUE-2012-00017, Doc. Con. Cen. No. 120520169, Order Granting Approval (May 11, 2012); and *Application of Virginia Electric and Power Company and Dominion Energy Kewaunee, Inc., Dominion Nuclear Connecticut, Inc., Dominion Products and Services, Inc., Dominion Technical Solutions, Inc., Dominion Transmission, Inc., For approval of Affiliate Support Services Agreements and future exemptions under Chapter 4 of Title 56 of the Code of Virginia*, Case No. PUE-2012-00018, Doc. Con. Cen. No. 120520171, Order Granting Approval (May 11, 2012).

⁵ 2011 Order, 2011 S.C.C. Ann. Rept. at 411, *supra* n.2.

⁶ By letter dated August 17, 2012, the Commission was advised that, pursuant to North Carolina General Statutes § 62-153(b) and Ordering Paragraph (2) of the North Carolina Utilities Commission's ("NCUC") December 20, 2011 Order Accepting Agreements for Filing and Allowing Payments in Accordance Therewith Pursuant to G.S. 62-153 Subject to Conditions, the Company is required to file any proposed amendment to the Revised Agreement with the NCUC prior to execution of the amended agreement. See *Petition of Virginia Electric and Power Company d/b/a Dominion North Carolina Power, and Dominion Resources Services, Inc., for Approval of Revised Services Agreement, and Petition of Virginia Electric and Power Company d/b/a Dominion North Carolina Power, Dominion Energy, Inc., Dominion Energy Kewaunee, Inc., Dominion Nuclear Connecticut, Inc., Dominion Technical Solutions, Inc., Dominion Transmission, Inc., and Virginia Power Energy Marketing, Inc., for Approval of Affiliate Service Agreements*, Docket Nos. E-22, Subs 476 and 477, Order Accepting Agreements for Filing and Allowing Payments in Accordance Therewith Pursuant to G.S. 62-153 Subject to Conditions (NCUC Dec. 20, 2011). Therefore, the Joint Movants represent that upon receiving Commission approval of the proposed amendments in this proceeding, the Company will expeditiously seek NCUC approval of the proposed amended Revised Agreement.

**CASE NO. PUE-2010-00145
JANUARY 6, 2012**

APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY,
DOMINION ENERGY, INC.,
DOMINION ENERGY KEWAUNEE, INC.,
DOMINION NUCLEAR CONNECTICUT, INC.,
DOMINION TECHNICAL SOLUTIONS, INC.,
DOMINION TRANSMISSION, INC., AND
VIRGINIA POWER ENERGY MARKETING, INC.

For approval of Affiliate Services Agreements and future exemptions from the filing and prior approval requirements under Chapter 4 of Title 56 of the Code of Virginia

ORDER GRANTING MOTION

On December 21, 2011, Virginia Electric and Power Company ("DVP"), Dominion Energy, Inc., Dominion Energy Kewaunee, Inc., Dominion Nuclear Connecticut, Inc., Dominion Technical Solutions, Inc., Dominion Transmission, Inc., and Virginia Power Energy Marketing, Inc. (excluding DVP,

collectively, the "Affiliates,") (including DVP, collectively, the "Joint Movants"), filed a Joint Motion for Expedited Consideration of Correction to Affiliate Services Agreements ("Motion") with the State Corporation Commission ("Commission") pursuant to Rules 5 VAC 5-20-10 and 5 VAC 5-20-110 of the Commission's Rules of Practice and Procedure, and Ordering Paragraph (10) of the Commission's March 9, 2011 Order Granting Approval in this proceeding ("March 9 Order").¹ The Joint Movants request approval to make a correction to the affiliate services agreements ("Affiliate Services Agreements") and Form Affiliates Services Agreement approved by the Commission in its March 9 Order, which will remove part of a previously approved service that will no longer be provided to DVP by the Affiliates.

In its March 9 Order, the Commission granted the Joint Movants approval, among other things, to enter into the Affiliate Services Agreements and the Form Affiliates Services Agreement to be effective as of January 1, 2012,² and dismissed the matter.

Subsequently, DVP engaged in discussions with the Public Staff of the North Carolina Utilities Commission ("NCUC") regarding NCUC approval of the Affiliate Services Agreements and Form Affiliates Services Agreement effective as of January 1, 2012. As a result of the discussions with the NCUC Public Staff, DVP corrected the list of services included under the Operations category in Exhibits I to the Affiliate Services Agreements and Form Affiliates Services Agreement to remove "the planning, formulation and implementation of load retention, load shaping and conservation and efficiency programs" from the Operations services description. DVP did so because, upon further review, it was determined that no Affiliate currently provides this service, nor will any Affiliate provide such service in the future.

DVP filed for approval of the Affiliate Services Agreements and Form Affiliates Services Agreement with the NCUC in Docket No. E-22, Sub 477 on October 13, 2011. On December 20, 2011, the NCUC approved the Affiliate Services Agreements and Form Affiliates Services Agreement with the above-described correction to be effective as of January 1, 2012.³

Pursuant to Ordering Paragraph (10) of the Commission's March 9 Order, "[s]eparate Commission approval shall be required for any changes in the terms and conditions of the Affiliate Services Agreements, including changes in allocation methodologies and successors and assigns."⁴ Accordingly, to correct and conform the Affiliate Services Agreements and Form Affiliates Services Agreement approved by the Commission in its March 9 Order to those approved by the NCUC on December 20, 2011, the Joint Movants filed the instant Motion requesting that the Commission approve the corrected Affiliate Services Agreements and Form Affiliates Services Agreement that have deleted the unnecessary language described above from the Operations services description. The Joint Movants represent that granting the Motion will be in the public interest and will not cause any undue prejudice because it will correct the specified services provided by the Affiliates to DVP under the Affiliate Services Agreements and Form Affiliates Services Agreement.

NOW THE COMMISSION, upon consideration of the Motion, is of the opinion and finds that the docket in this case should be reopened, that the Joint Movants' Motion requesting approval to make corrections to the Affiliate Services Agreements and Form Affiliates Services Agreement approved by the Commission in its March 9 Order is in the public interest and should, therefore, be granted, and that executed copies of the Affiliate Services Agreements and Form Affiliates Services Agreement should be filed with the Commission.

Accordingly, IT IS ORDERED THAT:

- (1) The docket in this case, Case No. PUE-2010-00145, is hereby reopened for the sole purpose of considering the Joint Movants' Motion.
- (2) The Joint Movants' Motion requesting approval to make corrections to the Affiliate Services Agreements and Form Affiliates Services Agreement approved by the Commission in its March 9 Order is hereby granted.
- (3) The approval granted herein shall supplement the approval granted in the Commission's March 9 Order in this proceeding, and all requirements set forth therein shall remain in full force and effect.
- (4) DVP shall file executed copies of the Affiliate Services Agreements and the Form Affiliates Services Agreement reflecting the revisions approved herein within thirty (30) days of the date of this Order Granting Motion, subject to administrative extension by the Commission's Director of Utility Accounting and Finance.
- (5) There appearing nothing further to be done in this matter, it is hereby dismissed.

¹ See *Application of Virginia Electric and Power Company, Dominion Energy, Inc., Dominion Energy Kewaunee, Inc., Dominion Nuclear Connecticut, Inc., Dominion Technical Solutions, Inc., Dominion Transmission, Inc., and Virginia Power Energy Marketing, Inc., For approval of Affiliate Services Agreements and future exemptions from the filing and prior approval requirements under Chapter 4 of Title 56 of the Code of Virginia*, Case No. PUE-2010-00145, Doc. Con. Cen. No. 444724, Order Granting Approval (Mar. 9, 2011).

² March 9 Order at 8.

³ *In the Matter of Petition of Virginia Electric and Power Company, d/b/a Dominion North Carolina Power, Dominion Energy, Inc., Dominion Energy Kewaunee, Inc., Dominion Nuclear Connecticut, Inc., Dominion Technical Solutions, Inc., Dominion Transmission, Inc., and Virginia Power Energy Marketing, Inc. For Approval of Affiliate Services Agreements*, Docket No. E-22, Sub 477, *Order Accepting Agreements For Filing and Allowing Payments in Accordance Therewith Pursuant to G.S. 62-153 Subject to Conditions* (Dec. 20, 2011).

⁴ March 9 Order at 9.

**CASE NO. PUE-2011-00010
SEPTEMBER 10, 2012**

APPLICATION OF
WASHINGTON GAS LIGHT COMPANY

For an annual informational filing for the Twelve Months Ended September 30, 2010

ORDER CLOSING PROCEEDING

On January 24, 2011, Washington Gas Light Company ("WGL" or "Company") filed a petition ("Petition") with the State Corporation Commission ("Commission") requesting a waiver of certain filing requirements imposed by 20 VAC 5-201-30 ("Rule 30") of the Commission's Rules Governing Utility Rate Applications and Annual Informational Filings ("Rate Case Rules").¹ Specifically, WGL's Petition sought permission to omit certain schedules required by Rule 30 of the Rate Case Rules from the Company's Annual Informational Filing for the twelve months ended September 30, 2010 ("2010 AIF").

On January 31, 2011, the Commission issued an Order Granting Partial Waiver of Requirement to File an Annual Informational Filing ("Order"). In its Order, the Commission granted WGL's Petition and allowed the Company to file an abbreviated 2010 AIF which excluded Schedules 6, 7, 19, 21, 22, 24, 25, 27, 28, 29 (except for the work papers relating to the Company's earnings test), and 40(b). However, the Order further directed WGL to provide any of the omitted schedules if they became necessary during the course of the investigation of the Company's 2010 AIF.

On January 31, 2011, WGL filed its abbreviated 2010 AIF with the Commission. WGL noted, among other things, that it was operating under a performance based rate plan ("PBR Plan") which freezes the Company's base rates through September 30, 2011.² Accordingly, the primary purpose of the Company's 2010 AIF is to determine whether there are sufficient earnings available for sharing under the earnings sharing mechanism ("ESM") of the Company's PBR Plan.³ Under the PBR Plan's ESM, earnings are shared between ratepayers and shareholders beginning at a 10.50% return on common equity ("ROE"), with ratepayers being credited 75% and stockholders retaining 25% of all earnings in excess of 10.50%.⁴

The Company's 2010 AIF reported, among other things, that the Company earned an 8.08% ROE for the test year ended September 30, 2010. Since this ROE is less than 10.50%, WGL reported that no excess earnings are available for sharing with ratepayers under the ESM of the Company's PBR Plan.

On October 6, 2011, the Staff filed its report ("Staff Report" or "Report") on the Company's 2010 AIF. The Report consisted of financial and accounting analyses. In the financial analysis portion of its Report, the Staff advised that WGL's operating results were mixed when compared to 2009.⁵ Pre-tax interest coverage and cash flow coverage of dividends improved while net income and the ROE declined from 2009 levels.⁶

The Staff also noted that Standard and Poor's ("S&P") lowered WGL's bond rating one notch from AA- (with a negative outlook) to A+ (with a stable outlook).⁷ Since this downgrade, all the major rating agencies, including S&P, Moody's Investors Service ("Moody's"), and Fitch Ratings ("Fitch") carry stable outlooks for WGL.⁸ The Staff further concluded that WGL continues to maintain very strong credit metrics and enjoys current credit ratings of A+ by S&P, A2 by Moody's, and AA- by Fitch.⁹

WGL's ratemaking capital structure reflects the 9.50% - 10.50% return on equity range that was part of the Stipulation agreement for a PBR Plan adopted by the Commission's September 19, 2007 Final Order entered in Case No. PUE-2006-00059. Staff observed that based on the 10.00% midpoint of the Company's authorized ROE range, WGL's overall cost of capital was 8.399% as of September 30, 2010.¹⁰

In its accounting analysis, the Staff explained several key components of the Company's PBR Plan, including the ESM.¹¹ Since the Company was operating under a PBR Plan during the test year, the primary focus of the Staff's accounting analysis was the Earnings Test Schedules in the Company's 2010 AIF in order to determine whether there were sufficient earnings available for sharing under the ESM of the Company's PBR Plan.

¹ 20 VAC 5-201-10 *et seq.*

² Petition at 1-2.

³ *Id.*

⁴ See *Application of Washington Gas Light Company, For a general increase in rates, fees, charges and revisions to the terms and conditions of service as well as approval of a performance-based rate regulation methodology under Va. Code § 56-235.6*, Case No. PUE-2006-00059, 2007 S.C.C. Ann. Rept. 315, Final Order (Sept. 19, 2007).

⁵ Staff Report at 3.

⁶ *Id.*

⁷ *Id.* at 4.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*, Schedule 3 at 1 of 7.

¹¹ *Id.* at 5-6.

The Staff's accounting analysis discussed several accounting items relevant to the Company's earnings reported in its 2010 AIF. First, the Staff noted that under the Stipulation approved by the Commission in Case No. PUE-2006-00059, WGL was authorized to amortize the Virginia jurisdictional costs of its Business Process Outsourcing (also known as the A & G Initiative) over the four-year term of its PBR Plan.¹² During the test year, WGL accrued \$30,000 of costs and amortized \$2.5 million on a Virginia jurisdictional basis in its earnings test results. The Staff Report observed that the unamortized regulatory asset balance as of the end of the test year was \$2.5 million. This amount, according to the Staff, including any incremental accruals during fiscal year 2011, will be completely amortized by September 30, 2011 – the end of the Company's PBR Plan.¹³

The Staff Report further noted that the Stipulation in Case No. PUE-2006-00059 required WGL to conduct a targeted mechanical seal replacement program of \$8 million annually in Virginia.¹⁴ The Staff Report found that WGL, after removing \$269,000 of encapsulation costs, incurred \$6.3 million during the test year for mechanical seal replacement. The Staff Report explained that WGL invested \$13.2 million in fiscal year 2008 and \$9.1 million in fiscal year 2009 for its mechanical seal replacement program, producing a total investment of \$28.6 million during the first three years of the Company's PBR Plan. This averages \$9.5 million annually, an amount well above the \$8 million annual investment required by the Stipulation. Accordingly, the Staff Report concluded that WGL satisfied its commitment for mechanical seal replacement based on its reported activity for fiscal years 2008-2010. The Company and Staff both included the cost of replacement and encapsulation in its development of WGL's rate base.

With regard to hexane gas, an additive used to reconstitute the chemical make-up of natural gas to avoid compromising the mechanical seals in the Company's distribution system, WGL represents that it incurred \$2.2 million of test year Virginia jurisdictional costs to purchase hexane gas.¹⁵ Hexane gas has both a Btu (heating value) and non-Btu component. Of the test year cost, WGL represented that \$1.7 million was related to the non-Btu component of hexane gas. The Stipulation adopted in Case No. PUE-2006-00059 provides that, to the extent WGL's Virginia jurisdictional earnings result in less than a 10.00% ROE on a per books earnings test basis, WGL may file an application requesting recovery of the actual Virginia jurisdictional amount of non-BTU component of hexane gas expended during the test year in excess of \$400,000. In accordance with the Stipulation accepted in Case No. PUE-2006-00059, the cost recovery will be limited to that portion of the non-Btu hexane gas component in excess of \$400,000 required for the Company to achieve an earned ROE of 10.00% for that PBR period of the PBR Plan.¹⁶

The Staff Report further noted that WGL allocates its hexane gas costs based on the Firm Annual Pipeline (Sales Only) factor of 45.3%, which excludes interruptible sales and firm delivery therms.¹⁷ Since hexane gas injections are intended to preserve the integrity of the distribution system for all customers, the Staff utilized a jurisdictional allocation factor which incorporates all therms and allocates 38.3% of hexane gas costs to Virginia. Applying this factor reduces Virginia's test year allocation of hexane gas expense by \$372,000. The Staff reflects this difference in its Earnings Test adjustment to hexane gas expense in addition to the Company's adjustment to remove the test year hexane gas revenues accrued. Test year accrued hexane gas revenues are removed because those revenues are the result of earnings below 10% in the previous year, thus qualifying WGL to apply for recovery of non-Btu hexane gas expense in excess of \$400,000 as provided for in the Stipulation. Thus, these revenues should not be used in the calculation of test year earnings.

Staff also adjusted WGL's depreciation expense¹⁸ to reflect the new depreciation study the Company filed in Case No. PUE-2010-00139, the Company's latest general rate case.¹⁹ Since the study date was December 31, 2009, new depreciation rates should become effective on January 1, 2010, and should be applied for the remaining nine months of the test year. Staff calculates an adjustment for nine months worth of changes in depreciation accruals relative to those based on the previously approved rates and adjusts the balance of accumulated depreciation for that amount in the earnings test.

The Staff also adjusted WGL's earnings test results to reflect the loss of the Medicare Part D subsidies under the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act.²⁰ These Acts repealed the prior rule permitting deduction of the portion of prescription drug coverage expense that is offset by the Medicare Part D subsidy. With the change in the law, WGL's expected tax deductions after 2012 will be reduced by drug coverage expenses allocable to the Medicare Part D subsidy, and WGL's accumulated deferred income taxes are, consequently, overstated. WGL reduced deferred tax assets in the first quarter of 2010 by approximately \$16.1 million to recognize the nondeductible portion of accrued other post-employment benefit ("OPEB") liabilities. However, in the Company's latest general rate case, Case No. PUE-2010-00139, the Company proposed to record the debit to regulatory asset Account 182366 and amortize this amount over five years instead of recording the offsetting debit to income from continuing operations. Staff opposed WGL's proposed treatment of the loss of the Medicare Part D subsidies because (i) fluctuations in OPEB costs are not unusual and (ii) the Stipulation approved in Case No. PUE-2006-00059 provided that the Company shall not establish any regulatory assets before or during the PBR period other than the deferral of the costs to achieve the A&G Initiative, including severance, transition, and transformation costs. Accordingly,

¹² *Id.* at 6.

¹³ *Id.*

¹⁴ *Id.* at 6-7.

¹⁵ *Id.* at 7-8.

¹⁶ See, e.g., *Application of Washington Gas Light Company, For approval to recover hexane costs and to revise tariffs*, Case No. PUE-2010-00063, 2010 S.C.C. Ann. Rept. 540, Final Order (Dec. 15, 2010); *Application of Washington Gas Light Company, For approval to recover hexane costs and to revise tariffs*, Case No. PUE-2012-00014, Doc. Cont. Cen. No. 120830072, Final Order (Aug. 21, 2012).

¹⁷ Staff Report at 7-8.

¹⁸ *Id.* at 8.

¹⁹ See *Application of Washington Gas Light Company, For a general increase in rates and charges and to revise its terms and conditions for gas service*, Case No. PUE-2010-00139, Doc. Cont. Cen. No. 120710015, Order (July 2, 2012), Doc. Cont. Cen. No. 120730099, Order (July 24, 2012).

²⁰ *Id.* at 8-11.

Staff recommended that WGL be required to write-off the amount of the Medicare Part D regulatory asset recorded to Account 182366 and proposed an adjustment to deferred income taxes in its earnings test to expense the \$4.3 million which had been deferred.²¹

Staff also made an adjustment increasing Virginia jurisdictional State Income Tax Expense by \$1 million.²² This adjustment is based on a three part apportionment factor based on plant, payroll, and sales within the Maryland, Virginia, and District of Columbia ("D.C.") jurisdictions, respectively. Staff used the 2010 apportionment factors to calculate its adjustment. Additionally, since WGL files a consolidated tax return in D.C., Staff removed the non-WGL portion from the D.C. apportionment factors.

Consistent with Staff's recommendations in WGL's latest general rate case, Case No. PUE-2010-000139, the Staff adopted WGL's correction to the presentation of accumulated deferred income taxes associated with SFAS 158 (Employers' Accounting for Defined Benefit Pension and Other Postretirement Plans).²³ Staff recommended that the effects of SFAS 158 be excluded from rate base because it is a non-cash item. Based on information provided by WGL, nearly \$19 million of Virginia SFAS 158 amounts were included in rate base. Staff's proposed rate base excludes this amount from rate base and results in the Staff's level of accumulated deferred income taxes on a Virginia jurisdictional basis being a \$19 million greater credit than that presented in WGL's 2010 AIF.

Staff also eliminated WGL's reserve for uncertain tax position.²⁴ On the consolidated tax return for the year ended September 30, 2009, WGL Holdings, Inc., applied for a change in the accounting related to the capitalization of property for income tax purposes. The IRS has not yet issued guidance on this new tax treatment, so WGL estimated a reserve for amounts that may be at risk should the IRS reject the new tax proposal. Virginia's average test year balance of \$1.5 million is recorded as a debit to Account 282156 and included in WGL's earnings test. Staff disagreed with the inclusion of the debit reserve of \$1.5 million in rate base because the reserve is a theoretical amount that is an estimate of the amount of risk. Accordingly, the Staff removed the reserve from rate base.

Based on Staff's revisions to WGL's filed earnings test, Staff concluded that WGL's rate of return earned on rate base on a Virginia jurisdictional per books basis was 8.18% and, after limited adjustments, was 6.79%.²⁵ Staff calculated that WGL earned a 9.83% rate of ROE on a Virginia per books basis and, after limited adjustments, earned a 7.38% rate of ROE.²⁶ Based on the adjusted rate of return earned on average common equity, Staff did not recommend that any earnings be shared under the Company ESM for the twelve-month period ended September 30, 2010.²⁷

On November 18, 2011, WGL, by counsel, filed a letter advising that "Washington Gas accepts the adjustments in the Staff Report, except that the Company's acceptance for the Staff's recommendation relating to the deferred income tax impacts of Medicare Part D, is contingent upon the final outcome related to this issue in Washington Gas's pending rate proceeding, Case No. PUE-2010-00139."²⁸ Subsequent to WGL's letter, the Commission approved the Stipulation proposed in Case No. PUE-2010-00139 (with the exception of the Stipulation's proposed revenue apportionment among WGL's customer classes), and WGL was required to write-off the regulatory asset created to reflect the loss of its Medicare Part D subsidies.²⁹

NOW THE COMMISSION, having considered the Company's 2010 AIF, the Staff Report, WGL's Response, and the applicable law, is of the opinion and finds that no earnings are available for sharing under WGL's ESM for the twelve months ended September 30, 2010, and that this case should be dismissed.

Accordingly, IT IS ORDERED THAT:

(1) No earnings are available for sharing under WGL's ESM for the test year ending September 30, 2010.

(2) There being nothing further to be done herein, this case shall be dismissed from the Commission's docket of active proceedings, and the papers filed herein shall be placed in the Commission's file for ended causes.

²¹ *Id.* at 10-11.

²² *Id.* at 11.

²³ *Id.* at 11-12.

²⁴ *Id.* at 12-13.

²⁵ *Id.* at 13.

²⁶ *Id.*

²⁷ *Id.*

²⁸ See letter dated November 18, 2011, to Joel H. Peck, Clerk, State Corporation Commission, from Meera Ahamed, counsel to WGL, Doc. Cont. Cen. No. 111150025.

²⁹ See *Application of Washington Gas Light Company, For a general increase in rates and to revise its terms and conditions for gas service*, Case No. PUE-2010-00139, Doc. Cont. Cen. No. 120710015, Order (July 2, 2012), Doc. Cont. Cen. No. 120730099, Order (July 24, 2012).

**CASE NO. PUE-2011-00014
DECEMBER 14, 2012**

APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY

For approval to establish an electric vehicle pilot program pursuant to § 56-234 of the Code of Virginia

ORDER CLOSING CASE

On January 31, 2011, pursuant to § 56-234 of the Code of Virginia and Rule 40 of the Rules Governing Cost/Benefit Measures Required for Demand-Side Management Programs of the State Corporation Commission ("Commission"), 20 VAC 5-304-40, Virginia Electric and Power Company ("Company") filed an application to establish an electric vehicle pilot program ("Application"). On July 11, 2011, the Commission entered an Order Granting Approval wherein it, among other things, granted the Company's request to establish an electric vehicle pilot program; required additional filings by the Company; and continued the matter.

NOW THE COMMISSION, upon consideration of the foregoing, finds that there is nothing further to be decided in the captioned case and it therefore should be closed.

Accordingly, IT IS ORDERED THAT this matter hereby is dismissed from the Commission's active docket and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. PUE-2011-00027
JANUARY 24, 2012**

APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY

For a 2011 biennial review of the rates, terms, and conditions for the provision of generation, distribution, and transmission services pursuant to § 56-585.1 A of the Code of Virginia

ORDER ON JOINT PETITION FOR RECONSIDERATION

On March 31, 2011, Virginia Electric and Power Company d/b/a Dominion Virginia Power ("DVP") filed an Application with the State Corporation Commission ("Commission") for a biennial review of DVP's rates, terms, and conditions for the provision of generation, distribution, and transmission services pursuant to § 56-585.1 A of the Code of Virginia ("Code") and the Commission's Rules Governing Utility Rate Applications and Annual Informational Filings, 20 VAC 5-201-10 *et seq.*

On November 30, 2011, the Commission issued a Final Order in this case.

On December 15, 2011, the Virginia Committee for Fair Utility Rates ("Committee") and Chaparral (Virginia) Inc. ("Chaparral") filed a Joint Petition for Reconsideration and Clarification ("Joint Petition"). The Committee and Chaparral "request that the Commission reconsider its Final Order in order to clarify that, in allocating the \$78.3 million in rate credits to customers, any Special Contracts customer should be included in the GS-4 rate class."¹

On December 16, 2011, the Commission issued an Order granting reconsideration for the purpose of continuing the Commission's jurisdiction to consider the Joint Petition and any other matters raised in timely filed petitions for reconsideration.

NOW THE COMMISSION, upon consideration hereof, is of the opinion and finds that the Joint Petition is denied.

Section 56-585.1 A 8 (ii) of the Code mandates that the credits given to customers in this case "shall be allocated among customer classes such that the relationship between the specific customer class rates of return to the overall target rate of return will have the same relationship as the last approved allocation of revenues used to design base rates."

In this proceeding, the Committee argued that the Commission must follow the plain language of this statute and apply the allocation used to design base rates in Case No. PUE-1992-00041 ("1992 Case"), which does not include a Special Contracts class encompassing Chaparral.² Conversely, Chaparral argued that the Commission should apply an allocation proposed by DVP (but not used to design base rates) in Case No. PUE-2009-00019, which includes a Special Contracts class encompassing Chaparral.³ In the Final Order, we found that the 1992 Case represents "the last approved allocation of revenues used to design base rates,"⁴ and, applying the plain language of the statute, approved an allocation of credits based on the 1992 Case as advocated by the Committee.

¹ Joint Petition at 5.

² See, e.g., Committee's October 24, 2011 Post-Hearing Brief at 75-80.

³ See, e.g., Chaparral's October 24, 2011 Post-Hearing Brief at 6-7. See also Ex. 81.

⁴ Va. Code § 56-585.1 A 8 (ii).

The Committee and Chaparral now assert that - for purposes of the 1992 Case - "the GS-4 rate class should include any Special Contracts customers just as the GS-4 rate class includes primary voltage Schedule 10 customers and Schedule 6TS customers for purposes of allocating the credit within the GS-4 class."⁵ The Committee and Chaparral, however, (i) do not assert that Special Contracts customers are part of the GS-4 class, and (ii) do not establish that Special Contracts customers are analogous to Schedules 10 and 6TS customers.

The Committee and Chaparral also assert that "[f]ailing to provide credits to a Special Contracts customer would result in an inequity that could not have been intended by the General Assembly.⁶ The Commission cannot ignore plain statutory language. Indeed, in the Final Order, we explained how the above requirement in § 56-585.1 A 8 (ii) of the Code may adversely impact residential customers. That is, the statutorily required allocation "may significantly distort the current relative rates of return," and "based upon the requirement of the statute as presented herein, the residential class will have its refund credit reduced (and other classes will see larger credits)."⁷ The Final Order, however, adopted the legal position originally requested by the Committee - and we continue to find that the plain language of the statute requires an allocation of credits based on the 1992 Case.

Accordingly, IT IS SO ORDERED and this case is continued.

⁵ Joint Petition at 1.

⁶ *Id.* at 4.

⁷ Final Order at 15.

**CASE NO. PUE-2011-00027
MARCH 29, 2012**

APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY

For a 2011 biennial review of the rates, terms, and conditions for the provision of generation, distribution, and transmission services pursuant to § 56-585.1 A of the Code of Virginia

ORDER ON RECONSIDERATION AND OPINION

On March 31, 2011, Virginia Electric and Power Company d/b/a Dominion Virginia Power ("Dominion" or "Company") filed an Application with the State Corporation Commission ("Commission") for a biennial review of the Company's rates, terms, and conditions for the provision of generation, distribution, and transmission services pursuant to § 56-585.1 A of the Code of Virginia ("Code") and the Commission's Rules Governing Utility Rate Applications and Annual Informational Filings, 20 VAC 5-201-10 *et seq.* Pursuant to § 56-585.1 A 8 of the Code, "[t]he Commission's final order regarding such biennial review shall be entered not more than eight months after the date of filing, and any revisions in rates or credits so ordered shall take effect not more than 60 days after the date of the order."

On November 30, 2011, the Commission issued a Final Order in this case.

On December 15, 2011, the Virginia Committee for Fair Utility Rates ("Committee") and Chaparral (Virginia) Inc., filed a Joint Petition for Reconsideration and Clarification ("Joint Petition").

On December 15, 2011, Dominion filed a Petition for Rehearing or Reconsideration ("Petition for Reconsideration"). In its Petition for Reconsideration, Dominion asks for: (1) "confirmation that the 10.9% authorized [return on equity ('ROE')] determined in this proceeding shall apply . . . prospectively, effective following the date of the Final Order on November 30, 2011," and (2) "confirmation . . . that the Company's previously approved 11.9% base rate authorized ROE shall measure base rate earnings for the period January 1, 2011 through November 30, 2011."¹

On December 16, 2011, the Commission issued an order granting reconsideration for the purpose of continuing the Commission's jurisdiction over these matters to consider the Joint Petition, the Petition for Reconsideration, and any other matters raised in timely filed petitions for reconsideration.

On December 29, 2011, Dominion filed a Notice of Appeal to the Supreme Court of Virginia.

On January 24, 2012, in response to the Joint Petition, the Commission issued an Order on Joint Petition for Reconsideration.

On February 2, 2012, the Commission issued an order permitting responses and reply on Dominion's Petition for Reconsideration.

On February 14, 2012, responses were filed by the Committee; the Office of the Attorney General's Division of Consumer Counsel ("Consumer Counsel"); Appalachian Voices, Chesapeake Climate Action Network, and the Virginia Chapter of the Sierra Club, collectively; and the Commission's Staff ("Staff").

On February 21, 2012, Dominion filed a reply.

NOW THE COMMISSION, upon consideration hereof, is of the opinion and finds that Dominion's Petition for Reconsideration is denied.

¹ Petition for Reconsideration at 5-6.

First, we find that § 56-585.1 A of the Code is not prescriptive but, rather, is discretionary as to when the ROE – as determined by the Commission – becomes applicable for any particular two-year biennial review period.

Second, since the statute is discretionary on this ROE issue, we next consider the Stipulation and Addendum ("Stipulation") approved in Case No. PUE-2009-00019.² We find that the Stipulation – which was agreed upon by all parties to that case (including Dominion) and which was approved and ordered by the Commission – does not apply the 11.9% ROE determined therein to the second biennial review.

Accordingly, we will use the 10.9% ROE determined in the instant case for purposes of evaluating 2011-2012 earnings in the subsequent (*i.e.*, the second) biennial review. Indeed, this is exactly the process requested by Dominion, required by the Stipulation, and implemented in the instant case, in which the Commission applied the 11.9% ROE from the prior case to the subsequent (*i.e.*, this first) biennial review. The remainder of this Order on Reconsideration and Opinion further discusses the above findings and (contrary to Dominion's arguments) explains that both findings are consistent with applicable law.

Code of Virginia

Section 56-585.1 A governs the process that the Commission must follow for a biennial review and includes the following:

... Commencing in 2011, the Commission ... shall conduct biennial reviews of the rates, terms and conditions for the provision of generation, distribution and transmission services by each investor-owned incumbent electric utility, subject to the following provisions:

2. Subject to the provisions of subdivision 6, fair rates of return on common equity ... shall be determined by the Commission during each such biennial review, as follows:

8. If the Commission determines as a result of such biennial review that: ... (ii) The utility has, during the test period or test periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on both its generation and distribution services, as determined in subdivision 2 ... 60 percent of the amount of such earnings that were more than 50 basis points above such fair combined rate of return for the test period or periods under review, considered as a whole, shall be credited to customers' bills.

The above language requires that the Commission (1) determine Dominion's actual earned return over a prior two-year period, and (2) compare such actual earned return to an allowed ROE determined pursuant to § 56-585.1 A 2. The statute does not state, above or elsewhere, whether the Commission must use (i) an ROE from one or more prior cases, (ii) an ROE from the contemporaneous biennial review, or (iii) some combination thereof. Rather, such choice is left to the Commission's discretion.³ For example, in ordering the Stipulation in 2010, the Commission approved an ROE (of 11.9%) for purposes of the 2009-2010 biennial review period. Likewise, in 2011 (in the Final Order in this proceeding) the Commission approved an ROE (of 10.9%) for the 2011-2012 biennial review period.

The lack of specific direction by the General Assembly on the timing of the determination of the ROE for biennial review purposes is particularly stark when contrasted to the very prescriptive ROE requirements found elsewhere in the statute. For example, the General Assembly included detailed, complex requirements related to ROE that explicitly address:

- that there must be an ROE floor (§ 56-585.1 A 2 a);
- how to select the peer group for the ROE floor (§ 56-585.1 A 2 b);
- that there must be an ROE ceiling (§ 56-585.1 A 2 a);
- how to set the ROE ceiling (§ 56-585.1 A 2 a);
- what capital structure to use for the return (§ 56-585.1 A 10);
- what cost of capital to use for the return (§ 56-585.1 A 10);
- how many points to add to ROE for different generation technologies (§ 56-585.1 A 6);
- that the Commission cannot consider such adder points in determining a base ROE (§ 56-585.1 A 2 f);
- what generation technologies do not receive ROE adder points (§ 56-585.1 A 6);
- how the Commission may increase or decrease ROE based on generating plant performance, customer service, and operating efficiency (§ 56-585.1 A 2 c);
- how many adder points to add to ROE, for purposes of biennial reviews, for the renewable portfolio standard ("RPS") program (§ 56-585.2 C); and
- how to utilize the Consumer Price Index for setting ROE (§ 56-585.1 A 2 d).

In direct contrast, nowhere in the statute does the General Assembly state – as posited by Dominion – that for purposes of a single biennial review the Commission must prorate portions of two different ROEs, from two different cases, so as to, in effect, apply different ROEs to two separate portions of the two-year test period of the biennial review. That is, the statute does not state that the Commission must (i) use two separate ROEs, (ii) from two

² *Application of Virginia Electric and Power Company, For a 2009 statutory review of rates, terms and conditions for the provision of generation, distribution, and transmission services pursuant to § 56-585.1 A of the Code of Virginia*, Case No. PUE-2009-00019, 2010 S.C.C. Ann. Rept. 301, Order Approving Stipulation and Addendum (March 11, 2010) ("Stipulation Order").

³ As stated by Consumer Counsel, "nothing in the Code mandates the approach the Commission must take on this issue." Consumer Counsel's February 14, 2012 Response at 4.

separate, prior cases, (iii) determined at two separate times, that (iv) must then be prorated back into a single ROE.⁴ Similarly, nowhere did the General Assembly state that each ROE applies to separate portions of two separate biennial review periods.⁵

In short, the statute is not prescriptive as to whether the ROE period must be different from – as posited by Dominion – the biennial review period. Rather, the statute leaves this question to the Commission's discretion. In this instant proceeding, and as required by the Stipulation, the Commission exercised that discretion and treated the ROE and biennial review periods as the same two calendar years (2009-2010). Contrary to Dominion's characterization, such process under the Stipulation does not create a statutory "ROE free-for-all."⁶ To the contrary, this very same statutory process – which Dominion previously requested and advocated, and which the Commission implemented in the current proceeding – resulted in a structured, orderly approach in the instant biennial review.

Stipulation

Since the statute provides the Commission with discretion on this matter, we next turn to the Stipulation. The Stipulation was agreed to by Dominion, Consumer Counsel, the Committee, Staff, and other interested parties – and was approved by the Commission on March 11, 2010 – as a resolution of Case No. PUE-2009-00019. The Stipulation, among other things, (i) established an ROE of 11.9% for two years of earnings applied back to the beginning of 2009 (*i.e.*, the first biennial review period of 2009-2010), (ii) froze base rates until December 1, 2013, and (iii) required prospective base rate credits of \$66 million per year to be applied to customer bills in 2011 and 2012.⁷

In this regard, the statement in our Final Order in this, the first biennial review (for which the Company now seeks clarification or reconsideration), is consistent with the process set forth in the Stipulation. Specifically, regarding the Company's next biennial review, which will be filed in 2013 to evaluate earnings in calendar years 2011 and 2012, the Commission stated as follows: "The 10.9% ROE determined in this proceeding (10.4% plus an RPS adder of 50 basis points) will serve as the fair combined rate of return against which [Dominion's] earned return will be compared in its next biennial review proceeding."⁸

The plain language of the Stipulation, which was agreed upon by all parties thereto and ordered by the Commission in the *Stipulation Order*, does not contemplate that the 11.9% ROE approved therein would have any application beyond the instant – *i.e.*, this first – biennial review. Paragraph 13 of the Stipulation states that an ROE "of 11.9% shall be utilized for purposes of the Earnings Test prescribed for the Company's *first* biennial review . . . [and that the] 'earnings band' for this biennial review . . . shall be 11.4%-12.4%."⁹ Paragraph 14 of the Stipulation states that Dominion's "*second* biennial review will be based on *two successive 12-month* test periods ending December 31, 2012."¹⁰

Thus, the express, plain language of the Stipulation applies the ROE of 11.9% to the "first" (*i.e.*, the current) biennial review; it does not state that 11.9% shall apply to the "second" biennial review in any manner. In contrast, the Stipulation expressly references the "second" biennial review for purposes of identifying the earnings test periods for the same (and identifies those periods as "two successive 12-month test periods") – but makes no reference to using the 11.9%, for any purpose, in that "second" biennial review or for any fraction of the two test years. Further in this regard, we note that the 11.9% ROE set via the Stipulation (and the Commission's subsequent approval thereof) is a major component of the Stipulation, and the signatories specifically and explicitly identified where it would be used. The absence of any mention of the 11.9% ROE in Paragraph 14 (which discusses parameters for the second biennial review), and the absence of any mention of the second biennial review in Paragraph 13 (which specifies that the 11.9% will be used in the first biennial review), lead to the conclusion that the 11.9% ROE was not to be associated with or a part of – in any manner – the second biennial review.

The Stipulation further states that the "Company's authorized ROE applicable to its base rates shall be 11.9%, unless and until reset in the biennial review process pursuant to Va. Code § 56-585.1 A."¹¹ This is exactly what the Commission has done. The Commission has chosen to reset Dominion's ROE at 10.9% for the next biennial review. The Stipulation, contrary to Dominion's position, does not state that 11.9% must be used to measure earnings through any specified date in 2011.¹² Rather, it provides that the 11.9% will continue to be used "unless" it is reset in a biennial review; that is, under the Stipulation, the Commission can determine an ROE (in the instant biennial review) that is fair and reasonable for purposes of the second biennial review. Based on the factual record in this proceeding, the Commission reset the ROE at 10.9% for purposes of the next biennial review.

⁴ The statutory provisions for an operational performance incentive do not alter this fact. Such performance incentive is determined at the same time that the Commission determines ROE and "shall remain in effect without change until the next biennial review for such utility is concluded." Va. Code § 56-585.1 A 2 c. Thus, when the subsequent biennial review is concluded, the Commission would determine (if supported by the evidence) the ROE and the performance incentive at the same time.

⁵ See also Committee's February 14, 2012 Brief at 3-5.

⁶ Dominion's February 21, 2012 Reply at 13.

⁷ *Stipulation Order*, Stipulation at Paras. (12), (13), and (16).

⁸ Final Order at 24. A number of other factors affecting earnings for 2011 and 2012 will not be determined until the 2013 proceeding, including revenues, expenses, adjustments to revenues and expenses, and the applicable cost of capital and capital structures.

⁹ *Stipulation Order*, Stipulation at Para. (13) (emphasis added). See also Consumer Counsel's February 14, 2012 Response at 3; Committee's February 14, 2012 Brief at 6.

¹⁰ *Stipulation Order*, Stipulation at Para. (14) (emphasis added). See also Staff's February 14, 2012 Response at 5; Committee's February 14, 2012 Brief at 7.

¹¹ *Stipulation Order*, Stipulation at Para. (4).

¹² See also Staff's February 14, 2012 Response at 4-5; Committee's February 14, 2012 Brief at 6; Consumer Counsel's February 14, 2012 Response at 4 n.3.

Accordingly, the Stipulation does not dictate the result sought by Dominion. To the contrary, by expressly applying the 11.9% ROE only to the first biennial review, the parties to the Stipulation (including Dominion) agreed – and the Commission ordered – that the specific, stipulated ROE of 11.9% did not apply to the second biennial review.¹³

Following the application of the Stipulation's treatment of ROE in this manner, the Stipulation will have no further application for ROE beyond the second biennial review.

Finally in this regard, Dominion argues – for purposes of the second biennial review – that using the same two-year period for the ROE and the biennial review is unlawful. As noted above, however, this exact process was agreed upon and ordered as part of the Stipulation for the purposes of the first biennial review. At no time did the Company assert that the Commission violated statutory or other law by comparing an ROE approved in March 2010 to prior earnings achieved in 2009 and January-February 2010. If the Stipulation violated legal requirements placed on the Commission, Dominion does not explain how the Commission could have approved and implemented the same – or how Dominion's acquiescence thereto could have somehow waived statutory or other legal requirements placed on the Commission. As requested by Dominion and set forth in the Stipulation, in this first biennial review the Commission used an ROE determined in March 2010, in a prior case, to evaluate earnings from 2009 and 2010. Indeed this process, which Dominion asserted as lawful for purposes of the first biennial review, will likewise be used for the second biennial review.

Rates

We therefore reject Dominion's argument that the ROE process (i) agreed to and ordered as part of the Stipulation, (ii) implemented in the instant biennial review, and (iii) to be implemented in the second biennial review, somehow prohibits the Company from earning a fair return on its investment or results in retroactive rates.¹⁴ The Commission has determined that an ROE of 10.9% will be used for purposes of evaluating the Company's earned return for 2011-2012 in the next biennial review. This ROE was determined in accordance with statutory requirements and the facts presented in this proceeding. The Commission concluded that such ROE is fair and reasonable, permits the attraction of capital on reasonable terms, fairly compensates investors for the risks assumed, and enables the Company to maintain its financial integrity.¹⁵ Contrary to Dominion's suggestion, there is no evidence that applying the ROE determined in the instant case to the next biennial review prohibits the Company from earning a fair return on its investment.

In addition, the findings on ROE in the Final Order in the instant case did not result in a rate change and is not the same as setting rates. Thus, determining the ROE to be used in the 2013 biennial review (to evaluate 2011-2012 earnings) simply does not – contrary to Dominion's assertion – result in "retroactive rates" (nor does it prohibit the Company from earning a fair return on its investment).¹⁶ The Supreme Court of Virginia has found that when the Commission substitutes new rates for the existing rates of a public utility, the Commission may not give retroactive effect to the new rates.¹⁷ The reason is that "[a]fter rates have been established in the manner prescribed by law, they are presumed to be reasonable and the Commission has no power to declare them unreasonable retroactively."¹⁸ The Commission has not substituted new rates for existing rates, nor have we declared existing rates (otherwise prescribed by law) unreasonable.

Under the current statutory scheme, rates are "prescribed by law" pursuant to the biennial review process. Finding that an ROE of 10.9% is reasonable for purposes of the 2011-2012 earnings test in no manner substitutes new rates for existing rates otherwise prescribed by the biennial review process. Indeed, the statute expressly provides that rates need not change every time the Commission determines a new ROE during a biennial review.¹⁹ When the Commission, as required by statute, determines ROE during a biennial review, such action does not – and cannot be deemed to – declare existing rates unreasonable.

For purposes of the biennial review, the relevant ROE interrogative is not "when," but "what." The proper question is not "when" did the Commission make such finding but, rather, "what" is the ROE. That is, the relevant question is whether the ROE used by the Commission to evaluate earnings for 2011-2012 is fair and reasonable for that period. Based on the facts in this case, the Commission found that an ROE of 10.9% is actually higher than a fair and reasonable ROE for such purposes. The Commission found that an ROE of 10.4% is fair and reasonable, and then added 50 basis points (related to the RPS program) as required by statute.²⁰

¹³ Though not necessary for our ruling herein, we note that this is consistent with Staff's testimony requesting approval of the Stipulation among the Company, Staff, and other parties: "The addendum does not define the base ROE or the earnings span to be used in the second biennial review. Such ROE will be determined pursuant to [§] 56-585.1 A of the [C]ode." See Case No. PUE-2009-00019, Tr. 2538 (March 4, 2010); Staff's February 14, 2012 Response at 5; Committee's February 14, 2012 Brief at 7.

¹⁴ See, e.g., Dominion's February 21, 2012 Reply at 9-12.

¹⁵ Final Order at 23.

¹⁶ Indeed, this is not a novel approach applied only to Dominion. The Commission utilized the same statutory process in the recent biennial review for Appalachian Power Company ("APCo"). Specifically, the Commission determined APCo's earned return for the 2009-2010 two-year period, and then compared that earned return to an ROE of 10.53% that was previously determined on July 15, 2010. *Application of Appalachian Power Company, For a 2011 biennial review of the rates, terms and conditions for the provision of generation, distribution and transmission services pursuant to § 56-585.1 A of the Code of Virginia*, Case No. PUE-2011-00037, Final Order at 3-4 (Nov. 30, 2011).

¹⁷ *Commonwealth of Virginia v. Old Dominion Power Co.*, 184 Va. 6, 14 (1945).

¹⁸ *Id.* at 17.

¹⁹ For example, although the Commission must determine an ROE "during each such biennial review" (Va. Code § 56-585.1 A 2), the Commission may only change base rates in such biennial review if very specific and mandatory standards are met (Va. Code § 56-585.1 A 8).

²⁰ See, e.g., Final Order at 18, 23.

Dominion's allegations of retroactivity, in effect, attack the new ratemaking structure set forth via the biennial review process. The biennial review, by its very nature, requires a retrospective *look-back* onto *prior* facts. In the 2013 biennial review, the Commission will have to look back to the Company's prior earnings (2011-2012). In setting ROE and overall rate of return, the statute also requires the Commission to look back to prior earnings of other utilities over a past three-year period,²¹ to look back to the utility's prior year-end capital structure,²² and to look back to the utility's prior cost of capital.²³ For example, the Commission must determine – after-the-fact during the biennial review – Dominion's capital structure, cost of capital, and earnings adjustments for that prior two-year period. Thus, such determinations are made even later in the process than ROE. By Dominion's rationale, however, such findings (such as adjustments to prior revenues and expenses) would be unlawful retroactive ratemaking.²⁴

In addition, the biennial review statute clearly informs utilities that they may be required to credit customers' bills based on an after-the-fact review of prior earnings. None of these requirements, however, results in retroactive rates.²⁵ Rather, they are part of a new statutory structure that looks to prior earnings to evaluate if a utility has earned a fair return on its investment, or underearned or overearned. An integral part of this process is determining an ROE to use for such purpose, and that is exactly what the Commission has done in the instant proceeding – in accordance with both the statute and the Stipulation.

To be sure, this statutory approach is distinctly different from traditional ratemaking under the Code, in which the Commission determined the utility's cost of service and ROE, and such ROE was used to change base rates as of an effective date for future recovery of costs deemed reasonable and prudent. The biennial review process, which is unprecedented under Virginia law, uses ROE in a different manner and provides a different mechanism through which to provide the Company a fair return on its investment. Although the biennial review process requires a look-back to prior facts, it does not retroactively change rates, and it ensures that the Company has an opportunity to earn no less than a fair return on its investment.

Dominion claims that looking back to prior facts, as the Stipulation requires for the 2013 biennial review, in which the earnings test period of 2011-2012 and the ROE period will be the same, represents "retroactive" ratemaking and is thus illegal. Yet that claim cannot be reconciled with the many other provisions of the biennial review statutory structure that are clearly retrospective in nature and require exactly the same sort of reference to facts established in the past to determine a fair ROE against which Dominion's actual earnings will be measured in the biennial review.

Further, while we have ruled herein that the statute does not pre-empt the application of the Stipulation's treatment of ROE to the 2013 biennial review as described above, we have not ruled that the statute *prescribes* that result in that or any future biennial review. Thus, Dominion's claim of "retroactive ratemaking" is really a claim against the use of the Stipulation, to which it is a signatory, in this manner in its upcoming 2013 biennial review. Yet whether Dominion's rates will change at all as a result of that proceeding will not be known until after that proceeding has taken place. If Dominion's base rates subsequently change, they change prospectively, and if Dominion is required to provide limited bill credits, they also are provided prospectively, not retroactively.²⁶ We have simply ruled herein that the statute does not mandate the specific time period of any ROE application in any biennial review, and thus the Stipulation's treatment of ROE continues in effect for Dominion's 2013 biennial review as described herein, after which the Stipulation's treatment of ROE has no further effect.

Accordingly, IT IS SO ORDERED and this case is dismissed.

²¹ Va. Code § 56-585.1 A 2 a-b.

²² Va. Code § 56-585.1 A 10.

²³ *Id.* A fair and reasonable ROE is part of the utility's cost of capital and is applied to its capital structure in reaching a fair and reasonable overall rate of return on investment.

²⁴ Indeed, the biennial review process itself can change the level of earnings determined based on the authorized ROE without declaring existing rates unreasonable. For example, making after-the-fact adjustments to earnings results – as requested by Dominion (and approved by the Commission) in the current case – and using an after-the-fact year-end capital structure (as required by statute), can result in changing the level of earnings or the overall allowed return.

²⁵ In addition, as required by statute, any "credit[s] to customers' bills" – as ordered in the instant proceeding – do not decrease the approved tariff rates under the statute but, rather, represent a temporary (over a six- or twelve-month period) bill decrease applied prospectively. *See, e.g.*, Va. Code § 56-585.1 A 8.

²⁶ Va. Code § 56-585.1 A 8 ("The Commission's final order regarding such biennial review shall be entered not more than eight months after the date of filing, and any *revisions in rates or credits so ordered* shall take effect not more than 60 days *after the date of the order.*" (emphasis added)).

**CASE NO. PUE-2011-00035
MARCH 29, 2012**

PETITION OF
APPALACHIAN POWER COMPANY

For approval of a rate adjustment clause, E-RAC, to recover costs incurred in complying with state and federal environmental laws and regulations, pursuant to Va. Code § 56-585.1 A 5 e

OPINION OF THE COMMISSION

On March 31, 2011, Appalachian Power Company ("APCo" or "Company"), pursuant to § 56-585.1 A 5 e of the Code of Virginia ("Code"), filed with the State Corporation Commission ("Commission") a petition seeking to establish a rate adjustment clause, designated as Schedule E-R.A.C., to recover, from its Virginia retail customers, approximately \$77 million that the Company indicates are Virginia jurisdictional environmental costs that it

incurred in 2009 and 2010.¹ The Company requested that this amount be collected through the proposed rate adjustment clause over a two-year period, with two annual amounts of \$38.5 million proposed for recovery beginning February 1, 2012.²

On April 12, 2011, the Commission issued an Order for Notice and Hearing that, among other things: established a procedural schedule for this case; directed APCo to provide public notice of its petition; and assigned, pursuant to § 12.1-31 of the Code, a Hearing Examiner to conduct all further proceedings in this matter on behalf of the Commission.

The following parties filed notices of participation in this proceeding: VML/VACo APCo Steering Committee ("VML/VACo"); Steel Dynamics, Inc.; the Old Dominion Committee for Fair Utility Rates ("Old Dominion Committee"); and the Office of the Attorney General's Division of Consumer Counsel ("Consumer Counsel").³ Additionally, the Honorable William Roscoe Reynolds, Member, Senate of Virginia, filed a Motion to Intervene.⁴

On July 29, 2011, Consumer Counsel filed the testimony and exhibits of its expert witness. On August 12, 2011, the Commission Staff ("Staff") filed the testimonies and exhibits of its expert witnesses. The Company subsequently filed its rebuttal testimony.

The Commission held public hearings and received testimony from public witnesses in Abingdon (May 25, 2011), Rocky Mount (May 26, 2011), and Richmond (August 31, 2011), and received written and electronic comments in this case.⁵ The Hearing Examiner convened the public evidentiary hearing on August 31, 2011. The parties and the Staff filed post-hearing briefs on September 30, 2011.

On October 14, 2011, the Hearing Examiner issued a report ("Hearing Examiner's Report") that explained the procedural history of this case, summarized the record, analyzed the evidence and issues in this proceeding, and made certain findings and recommendations. APCo, VML/VACo, Consumer Counsel and the Staff subsequently filed comments on the Hearing Examiner's Report.

After considering the record developed in this proceeding, the Commission entered an Order Approving Rate Adjustment Clause on November 30, 2011 ("Final Order"), which permitted APCo to implement a rate adjustment clause designed to recover a revenue requirement of \$30 million over a one-year period.

The Final Order issued by the Commission on November 30, 2011, adequately discusses our decisions on the major issues in this case. We conclude, however, to expand our discussion of two significant issues of first impression relating to the implementation of Va. Code § 56-585.1 A 5 e. Specifically, we discuss below our decision regarding: (1) the appropriate ratemaking methodology for the recovery of environmental costs incurred directly by APCo; and (2) our decision regarding the proposed recovery of capacity costs incurred by APCo's affiliates and then charged to APCo.

Ratemaking Methodology For APCo's Environmental Projects

In this first proceeding initiated pursuant to Va. Code § 56-585.1 A 5 e, APCo and the Staff proposed fundamentally different ratemaking methodologies for the recovery of subject environmental costs incurred directly by APCo. Essential to understanding APCo's and the Staff's methodologies is the fact that APCo's base rates, approved in other proceedings, included environmental costs during the two year period at issue in this case, 2009 and 2010. That is, some of the projects for which APCo sought adjustment clause recovery in this case were already included, at the Company's request, in its 2009 and 2010 base rates.⁶

The Company proposed a ratemaking methodology that generally tracks the methodology implemented for APCo's recovery of incremental costs pursuant to a section of the Va. Code, § 56-582 B (vi), which had been in effect during the "capped rate" period, 2001-2008.⁷ The § 56-582 B (vi) methodology, which expired on December 31, 2008,⁸ compared the environmental costs incurred during a particular period to the costs recovered through base rates during that period. To the extent that the environmental costs incurred exceeded base rate recoveries during that period, the incremental amount was recoverable through a rate rider. APCo's proposal to replicate the § 56-582 B (vi) methodology for purposes of implementing § 56-585.1 A 5 e was based, in part, on the Company's legal position that these two statutes "are essentially identical in purpose as well as text."⁹

As explained by the Staff, the incremental cost methodology for Va. Code § 56-582 B (vi) effectively resulted in dollar-for-dollar recovery of all APCo's environmental costs incurred during the latter part of the capped rate period. Capped base rates were effectively "trued-up" for environmental costs.¹⁰

¹ Petition at 2.

² *Id.*

³ Steel Dynamics, Inc., filed a Notice of Participation but did not otherwise participate in this proceeding.

⁴ Senator Reynolds ultimately elected to participate in this proceeding as a public witness. *See, e.g.*, Tr. at 13.

⁵ The public hearings in Abingdon and Rocky Mount were consolidated with public witness hearings for three other APCo rate proceedings: Case Nos. PUE-2011-00034, PUE-2011-00036, and PUE-2011-00037.

⁶ *See, e.g.*, Ex. 11 (Carr) at 5-7; Ex. 6 (Allen direct) at 3. Costs in the Company's base rates include capacity equalization charges, which are discussed separately below. *See, e.g.*, Ex. 17 (Allen rebuttal) at 5.

⁷ *See, e.g.*, Ex. 3 (Bosta direct) at 3-4. During the transitional "capped rate period," as established by the General Assembly, the base rates of electric utilities were frozen, subject to limited statutory exceptions for adjustments to such capped base rates. *See, e.g.*, Va. Code § 56-582.

⁸ Va. Code § 56-585.1 A 5 a permits rate adjustment clause recovery of the costs incurred prior to the end of 2008.

⁹ APCo's Post-hearing Brief at 4.

¹⁰ *See, e.g.*, Staff's Post-hearing Brief at 4.

In contrast to APCo's proposal, the Staff recommended implementation of Va. Code § 56-585.1 A 5 e through a ratemaking methodology that identifies all environmental costs that were not already included in, and thus were not already recovered through, the Company's *base rates*. This methodology would limit *adjustment clause recovery* to only those costs.¹¹ The Staff argued that its methodology: "(1) appropriately incorporates well-established ratemaking principles codified for application to the 're-regulated' era for which Va. Code § 56-585.1 A 5 e was enacted; (2) effectively harmonizes related statutory provisions, including the base rate combinations directed by Va. Code § 56-585.1 A 3; and (3) allows the Company dollar-for-dollar recovery of actual environmental costs consistent with Virginia law."¹²

APCo argued that adoption of the Staff methodology would "reverse the Commission's practice and precedent to allow actual environmental costs to be recovered through a combination of base rates and the . . . rider [implemented under Va. Code § 56-582 B (vi)]" and would impermissibly limit the Company's recovery of actual costs.¹³ The Staff, on the other hand, argued that: "[t]he Commission is not bound by precedent for the past implementation of Va. Code § 56-582 B (vi), which is a different statute, enacted with different words, for a different time, and for a different purpose than Va. Code § 56-585.1 A 5 e."¹⁴ The Staff further argued that APCo's methodology cannot be reconciled with provisions of a third statute, § 56-585.1 A 3, which requires, under certain circumstances, the combination of a utility's rate adjustment clauses with the Company's other costs, revenues, and investments.¹⁵

The Old Dominion Committee recommended that the Commission adopt the Staff's ratemaking methodology. The Old Dominion Committee argued that Va. Code §§ 56-582 B (vi) and 56-585.1 A 5 e, and the overall regulatory framework in which each statute exists, are fundamentally different. The Old Dominion Committee further asserted that: "it is vitally important, within the current legal and policy framework, that APCo be given an opportunity –not a guarantee – to recover costs included in base rates. Nothing in the new legal framework requires the Commission to modify its long-established, traditional approach to the recovery of costs in base rate cases."¹⁶

VML/VACo also recommended Commission adoption of the Staff's methodology. VML/VACo argued, among other things, that Va. Code § 56-585.1 allows an adjustment for the recovery of actual environmental costs related to environmental projects and it permits the recovery of environmental costs in a base rate proceeding. VML/VACo argued further that there is no provision in Va. Code § 56-585.1 A 5 e for the recovery of "incremental costs."¹⁷

After summarizing the record, the Hearing Examiner recommended adoption of APCo's ratemaking methodology. While agreeing with the Staff that the General Assembly granted the Commission wide latitude as to a ratemaking methodology for implementing Va. Code § 56-585.1 A 5 e, the Hearing Examiner found the Staff's methodology to be contrary to the General Assembly's intent expressed in the statute. The Hearing Examiner also found that the following language in § 56-585.1 A 7 supported his recommendation to approve APCo's ratemaking methodology:

Any petition filed pursuant to subdivision 4, 5, or 6 shall be considered by the Commission on a stand-alone basis without regard to the other costs, revenues, investments, or earnings of the utility.¹⁸

The Staff and VML/VACo both took exception to the Hearing Examiner's statutory interpretation on this issue. The Staff argued that its methodology is based on a lawful interpretation of the plain language of Va. Code § 56-585.1 A, as a whole.¹⁹ The Staff argued further that the "standing-alone" provisions of § 56-585.1 A 7 cited by the Hearing Examiner support the adoption of the Staff's methodology.²⁰ Similarly, VML/VACo argued, among other things, that to consider APCo's Petition on a stand-alone basis without regard to the earnings of APCo requires that base rate earnings of environmental costs not be considered in a proceeding under § 56-585.1 A 5 e.²¹

APCo filed comments supporting the Hearing Examiner's recommendation on this issue, while arguing against the Staff's interpretation of the rate combination provisions in Va. Code § 56-585.1 A 3.²²

Having considered the record and all relevant statutory provisions, which include, but are not limited to, Va. Code § 56-585.1 A 5 e, we approved the Staff's ratemaking methodology as lawful and reasonable and denied APCo's proposed methodology.

The plain language of Va. Code § 56-585.1 A 5 e is undoubtedly the starting point for determining how to implement its provisions, and the Commission exercised the discretion provided thereunder. In addition, participants in this case have identified several interrelated provisions of § 56-585.1

¹¹ See, e.g., *id.* at 5.

¹² *Id.* at 3.

¹³ See, e.g., APCo's Post-hearing Brief at 11, 13.

¹⁴ Staff's Post-hearing Brief at 3; See also *id.* at 6-7.

¹⁵ See, e.g., *id.* at 9-11. Va. Code § 56-585.1 A 3 provides, among other things, that: "[i]f the Commission determines that rates should be revised or credits be applied to customers' bills pursuant to [Va. Code §§ 56-585.1 A 8 or A 9], any rate adjustment clauses previously implemented pursuant to . . . [Va. Code § 56-585.1 A 5] . . . shall be combined with the utility's costs, revenues and investments"

¹⁶ Old Dominion Committee's Post-hearing Brief at 11.

¹⁷ VML/VACo's Post-hearing Brief at 6.

¹⁸ Hearing Examiner's Report at 27.

¹⁹ Staff's Comments at 3-6.

²⁰ *Id.* at 6-7.

²¹ VML/VACo's Comments at 7.

²² APCo's Comments at 1-4.

of the Virginia Electric Utility Regulation Act ("Regulation Act")²³ that are relevant to, and in some instances cross-reference, this subsection. Moreover, in advocating for base rates to be true-up, APCo itself seeks consideration of its 2009 and 2010 base rates, which were subject to review and then adjustment pursuant to several provisions of § 56-585.1. In response thereto, our opinion herein discusses the plain language of § 56-585.1 A 5 e and the statutory framework in which it exists.

The plain language of Va. Code § 56-585.1 A 5 e does not require a specific ratemaking methodology for the scenario in which a utility seeks adjustment clause recovery of environmental costs for a period when the utility has already received approval to include and recover those costs in its base rates. The statute is silent on this intersection of base rate recovery and adjustment clause recovery for environmental costs. The Regulation Act does not require the recovery, through Va. Code § 56-585.1 A 5 e, of costs that have already been included in APCo's base rates.

Our Final Order did not find that the "capped rate" statute, Va. Code § 56-582 B (vi), is "essentially identical in purpose as well as text" to § 56-585.1 A 5 e.²⁴ Va. Code § 56-582 B (vi) provided, during a defined period of time, for the recovery of *incremental* costs as an *adjustment to capped base rates*.²⁵ In contrast, § 56-585.1 A provides for recovery of *actual or projected* environmental costs through an *adjustment clause* and further directs, among other things, that any petition seeking such recovery "shall be considered by the Commission on a stand-alone basis without regard to the other costs, revenues, investments, or earnings of the utility."²⁶ The capped rate requirements of § 56-582 B (vi) simply were not carried over to § 56-585.1 A 5 e. As such, § 56-585.1 A 5 e does not require the Commission to treat the rate mechanism created therein as if it were an adjustment to base rates, rather than a rate adjustment clause.

Because the Code does not mandate any single methodology, the Commission exercised its discretion to review both ratemaking methodologies proposed for the recovery of actual costs in this case. We intend to determine a just and reasonable level of rates, balancing the interests of the Company and its customers.

In exercising our discretion under Va. Code § 56-585.1 A 5 e, our Final Order found that the Staff's methodology appropriately provides for the recovery of actual costs while recognizing the finality of regular base rate orders. Based on the record, we do not believe it is reasonable to render prior, final base rate rulings by the Commission mere placeholders, awaiting potential rate adjustment clause filings, without statutory direction for such a result. By seeking to true-up costs already included in base rates, APCo asks us to consider base rates, but not the finality of our base rate decisions or the statutory purpose of the base rates we approve in those decisions: to provide the opportunity for full recovery of costs included in base rates.

The Code provides for the finality of regular base rate decisions by the Commission. Beginning in 2009, the Regulation Act requires the Commission to review APCo's base rates every two years and to enter final rulings in such cases consistent with defined statutory deadlines.²⁷ Between these biennial reviews, the Regulation Act further allows APCo to seek additional base rate adjustments.²⁸ These final base rate decisions are subject only to judicial review by the Supreme Court.²⁹ Absent any such review, the Commission's base rate decisions remain final.

The product of these regular base rate cases under the Regulation Act are base rates providing the opportunity – but not a guarantee – for full recovery of all costs that are included in those base rates. In APCo's first base rate case after capped rates expired, the Commission approved increased base rates pursuant to a provision of the Regulation Act providing for the Commission to "order increases to the utility's rates necessary to provide the opportunity to fully recover the costs of providing the utility's services"³⁰ In APCo's second base rate case after capped rates expired (*i.e.*, the Company's first biennial review), the Commission approved increased base rates pursuant to a provision of the Regulation Act providing that "the Commission may not order such rate increase unless it finds that the resulting rates will provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than a fair combined rate of return on both its generation and distribution services."³¹ In each of these two cases, APCo proposed to include environmental costs in base rates, received approval to do so, and did not appeal the Commission's final order. We do not believe it is reasonable to allow APCo a perpetual second bite at the apple.

Our Final Order also found that the Staff's methodology appropriately provides for the recovery of actual costs while recognizing the separation between adjustment clause rates and the base rates regularly reviewed under the Regulation Act.

²³ Va. Code § 56-576 *et seq.*

²⁴ APCo's Post-hearing Brief at 4.

²⁵ As noted above, only limited statutory exceptions allowed adjustments to base rates during the transitional period when those rates were "capped." One of these limited exceptions was Va. Code § 56-582 B (vi). *See, e.g.*, Va. Code § 56-582 B (vi) ("[T]he Commission shall adjust such utilities' capped rates . . . for the timely recovery of their incremental costs"); *Application of Appalachian Power Company, For adjustment to capped electric rates pursuant to § 56-582 B (vi) of the Code of Virginia*, Case No. PUE-2005-00056, 2006 S.C.C. Ann. Rept. 333, 334, Final Order at 6 (Nov. 20, 2006) ("As required by the plain language of the statute, the Commission will adjust the Company's capped rates for incremental . . . costs").

²⁶ Va. Code §§ 56-585.1 A 5 e, A 7.

²⁷ *See* Va. Code § 56-585.1 A 8 ("The Commission's final order regarding such biennial review shall be entered not more than eight months after the date of filing"); 2010 Va. Acts. Ch. 1, 2, Enactment Clause 2 ("The Commission shall issue its final order on the utility's application not later than July 15, 2010"). The July 15, 2010 deadline applied specifically to APCo's first base rate proceeding under the Regulation Act.

²⁸ Va. Code § 56-585.1 B.

²⁹ Va. Const. Art. IX, Sec. 4; Va. Code § 12.1-39.

³⁰ Va. Code § 56-585.1 A; *Application of Appalachian Power Company, For a statutory review of the rates, terms and conditions for the provision of generation, distribution and transmission services pursuant to § 56-585.1 A of the Code of Virginia*, 2010 S.C.C. Ann. Rept. 308, Case No. PUE-2009-00030, Final Order (July 15, 2010).

³¹ Va. Code § 56-585.1 A 8; *Application of Appalachian Power Company, For a 2011 biennial review of the rates, terms and conditions for the provision of generation, distribution and transmission services pursuant to § 56-585.1 A of the Code of Virginia*, Case No. PUE-2011-00037, Final Order at 3-4 (Nov. 30, 2011) ("*Biennial Review Order*").

A rate adjustment clause approved pursuant to Va. Code § 56-585.1 A 5 e is a mechanism that is separate and distinct from base rates. Va. Code § 56-585.1 A 7 specifically directs the Commission to consider petitions filed under § 56-585.1 A 5 e "on a stand-alone basis without regard to the other costs, revenues, investments or earnings of the utility." We believe the Staff's methodology appropriately disregards such "other" items by limiting adjustment clause rates to only environmental costs not already included in base rates.³²

There is no support in any section of the Code – including Va. Code §§ 56-585.1 A 3, A 5 e, or A 7 – for the Company's position that, after the expiration of capped rates, it may continually recover costs for the same project in two places, first in base rates and then again under a rate adjustment clause, by incremental adjustments in the latter of costs designated for recovery in the former.³³ If the costs of a project are in base rates, we do not believe it is reasonable that they be included again in a rate adjustment clause under Va. Code § 56-585.1 A 5 e.

In sum, we find that the Staff's ratemaking methodology, which provides for the recovery of \$30 million of environmental costs that were not included in base rates in 2009 and 2010, is lawful and reasonable.

Capacity Equalization Charges

In our biennial review order issued the same day as our Final Order approving APCo's environmental rate adjustment clause, we explained APCo's capacity equalization charges:

The Company is a member of the AEP East Power Pool, which is governed by an Interconnection Agreement approved by the Federal Energy Regulatory Commission ("FERC"). Under the Interconnection Agreement, a generating capacity obligation is calculated for each American Electric Power Company ("AEP") East company, and those companies that do not own enough capacity to satisfy their calculated obligation must make payments to those with surplus capacity. As explained by Consumer Counsel, "members pay their member load ratio ("MLR") share of the total AEP East system capacity," and "[t]his means that a member that has a capacity deficit position, compared to the overall pool, purchases capacity from the capacity surplus members."³⁴

In this rate adjustment clause proceeding, the Commission was presented with wide-ranging estimates of what an "environmental component" of these capacity equalization charges *might be*. These estimates were offered because, under the terms of the Interconnection Agreement discussed above, affiliates of APCo charge it for capacity, and not for some subset of environmental capacity. The Interconnection Agreement provides no formula by which to calculate, nor indeed any mention of, environmental costs specifically.³⁵ Put simply, capacity equalization charges come to APCo as capacity charges.³⁶

APCo is not charged by its affiliates for environmental costs, but for capacity costs. Once capacity costs are in base rates, they include the environmental costs associated with that capacity. The Code does not require the Commission – in setting base rates – to break down these capacity costs into estimates of environmental costs or any other possible estimated components. The Commission includes in base rates a level of capacity costs that incorporates the related environmental costs.

To produce estimates of what an environmental component of these capacity charges might be, APCo, the Staff, and Consumer Counsel each used, as their baseline, estimates of an environmental component of capacity charges already embedded in base rates.³⁷ These baseline estimates differed by more than \$13 million.³⁸

Based on the record, we found that APCo failed to prove that its proposed recovery of the "environmental component" of its capacity equalization charges from its affiliates was lawful under Va. Code § 56-585.1 A 5 e. Although the statute permits the recovery of qualifying actual and projected costs, all amounts at issue in this case were proposed as actual costs.³⁹ However, the wide-ranging estimates of environmental costs in the record did not sufficiently demonstrate "actual costs of [environmental compliance] projects" that could be lawfully recovered under Va. Code § 56-585.1 A 5 e. While recognizing that a full level of capacity equalization charges would remain recoverable through the Company's base rates, we could not find that APCo's proposed capacity charge calculations constituted "actual costs of projects that the Commission finds to be necessary to comply with . . . environmental laws or regulations applicable to generation facilities used to serve the utility's native load obligations."⁴⁰ As we could not find that the capacity equalization charges proposed by APCo constituted either actual or projected costs recoverable under § 56-585.1 A 5 e, we denied recovery of capacity equalization charges through the proposed adjustment clause while allowing recovery of such charges, including any environmental-related component, through base rates.

³² Thus, although Va. Code § 56-585.1 A 5 e provides that the Commission "shall approve such a petition if it finds that such costs are necessary [for environmental compliance]," Va. Code § 56-585.1 A 7 makes clear that the costs that are properly the subject of any such petition exclude base rate costs.

³³ To the contrary, under § 56-585.1 A 3, APCo's proposed adjustment clause is to be combined with base rates upon certain events that have not yet occurred. *See, e.g., Biennial Review Order* at 36.

³⁴ *Biennial Review Order* at 11.

³⁵ Ex. 16 (Interconnection Agreement).

³⁶ Tr. at 352 (Carr).

³⁷ *See, e.g.,* Ex. 17 (Allen rebuttal) at 5 ("The estimated environmental portion of the update . . ."), 6 ("The Staff used these estimates . . ."); Ex. 9 (Norwood) at 15-16; Staff's Post-hearing Brief at 17-18; APCo's Post-hearing Brief at 13-14.

³⁸ *Id.*

³⁹ *See, e.g.,* Ex. 3 (Bosta direct) at 5-6.

⁴⁰ Va. Code § 56-585.1 A 5 e. Although this statute also allows the recovery of qualifying "projected" costs, the 2009 and 2010 costs at issue were not projected costs, nor were they proposed as projected costs.

We also found there to be credible evidence that APCo's proposal, if adopted, would allow the recovery of additional capacity equalization charges from its Virginia customers in scenarios where there was no actual additional environmental investment. This evidence showed that APCo's estimate of environmental charges from its affiliates was based on a ratio of APCo's customer demand, or peak load, compared to the peak load of APCo's affiliates.⁴¹ As explained by the Staff, variations in peak load (and thus, rate requirements allocated among the members) are impacted by, among other things, weather patterns and economic conditions across the entire AEP-East footprint.⁴² The Company's proposal would, therefore, allow recovery through an environmental rate adjustment clause of increased charges that are wholly unrelated to any additional environmental improvements.⁴³ For this additional reason, the Commission found that APCo's methodology for estimating an environmental component of capacity equalization charges was inconsistent with the statutory requirement for the recovery of only actual or projected costs of "projects" for environmental compliance.⁴⁴

We also found, based on the record in this case and the fact that capacity equalization charges are already included in the Company's base rates, that approving one of the varying calculations in the record could result in a double recovery of costs through the Company's base rates and adjustment clause rates. As discussed above, under the Regulation Act, the Company's base rates are reviewed at least every two years to ensure they are at a level providing the Company with the "opportunity to fully recover its costs of providing its services and to earn not less than a fair combined rate of return."⁴⁵ A full level of capacity equalization charges is already included in the Company's base rates and was so included during 2009 and 2010.⁴⁶ In other words, those base rates, as proposed by APCo and approved by the Commission, did not exclude any portion of capacity equalization charges that the Company categorized as environmental.⁴⁷ As such, the Company's proposal in the instant case presented an unacceptable risk of double recovery of capacity equalization charges from customers.

The Final Order also notes that APCo's proposal to use the Interconnection Agreement as the basis for recovering its affiliates' costs to comply with *potential* environmental laws or regulations is complicated by the Company's recent decision to terminate the Interconnection Agreement. In December 2010, APCo and each of the other AEP Pool members gave notice to the other members of its revocable intent to terminate the Interconnection Agreement, effective January 1, 2014, or such other date as approved by FERC. Developments regarding this termination are continuing, and are the subject of a pending Commission proceeding.⁴⁸

Although the Commission ruled that the record estimates of an environmental component of capacity charges were insufficient for recovery under Va. Code § 56-585.1 A 5 e and inclusion therein presented an unacceptable risk of double recovery from customers, the Commission reaffirmed that all capacity equalization charges remain recoverable through the Company's base rates, which are regularly reviewed under the Regulation Act. We also reaffirmed the inclusion of these charges, in their entirety, in the Company's base rates by our biennial review order issued the same day as our Final Order in this adjustment clause proceeding.⁴⁹

In sum, we denied APCo's proposed recovery of capacity equalization charges through Va. Code § 56-585.1 A 5 e based on the record developed in this case. Our finding does not, in any way, alter the ratemaking treatment of capacity equalization charges in the Company's base rates.

Accordingly, for the reasons provided in our Final Order, and as further explained in this Opinion, we granted APCo's petition in part, permitting APCo to implement a rate adjustment clause designed to recover a revenue requirement of \$30 million over a one-year period.

⁴¹ See, e.g., Tr. at 318-19 (Carr); Staff's Post-hearing Brief at 19-20.

⁴² Ex. 11 (Carr) at 22, n.15.

⁴³ As discussed above, our Final Order provides for the recovery of \$30 million of costs that we have found to be the costs of environmental projects recoverable under Va. Code § 56-585.1 A 5 e. These projects include Selective Non-Catalytic Reduction, Flue Gas Desulfurization, and trona systems undertaken by APCo. See, e.g., Ex. 11 (Carr) at 11-19, 25-26.

⁴⁴ The MLR peak demand methodology remains appropriate for purposes of determining the overall level of capacity equalization charges that are recoverable through APCo's base rates. *Biennial Review Order* at 11-12. Use of the appropriate MLR for purposes of setting base rates is consistent with the manner in which capacity equalization costs are charged to APCo and contemplated by the Interconnection Agreement. Ex. 16 (Interconnection Agreement).

⁴⁵ Va. Code §§ 56-585.1 A, A 8.

⁴⁶ *Biennial Review Order* at 11-12; *Application of Appalachian Power Company, For a statutory review of the rates, terms and conditions for the provision of generation, distribution and transmission services pursuant to § 56-585.1 A of the Code of Virginia*, Case No. PUE-2009-00030, 2010 S.C.C. Ann. Rept. 308, 312-314, Final Order at 12-18 (July 15, 2010); *Application of Appalachian Power Company, For an increase in electric rates*, Case No. PUE-2008-00046, 2008 S.C.C. Ann. Rept. 547, Final Order (Nov. 17, 2008).

⁴⁷ *Id.*

⁴⁸ See, e.g., *Commonwealth of Virginia, ex rel., State Corporation Commission, In re: Appalachian Power Company's Integrated Resource Plan filing pursuant to Va. Code § 56-597 et seq.*, Case No. PUE-2011-00100, Order at 1-3 (Mar. 5, 2012). As indicated in the order cited herein, an initial proposal for the corporate reorganization of AEP was filed with FERC, then withdrawn shortly thereafter. After this order was entered, APCo provided notice to the Commission of AEP's intent to make subsequent filings at FERC related to corporate reorganization and the Interconnection Agreement.

⁴⁹ *Application of Appalachian Power Company, For a 2011 biennial review of the rates, terms, and conditions for the provision of generation, distribution and transmission services pursuant to § 56-585.1 A of the Code of Virginia*, Case No. PUE-2011-00037, Final Order at 11-12 (Nov. 30, 2011).

**CASE NO. PUE-2011-00035
DECEMBER 12, 2012**

PETITION OF
APPALACHIAN POWER COMPANY

For approval of a rate adjustment clause, E-RAC, to recover costs incurred in complying with state and federal environmental laws and regulations, pursuant to Va. Code § 56-585.1 A 5 e

ORDER GRANTING MOTION

On March 31, 2011, pursuant to § 56-585.1 A 5 e of the Code of Virginia, Appalachian Power Company ("APCo" or "Company") filed with the State Corporation Commission ("Commission") a petition seeking to establish a rate adjustment clause, designated as Schedule E-R.A.C. ("E-RAC"), to recover, from its Virginia retail customers, approximately \$77 million that the Company indicated were Virginia jurisdictional environmental costs that it incurred in 2009 and 2010. The Company requested that this amount be collected through the proposed rate adjustment clause over a two-year period, beginning February 1, 2012.

On April 12, 2011, the Commission issued an Order for Notice and Hearing that, among other things, directed APCo to provide public notice of its petition and established a procedural schedule for this case. The procedural schedule included public hearings on the petition, which were held in Abingdon (May 25, 2011), Rocky Mount (May 26, 2011), and Richmond (August 31, 2011).

By Final Order issued November 30, 2011, the Commission approved APCo's establishment of the E-RAC for the recovery of \$30 million of costs over a one-year period beginning February 1, 2012.¹ APCo subsequently appealed the Commission's Final Order to the Supreme Court of Virginia, which, by Opinion issued November 1, 2012, affirmed in part, and reversed in part, the Final Order.² Specifically, the Court reversed the portion of the Commission's decision denying rate adjustment clause recovery of approximately \$6 million.³

On November 30, 2012, the participants in this Commission proceeding – APCo; the Office of the Attorney General, Division of Consumer Counsel; the Old Dominion Committee for Fair Utility Rates; Steel Dynamics, Inc.; VML/VACo APCo Steering Committee; and the Commission's Staff (collectively, "Joint Participants") – filed a Joint Motion containing a recommendation to address the Supreme Court of Virginia's November 1, 2012 Opinion. The Joint Participants recommend that the Commission implement the Opinion by allowing APCo to recover an additional \$6 million through an extension of the E-RAC that is currently in place. In support of this recommendation, the Joint Participants indicate, among other things, that: (1) extending the E-RAC an additional two months would allow APCo to recover an additional \$5.7 million approximately; (2) extending the E-RAC an additional three months would allow APCo to recover an additional \$8.1 million approximately; (3) APCo will "true-up" recovery of \$36 million (consisting of the \$30 million approved in the Final Order and the \$6 million that is the subject of the Joint Motion) in a later E-RAC proceeding; and (4) Commission authorization for recovery of approximately \$36 million over 14 or 15 months through the approved E-RAC does not raise issues of notice or due process.⁴

NOW THE COMMISSION, having considered this matter, hereby grants the Joint Motion.

Accordingly, IT IS ORDERED THAT:

- (1) Case No. PUE-2011-00035 is reopened for purposes of this Order.
- (2) The Joint Motion is hereby granted.

(3) The Rider E-R.A.C. tariff providing for the E-RAC to remain in effect through March 31, 2013, as included as part of Attachment A to the Joint Motion, shall become effective January 29, 2013. The Clerk of the Commission shall retain such filing for public inspection in person and on the Commission's website: <http://www.scc.virginia.gov/case>.

- (4) This matter is dismissed.

¹ *Petition of Appalachian Power Company, For approval of a rate adjustment clause, E-RAC, to recover costs incurred in complying with state and federal environmental laws and regulations, pursuant to Va. Code § 56-585.1 A 5 e*, Case No. PUE-2011-00035, 2011 S.C.C. Ann. Rept. 474 (Nov. 30, 2011).

² *Appalachian Power Co. v. State Corp. Comm'n*, 2012 Va. LEXIS 202 (Nov. 1, 2012).

³ *Id.* at *20.

⁴ As part of Attachment A to the Joint Motion, the Joint Participants included calculations supporting both the \$5.7 million and \$8.1 million amounts.

**CASE NO. PUE-2011-00036
JANUARY 3, 2012**

PETITION OF
APPALACHIAN POWER COMPANY

For approval of a rate adjustment clause pursuant to § 56-585.1 A 6 of the Code of Virginia to recover the costs of the Dresden Generating Plant

FINAL ORDER

On July 20, 2011, the State Corporation Commission ("Commission") entered an Order Granting Authority in Case No. PUE-2011-00023, approving Appalachian Power Company's ("APCo" or "Company") proposed acquisition of the Dresden Generating Plant ("Dresden"), a partially constructed 580 megawatt natural gas-fired combined cycle generating plant located near Dresden, Ohio, from AEP Generating Company, an affiliate of APCo.¹ APCo's Petition in the current proceeding, filed on March 31, 2011, requests Commission approval of a rate adjustment clause ("G-RAC") to recover the costs associated with the Company's acquisition and operation of Dresden as authorized by § 56-585.1 A 6 of the Code of Virginia ("Code").

In its Petition, the Company represents that the total projected cost of Dresden is estimated to be approximately \$366 million. This total cost includes the Company's agreement to purchase Dresden at its book value on the date of the transfer, estimated to be approximately \$200 million, and an estimated \$166 million in additional expenditures necessary to complete Dresden.² APCo projects that Dresden will begin commercial operations on or about February 29, 2012.³

By its Petition, the Company seeks to recover an annual revenue requirement of approximately \$27 million, effective March 1, 2012, associated with the Company's proposed acquisition and operation of Dresden.⁴ Implementation of the proposed G-RAC will increase the monthly bill of a residential customer using 1,000 kilowatt hours of electricity by \$2.17 when compared to current rates.⁵ Adjustments of surcharge recoveries for any over- or under-recovery of costs associated with Dresden will be sought by the Company in subsequent G-RAC proceedings.⁶

In calculating the G-RAC's proposed revenue requirement of approximately \$27 million, APCo used an enhanced return on equity ("ROE") of 12.15%, which reflects the base 11.15% ROE proposed in the Company's biennial review proceeding⁷ plus the 100 basis point enhancement authorized by § 56-585.1 A 6 of the Code for a combined-cycle generating facility such as Dresden. The Company's Petition further proposes that the 100 basis point ROE enhancement be applied during the first ten (10) years of the service life of Dresden.⁸ The Company's Petition requests that the Commission use the base ROE determined in its Biennial Review Proceeding as the ROE in this proceeding to which the 100 basis point enhancement would apply.⁹

On April 12, 2011, the Commission issued its Order for Notice and Hearing in this proceeding, which, among other things, docketed this matter; scheduled public hearings to receive the testimony of public witnesses on May 25 and May 26, 2011, in Abingdon, Virginia, and Rocky Mount, Virginia, respectively; scheduled an evidentiary hearing in Richmond, Virginia, on August 23, 2011; established a procedural schedule; required the Company to provide public notice of its Petition; and assigned the case to a Hearing Examiner.

Notices of Participation were filed by the Old Dominion Committee For Fair Utility Rates ("Committee"); Office of the Attorney General, Division of Consumer Counsel ("Consumer Counsel"); VML/VACo APCo Steering Committee ("VML/VACo"); and Steel Dynamics, Inc. ("SDI").

At the evidentiary hearing held in Richmond on August 23, 2011, the Company, the Staff of the Commission ("Staff"), and VML/VACo presented a stipulation ("Stipulation") to the Hearing Examiner, which was accepted into the record.¹⁰ Although not a signatory, Consumer Counsel stated that it does not oppose the Stipulation.¹¹ The Committee stated that it neither supports nor opposes the Stipulation.¹² Among other things, the Stipulation provides as follows:

¹ *Application of Appalachian Power Company, AEP Generating Company, and American Electric Power Company, Inc., For authority to enter into affiliate transactions under Title 56, Chapter 4 of the Code of Virginia*, Case No. PUE-2011-00023, Doc. Con. Cen. No. 450157, Order Granting Authority (July 20, 2011). On September 19, 2011, APCo filed with the Commission notification that the transfer of Dresden to APCo was completed on August 31, 2011.

² Ex. 3 at 2.

³ *Id.* at 3.

⁴ *Id.* at 3.

⁵ Ex. 8 at 7.

⁶ Ex. 3 at 3.

⁷ APCo's biennial review case was recently decided by the Commission. *See Application of Appalachian Power Company, For a 2011 biennial review of the rates, terms and conditions for the provision of generation, distribution and transmission services pursuant to § 56-585.1 A of the Code of Virginia*, Case No. PUE-2011-00037, Doc. Con. Cen. No. 454944, Final Order (Nov. 30, 2011) (hereinafter, "Biennial Review Proceeding"). Page 2 of this Final Order contains a discussion of APCo's proposed ROE.

⁸ Ex. 3 at 3-4.

⁹ *Id.* at 4.

¹⁰ Ex. 2.

¹¹ Tr. at 225.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

- The Stipulating Participants agree to the establishment of the G-RAC for recovery of costs related to the Dresden Plant.
- The Stipulating Participants agree that APCo shall be allowed to implement the G-RAC on March 1, 2012, with an annual revenue requirement of \$26,896,265 if the Dresden Plant is in service on or before March 1, 2012.
- If the Dresden Plant is not in service on or before March 1, 2012, the Stipulating Participants agree that APCo shall be allowed to implement the G-RAC on March 1, 2012, with an annual revenue requirement of \$19,552,589 until the facility is placed into service. Furthermore, the Stipulating Participants agree that the Company will be allowed to adjust the G-RAC to recover an annual revenue requirement of \$26,896,265 if the Dresden Plant is placed into service prior to March 1, 2013.
- The Stipulating [Participants] acknowledge that the agreed upon revenue requirements (varying, as reflected above, depending upon the date on which the Dresden Plant is placed into service) associated with the G-RAC are based on the ROE proposed by the Company in the Biennial Review Proceeding.
- The Stipulating [Participants] acknowledge that the agreed upon revenue requirements (varying, as reflected above, depending upon the date on which the Dresden Plant is placed into service) reflect a 20-year amortization of accrued allowance for funds used during construction ("AFUDC") and they agree to reconsider the AFUDC amortization period in future G-RAC proceedings.
- Until such time as a new ROE is reflected in APCo's base rates, the Stipulating Participants agree that AFUDC and return on investment associated with the Dresden Plant shall be calculated based on a ROE of 10.53% plus 100 basis points -- that is, a total ROE of 11.53%.
- The Stipulating Participants agree that the 100 basis point enhanced ROE shall apply for the first 10 years of the Dresden Plant's service life.
- The Stipulating Participants agree that the actual costs incurred in connection with the Dresden Plant shall be reconciled with actual revenues collected in the G-RAC and the difference will be reflected in the revenue requirements of future G-RAC proceedings. They also agree that the actual costs incurred pursuant to the G-RAC will incorporate (i) upon implementation of the base rates in the Biennial Review Proceeding, the capital structure and ROE approved by the Commission plus 100 basis points; (ii) the Commission's determined treatment of [f]actoring [c]osts; and (iii) the domestic production activities tax deduction to the extent such deduction would be applicable to the Company on a stand-alone basis.
- APCo agrees to account separately on its books for the Virginia component of AFUDC associated with the Dresden Plant.
- The Stipulating Participants agree to the adoption of a consistent position for the treatment of [f]actoring [c]osts in the March 31 Cases.¹³
- The Stipulating Participants agree that the rate design for the G-RAC shall be treated consistently with the rate design approved by the Commission in the Biennial Review Proceeding.
- The Company agrees to file a petition for a revised G-RAC on or before March 31, 2012.¹⁴

The Stipulation addressed all the contested issues in this proceeding except: (i) SDI's assertion that the requested G-RAC should be denied because the costs associated with APCo's acquisition of Dresden and the costs of completing its construction are not unique or unusual and, therefore, do not warrant single-issue ratemaking treatment;¹⁵ and (ii) the Staff's position that factoring costs associated with Dresden should be recovered through base rates rather than the Company's G-RAC.¹⁶

¹² *Id.*

¹³ The "March 31 Cases" refer to this proceeding, APCo's Biennial Review Proceeding and two other rate adjustment clause proceedings. See *Petition of Appalachian Power Company, For approval of a rate adjustment clause, E-RAC, to recover costs incurred in complying with state and federal environmental laws and regulations, pursuant to Va. Code § 56-585.1 A 5 e*, Case No. PUE-2011-00035 (filed Mar. 31, 2011), and *Petition of Appalachian Power Company, For approval of a rate adjustment clause, RPS-RAC, to recover the incremental costs of participation in the Virginia renewable energy portfolio standard program, pursuant to Va. Code §§ 56-585.1 A 5 d and 56-585.2 E*, Case No. PUE-2011-00034 (filed Mar. 31, 2011).

¹⁴ Report of A. Ann Berkebile, Hearing Examiner at 5-6 (Sept. 20, 2011) (hereinafter, "Hearing Examiner's Report"). See also Ex. 2 at 2-3.

¹⁵ See Ex. 9 at 8-14.

¹⁶ See Ex. 11 at 12-13.

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On September 20, 2011, the Hearing Examiner issued the Hearing Examiner's Report that explained the procedural history of this case, summarized the record, analyzed the evidence and issues in this proceeding, and made the following findings:

- (1) The Company's Petition for a G-RAC for the recovery of costs related to the Dresden Plant should be approved in accordance with the terms of the Stipulation;
- (2) The Company should be allowed to implement the G-RAC on March 1, 2012, with an annual revenue requirement of \$26,896,265 if the Dresden Plant is in service on or before March 1, 2012;
- (3) If the Dresden Plant is not in service on or before March 1, 2012, the Company should be allowed to implement the G-RAC on March 1, 2012, with an annual revenue requirement of \$19,552,589 until the facility is placed into service;
- (4) The Company should be allowed to adjust the G-RAC to recover an annual revenue requirement of \$26,896,265 if the Dresden Plant is placed into service prior to March 1, 2013;
- (5) The amortization period for accrued AFUDC should be reconsidered in future G-RAC proceedings;
- (6) Until such time as a new ROE is reflected in the Company's base rates, the AFUDC and the return on investment associated with the Dresden Plant should be calculated based on a ROE of 10.53% plus 100 basis points, for a total ROE of 11.53%;
- (7) The 100 basis point enhanced ROE should apply for the first 10 years of the Dresden Plant's service life;
- (8) The actual costs incurred in connection with the Dresden Plant should be reconciled with actual revenues collected in the G-RAC and the difference should be reflected in the revenue requirements of future G-RAC proceedings and such actual costs should incorporate (i) upon implementation of the base rates in the Biennial Review Proceeding, the capital structure and the ROE approved by the Commission plus 100 basis points; (ii) the Commission's determined treatment of [f]actoring [c]osts; and (iii) the domestic production activities tax deduction to the extent such deduction would be applicable to the Company on a stand-alone basis;
- (9) The Company should be directed to account separately on its books for the Virginia component of AFUDC associated with the Dresden Plant;
- (10) Factoring [c]osts should not be recovered in the G-RAC but, instead, should be recovered in the Company's base rates;
- (11) The rate design of the G-RAC should be treated consistently with the rate design approved by the Commission in the Biennial Review Proceeding; and
- (12) The Company should be directed to file a petition for a revised G-RAC on or before March 31, 2012.¹⁷

The Hearing Examiner recommended that the Commission adopt her report and retain jurisdiction over this matter until the Commission renders a decision on APCo's capital structure and ROE in its Biennial Review Proceeding.¹⁸

On October 11, 2011, Consumer Counsel and the Company filed comments on the Hearing Examiner's Report. Consumer Counsel stated that it does not oppose the Hearing Examiner's Report. APCo stated that it agrees with the Hearing Examiner's Report in all aspects except for the Hearing Examiner's conclusion concerning factoring costs.

NOW THE COMMISSION, having considered this matter, is of the opinion and finds that the Stipulation, as proposed, shall not be approved. We further conclude, however, that with two minor modifications, the Stipulation, taken as a whole, is just and reasonable and satisfies the relevant statutory requirements applicable to this case.

First, we find that the proposed revenue requirement of \$26,896,265 proposed in the Stipulation should not be accepted. In the Company's Biennial Review Proceeding we approved a base ROE of 10.4%.¹⁹ Applying this base ROE plus the 100 basis point enhancement authorized by § 56-585.1 A 6 of the Code for a combined-cycle generating facility, we find that the Company shall be allowed to implement the G-RAC on March 1, 2012, with an annual revenue requirement of \$26,098,451 if Dresden is placed in service on or before March 1, 2012. If Dresden is not placed in service on or before March 1, 2012, the Company shall be allowed to implement the G-RAC on March 1, 2012, with an annual revenue requirement of \$18,707,504 until such time as the facility is placed in service.

Second, we find that if Dresden is not placed in service on or before March 1, 2012, and the Company implements the G-RAC with an annual revenue requirement of \$18,707,504 on March 1, 2012, the Company shall be allowed to adjust the G-RAC to recover an annual revenue requirement of \$26,098,451 if Dresden is placed in service prior to March 1, 2013.

¹⁷ Hearing Examiner's Report at 21-22.

¹⁸ *Id.* at 22.

¹⁹ See Biennial Review Proceeding, Final Order at 5-8.

Finally, we find that the Hearing Examiner's Report shall be adopted, in part, and that all findings and recommendations thereof should be adopted except for the annual revenue requirements described and modified above. Accordingly, we agree with the Hearing Examiner²⁰ and find that the Company has not established that the factoring costs at issue are "costs of the facility...including projected construction work in progress, and any associated allowance for funds used during construction, planning, development and construction costs, life-cycle costs, and costs of infrastructure associated therewith" as set forth in § 56-585.1 A 6 of the Code.²¹

Accordingly, IT IS ORDERED THAT:

- (1) APCo's Petition for approval of a rate adjustment clause to recover the costs associated with its acquisition of Dresden is approved in part, and denied in part, as set forth herein.
- (2) The findings and recommendations in the Hearing Examiner's Report shall be adopted by the Commission except as modified herein.
- (3) The Stipulation is rejected.
- (4) The Stipulation, as modified herein, is approved if accepted by APCo as directed below.
- (5) Within three (3) business days from the date of this Final Order, APCo shall file a letter with the Clerk of the Commission indicating whether the Company agrees to accept and implement the Stipulation as modified herein.
- (6) If the Company timely accepts the Stipulation as modified herein:
 - (a) APCo is directed to comply with the Stipulation, as modified herein.
 - (b) APCo forthwith shall file revised tariffs with the Clerk of the Commission and with the Commission's Division of Energy Regulation in accordance with this Final Order. The revised tariffs shall reference Case No. PUE-2011-00036 and shall contain: (1) tariff provisions for the G-RAC with a revenue requirement of \$26,098,451; and (2) tariff provisions for the G-RAC with a revenue requirement of \$18,707,504. APCo shall file all workpapers supporting and reflecting the two revenue requirements for its G-RAC approved herein.
 - (c) APCo shall, on or before February 15, 2012, advise the Commission's Divisions of Energy Regulation and Utility Accounting and Finance, in writing, which G-RAC and rate increase will be placed into effect on March 1, 2012. If APCo implements the G-RAC with a rate increase of \$18,707,504 on or before March 1, 2012, and the Company subsequently places Dresden in service on or before March 1, 2013, the Company shall advise the Commission's Divisions of Energy Regulation and Utility Accounting and Finance, in writing, at least fifteen (15) days before it places its G-RAC in effect with a rate increase of \$26,098,451.

The Clerk of the Commission shall retain such filings for public inspection in person and on the Commission's website: <http://www.sec.virginia.gov/case>.

- (7) Factoring costs shall not be recovered in the G-RAC but, instead, may be recovered in the Company's base rates.
- (8) The Company shall file a petition for a revised G-RAC on or before March 31, 2012.
- (9) This matter is continued.

²⁰ See Hearing Examiner's Report at 19-20 for the discussion pertaining to factoring costs.

²¹ We note that treatment of factoring costs under this statute is consistent with the Commission's historical treatment of APCo's factoring costs associated with its fuel adjustment clause; that is, factoring costs associated with fuel recovery are not included in the fuel adjustment clause but, rather, are recovered through base rates.

**CASE NO. PUE-2011-00036
DECEMBER 12, 2012**

APPLICATION OF
APPALACHIAN POWER COMPANY

For approval of a rate adjustment clause pursuant to § 56-585.1 A 6 of the Code of Virginia with respect to the Dresden Generating Plant

ORDER CLOSING CASE

On March 31, 2011, Appalachian Power Company ("Company") filed with the State Corporation Commission ("Commission") its application for approval of a rate adjustment clause for recovery of the costs associated with the Company's proposed acquisition of the Dresden Generating Plant ("Dresden"), pursuant to § 56-585.1 A 6 of the Code of Virginia. On January 3, 2012, the Commission entered a Final Order wherein it, among other things, approved the rate adjustment clause; required additional filings by the Company; and continued the matter. The additional filings have been made by the Company.

NOW THE COMMISSION, upon consideration of the foregoing, finds that there is nothing further to be decided in the captioned case and it should therefore be closed.

Accordingly, IT IS ORDERED THAT this matter is hereby dismissed from the Commission's active docket and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. PUE-2011-00039
JANUARY 25, 2012**

APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY D/B/A DOMINION VIRGINIA POWER

For approval and certification of electric facilities: Dooms – Brems 230 kV Transmission Line Rebuild

FINAL ORDER

On April 29, 2011, Virginia Electric and Power Company d/b/a Dominion Virginia Power ("Dominion Virginia Power" or "Company") filed with the State Corporation Commission ("Commission") the Application of Virginia Electric and Power Company for Approval and Certification of Electric Facilities: Dooms – Brems 230 kV Transmission Line Rebuild, Application No. 252 ("Application").¹ The Company proposes to construct, entirely within existing right-of-way: (a) approximately nineteen (19) miles of new single-circuit 230 kilovolt ("kV") electric transmission line to replace the corresponding portion of its existing 115 kV Line #39 (Dooms – Sherwood Line), from existing Dooms Substation in Augusta County to a point ("Sherwood Junction") approximately nineteen (19) miles southeast of Dooms Substation where Line #39 turns northeast and continues to Sherwood Substation; and (b) approximately 23.7 miles of new 230 kV line, to replace the corresponding portion of its existing 115 kV Line #91 (Sherwood – Brems Line), from Sherwood Junction to existing Brems Substation in Fluvanna County (collectively, the "Project" or "Dooms – Brems").²

According to Dominion Virginia Power, the Project is necessary to assure that the Company can continue to provide reliable electric service to the customers served from its Midway Delivery Point to Central Virginia Electric Cooperative ("CVEC"), Red Hill Delivery Point to Appalachian Power Company, Sherwood Substation, Kidds Store Delivery Point to CVEC, Brems Substation, Cunningham Delivery Point, and Trices Lake Delivery Point to CVEC, Cartersville Substation, James River Industrial Substation, and Columbia Delivery Point to CVEC (collectively, the "Load Area") consistent with mandatory North American Electric Reliability Corporation ("NERC") Reliability Standards for transmission facilities and the Company's planning criteria.³ More specifically, according to the Application, power flow studies show that the Company's transmission facilities will not meet NERC Reliability Standards if the Project is not in service by the summer of 2014.⁴ The Company also asserts that the Project is necessary, in part, to serve a new delivery point for CVEC's customer, Transcontinental Gas Pipe Line Company, LLC ("Transco"), which plans to convert and expand its existing compressor station in western Fluvanna County.⁵

According to the Application, the estimated cost of the Project is \$64.1 million.⁶

On May 24, 2011, the Commission issued an Order for Notice and Hearing that, among other things, directed the Company to give notice to affected localities and landowners and to publish public notice; scheduled a public hearing to commence on September 14, 2011; established a procedural schedule for the filing of comments, notices of participation, and prepared testimony and exhibits; and assigned a Hearing Examiner to conduct further proceedings and to issue a report.

In response to the notice required by the Commission's Order for Notice and Hearing, the Commission received one written comment from two landowners.⁷ No notices of participation were filed.

As noted in the Commission's Order for Notice and Hearing, the Commission's Staff ("Staff") requested the Department of Environmental Quality ("DEQ") to coordinate a review of the Project by state and local agencies and to file a report on the review. On July 15, 2011, the DEQ filed its report ("DEQ Report"), which was admitted at the public hearing.⁸ The DEQ Report contained the following recommendations with regard to the Project:

- Conduct an on-site delineation of all wetlands and streams within the [P]roject area with verification by the U.S. Army Corps of Engineers (Corps), using accepted methods and procedures, and follow DEQ's recommendations to avoid and minimize impacts to wetlands and streams (Environmental Impacts and Mitigation, item 1(d), pages 9-10).

¹ Corrections and revisions to the Application and accompanying materials were filed by the Company on June 15, 2011, and August 11, 2011. *See Ex. 3, 4.*

² *Ex. 2 at 2.*

³ *Id.*

⁴ *Id.*

⁵ *Id.* at 4.

⁶ *Id.* at 5-6.

⁷ As explained by Dominion Virginia Power, these individuals own property for which the Company recently acquired an easement for purposes separate from the Project that is the subject of the Company's Application. *See, e.g., Ex. 10 at 5-6.*

⁸ *Ex. 9.*

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- Consider DEQ's recommendations, including reuse of vegetative waste in lieu of open burning, regarding air quality protection (Environmental Impacts and Mitigation, item 4(f), page 14).
- Reduce solid waste at the source, reuse it and recycle it to the maximum extent practicable, and follow DEQ's recommendations to manage waste, as applicable (Environmental Impacts and Mitigation, item 5(d), pages 18-19).
- Coordinate with the DEQ Division of Land Protection and Revitalization regarding its recommendations for coordination and evaluation on contaminated sites (Environmental Impacts and Mitigation, item 5(d), pages 18-19).
- Coordinate with the Department of Conservation and Recreation (DCR) regarding its recommendations as well as for updates to the Biotics Data System database if a significant amount of time passes before the [P]roject is implemented (Environmental Impacts and Mitigation, item 6(e), pages 22-23).
- Coordinate with DCR regarding a survey for Virginia sneezeweed (Environmental Impacts and Mitigation, item 6(e), page 23).
- Coordinate with the Department of Game and Inland Fisheries regarding its recommendations for protected species and other wildlife (Environmental Impacts and Mitigation, item 8(d), pages 25-27).
- Coordinate with DCR's Division of Planning and Recreational Resources regarding its recommendation about future trails (Environmental Impacts and Mitigation, item 9(d), page 28).
- Coordinate with the Department of Forestry regarding its recommendations to mitigate the loss of forest lands (Environmental Impacts and Mitigation, item 11(d), page 29).
- Work with the Department of Historic Resources regarding its recommendations to protect historic and archaeological resources, as applicable (Environmental Impacts and Mitigation, item 12(d), page 32).
- Coordinate with the Virginia Department of Transportation regarding its recommendations (Environmental Impacts and Mitigation, item 13(d), page 33).
- Coordinate with the Federal Aviation Administration (FAA) to ensure compliance with aviation regulations and with the Department of Aviation (DOAv) regarding its recommendations to ensure safety during construction at airports (Environmental Impacts and Mitigation, item 14(c), page 34).
- Coordinate with the Virginia Department of Health regarding its recommendations to protect water supplies, including implementation of best management practices (Environmental Impacts and Mitigation, item 15(c), pages 34-35).
- Follow the principles and practices of pollution prevention to the maximum extent practicable (Environmental Impacts and Mitigation, item 16, page 35).
- Limit the use of pesticides and herbicides to the extent practicable (Environmental Impacts and Mitigation, item 17, page 35).⁹

The public hearing was convened on September 14, 2011, before Hearing Examiner Howard P. Anderson, Jr. Witnesses for the Company presented testimony and exhibits on the need for the Project, construction plans and process, and the impact of the Project on the environment. The Staff offered testimony and exhibits on its review of the Project, and two (2) electrical alternatives to the Project, and concluded that the Company has reasonably demonstrated the need for the Project and that the proposed route is optimal.¹⁰ The Staff testified about the Company's historic load growth in the Load Area and load projections without the new delivery point requested by CVEC for an expanded Transco compressor station, while also noting that the Federal Energy Regulatory Commission has authorized construction of the expanded compressor station.¹¹ Additionally, the Staff testified about the criteria of the underground pilot program established by Chapter 799 of the 2008 Virginia Acts of Assembly ("HB 1319") and the unsuitability of the Project for this program.¹²

On November 15, 2011, the Hearing Examiner issued his report ("Hearing Examiner's Report"). The Hearing Examiner provided a summary of the evidence on the need and route selection for the Project, the Project's environmental and economic development impacts, and the unsuitability of the Project for inclusion in the underground pilot program established by HB 1319. Following his analysis, the Hearing Examiner made the following findings:

⁹ *Id.* at 6-7.

¹⁰ Ex. 8.

¹¹ *Id.* at 16-18.

¹² *Id.* at 12-13.

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- (1) The Company's load growth forecasts support the need for the proposed facilities;
- (2) The proposed facilities meet the need for sustained reliability at the Dooms Substation, the Breomo Substation, and the CVEC [Delivery Point];
- (3) The proposed facilities have the least impact on the environment and adjoining landowners, and are the most cost-effective means of meeting the Company's operational and reliability needs;
- (4) The proposed facilities use existing rights-of-way to the maximum extent practicable;
- (5) The proposed facilities are necessary for continued economic development in the area served by the Dooms and Breomo Substations;
- (6) There are no adverse environmental impacts that would prevent the construction of the proposed facilities;
- (7) The recommendations in the DEQ Report, with the modifications discussed [therein], are reasonable and desirable to minimize any adverse environmental impact associated with the Project;
- (8) The requirements of HB 1319 have been satisfied;
- (9) The proposed facilities do not represent a hazard to human health; and
- (10) A certificate of public convenience and necessity should be issued for the Company to construct and operate the proposed facilities.¹³

Based on his findings, the Hearing Examiner recommended that the Commission adopt the findings and issue a certificate of public convenience and necessity to the Company to construct and operate the proposed facilities.¹⁴

In the only filed response to the Hearing Examiner's Report, the Company supported the Hearing Examiner's recommendations and findings and requested expeditious Commission approval of those recommendations and findings.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that Dominion Virginia Power's Application to construct and operate the proposed single-circuit 230 kV transmission line in Albemarle, Augusta, and Fluvanna Counties is justified by the public convenience and necessity, and a certificate of public convenience and necessity should be issued authorizing the construction and operation of the proposed Project, subject to the findings and conditions discussed below.

Approval

The statutory scheme governing the Company's Application is found in several chapters of Title 56 of the Code of Virginia ("Code"). Section 56-265.2 A of the Code provides that "[i]t shall be unlawful for any public utility to construct . . . facilities for use in public utility service, . . . , without first having obtained a certificate from the Commission that the public convenience and necessity require the exercise of such right or privilege."

Section 56-46.1 of the Code further directs the Commission to consider several factors when reviewing the Company's Application. Subsection A of the statute provides that:

Whenever the Commission is required to approve the construction of any electrical utility facility, it shall give consideration to the effect of that facility on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact. . . . In every proceeding under this subsection, the Commission shall receive and give consideration to all reports that relate to the proposed facility by state agencies concerned with environmental protection; and if requested by any county or municipality in which the facility is proposed to be built, to local comprehensive plans that have been adopted Additionally, the Commission (i) shall consider the effect of the proposed facility on economic development within the Commonwealth, . . . , and (ii) shall consider any improvements in service reliability that may result from the construction of such facility.

Section 56-46.1 B of the Code further provides that: "[a]s a condition to approval the Commission shall determine that the line is needed and that the corridor or route the line is to follow will reasonably minimize adverse impact on the scenic assets, historic districts and environment of the area concerned."

The Code further requires the Commission to consider existing right-of-way easements when siting transmission lines. Section 56-46.1 C of the Code provides that "[i]n any hearing the public service company shall provide adequate evidence that existing rights-of-way cannot adequately serve the needs of the company." In addition, § 56-259 C of the Code provides that "[p]rior to acquiring any easement of right-of-way, public service corporations will consider the feasibility of locating such facilities on, over, or under existing easements of rights-of-way."

¹³ Hearing Examiner's Report at 16.

¹⁴ *Id.* at 17.

Finally, for inclusion of a project in the underground pilot program established by HB 1319, the project must satisfy the following three criteria:

- (1) An engineering analysis demonstrates that it is technically feasible to place the proposed line, in whole or in part, underground;
- (2) The estimated additional cost of placing the proposed line, in whole or in part, underground does not exceed 2.5 times the cost of placing the same line overhead, assuming accepted industry standards for undergrounding to ensure safety and reliability. If the public utility, the affected localities, and the State Corporation Commission agree, a proposed underground line whose cost exceeds 2.5 times the cost of placing the line overhead may also be accepted into the pilot program; and
- (3) The governing body of each locality in which a portion of the proposed line will be placed underground indicates, by resolution, general community support for the line to be placed underground.¹⁵

Need

We agree with the Hearing Examiner that the Company's load growth forecasts support the need for the Project to ensure reliability in the Load Area.¹⁶ The need for the Project to resolve projected violations of NERC Reliability Standards has not been questioned, and we find that the Project is needed to maintain reliable service for the overall growth in the Load Area and for reliable service to the new delivery point requested by CVEC for service to an expanded natural gas compressor station in Fluvanna County.¹⁷

Economic Development and Service Reliability

The evidence submitted in this proceeding supports the conclusion that the Project is necessary for continued economic development and reliable electric service in the Load Area.¹⁸

Routing and Right-of-Way

We agree with the Hearing Examiner that "[t]he proposed facilities use existing rights-of-way to the maximum extent practicable."¹⁹ The rebuilt Dooms – Bremono line will be located entirely on existing right-of-way that has been occupied by the existing lines for over fifty (50) years.²⁰ Thus, Dominion Virginia Power was not required, in accordance with § 56-46.1 C of the Code, to demonstrate that existing rights-of-way could not adequately serve its needs.

We further agree with the Hearing Examiner's finding that the Project, compared to other electrical alternatives or routes requiring the acquisition of additional rights-of-way, has "the least impact on the environment and adjoining landowners, and [is] the most cost-effective means of meeting the Company's operational and reliability needs."²¹

HB 1319

The Project does not meet the criteria necessary for consideration as a HB 1319 underground pilot project.²²

Scenic Assets and Historic Resources

As discussed above, the existing lines have occupied the right-of-way for over fifty (50) years, and the rebuilt lines will be located along the same route as the existing lines and entirely in the existing right-of-way. Additionally, the Company has agreed to continue its evaluation of impacts to scenic and historic resources in the Project area, as recommended in the DEQ Report.²³ Accordingly, we find that adverse impact on scenic assets and historic districts in the region will be reasonably minimized consistent with § 56-46.1 B of the Code and that appropriate steps to protect historic and scenic assets have been taken.

¹⁵ 2008 Va. Acts ch. 799, Enactment Clause 1, § 4.

¹⁶ Hearing Examiner's Report at 16.

¹⁷ *Id.* at 8-9; Ex. 8 at 16-18. In the absence of projected NERC Reliability Standard violations, the Company indicates that the transmission lines are nearing the end of their useful life and would require major refurbishment or rebuild. Ex. 6 at 3-4.

¹⁸ Hearing Examiner's Report at 10-11.

¹⁹ *Id.* at 16.

²⁰ *See, e.g.*, Ex. 6 at 1-2.

²¹ Hearing Examiner's Report at 12, 16. *See also* Ex. 8 at 18-19.

²² Hearing Examiner's Report at 11-12.

²³ Ex. 10 at 2.

Environmental Impact

Under §§ 56-46.1 A and B of the Code, the Commission is required to consider the proposed Project's impact on the environment and to establish such conditions as may be desirable or necessary to minimize adverse environmental impact. Section 56-46.1 A of the Code further provides that the Commission shall receive and give consideration to all reports that relate to the proposed Project by state agencies concerned with environmental protection. As a requirement of our approval herein, the Company shall also comply with the recommendations from the DEQ Report, with two exceptions.²⁴ First, we agree with and find reasonable the Hearing Examiner's recommendation for Dominion Virginia Power to continue to coordinate with the Department of Aviation and file all forms required by Federal Aviation Administration rules and regulations.²⁵ Second, we adopt, in part, the Hearing Examiner's recommendation regarding Virginia Department of Forestry mitigation.²⁶ The costs associated with such mitigation shall be limited to no more than \$62,400, which is supported by evidence presented in this proceeding.²⁷

Accordingly, IT IS ORDERED THAT:

(1) The Company is authorized to construct and operate the proposed 42.7 mile single-circuit 230 kV Dooms – Brems line on the route proposed in the Company's Application subject to the findings and requirements imposed herein.

(2) Pursuant to §§ 56-46.1, 56-265.2 and related provisions of Title 56 of the Code, the Company's Application for a certificate of public convenience and necessity to construct and operate the proposed transmission line is granted as provided herein and subject to the requirements set forth in this Final Order.

(3) Pursuant to the Utility Facilities Act, Chapter 10.1 (§ 56-265.1 *et seq.*) of Title 56 of the Code, the Company is issued the following certificate of public convenience and necessity:

Certificate No. ET-58l, which authorizes Dominion Virginia Power under the Utility Facilities Act to operate certificated transmission lines and facilities in Albemarle County, all as shown on the map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUE-2011-00039, cancels Certificate No. ET-58k, issued to Dominion Virginia Power in Case No. PUE-2011-00015 on October 19, 2011.

Certificate No. ET-64u, which authorizes Dominion Virginia Power under the Utility Facilities Act to operate certificated transmission lines and facilities in Augusta County, all as shown on the map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUE-2011-00039, cancels Certificate No. ET-64t, issued to Dominion Virginia Power in Case No. PUE-1990-00008 on February 14, 1990.

Certificate No. ET-81i, which authorizes Dominion Virginia Power under the Utility Facilities Act to operate certificated transmission lines and facilities in Fluvanna County, all as shown on the map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUE-2011-00039, cancels Certificate No. ET-81h, issued to Dominion Virginia Power in Case No. PUE-2008-00014 on April 27, 2009.

(4) The Commission's Division of Energy Regulation shall forthwith provide the Company copies of the certificate issued in Ordering Paragraph (3) with the detailed map attached.

(5) The Project approved herein must be constructed and operational by June 2014 provided, however, the Company is granted leave to apply for an extension for good cause shown.

(6) As there is nothing further to come before the Commission, this matter is dismissed and the papers herein placed in the file for ended causes.

²⁴ Although we agree with the Hearing Examiner that the record supports a finding that the Project does not represent a hazard to safe air navigation, we note that adoption of the DEQ Report recommendation that the Company coordinate with the Federal Aviation Administration, as modified herein, will ensure compliance with any federal aviation regulations or guidelines applicable to the Project. Hearing Examiner's Report at 14-15.

²⁵ *Id.* at 15.

²⁶ *Id.* at 14.

²⁷ Ex. 10 at 3, Attachment CRF-1.

**CASE NO. PUE-2011-00041
MAY 15, 2012**

APPLICATION OF
MASSANUTTEN PUBLIC SERVICE CORPORATION

For an Annual Informational Filing for 2010

FINAL ORDER

On May 31, 2011, the State Corporation Commission ("Commission") entered its Order Granting Extension of Time in response to a motion filed on April 15, 2011, by Massanutten Public Service Corporation ("Massanutten" or "Company"), and on June 29, 2011, the Company completed its application for an Annual Informational Filing for 2010 ("AIF"). On December 9, 2011, the Staff of the Commission ("Staff") filed its report on the Company's AIF ("Report"), which included both financial and accounting analyses.

In its financial review, the Staff noted that the test year operating and financial performance for Massanutten was significantly improved from the weak performance during the prior twelve-month period ended December 31, 2009.

In its accounting review, the Staff concluded that the Company over-earned in sewer operations and under-earned in water operations. The Staff, therefore, recommended that the Company be requested to write-off Twenty-seven Thousand Four Hundred Ninety-three Dollars (\$27,493) of the 2006 rate case regulatory asset related to sewer operations. The Staff also proposed adjustments to remove service company assets that were allocated from Water Service Corporation ("WSC"), which is the service company for Utilities, Inc., the parent company of WSC and Massanutten. The Staff proposed to include a level of carrying costs in the Company's O&M expense for the removed rate base related to the allocated assets.

In its January 27, 2012 response ("Response"), the Company requested that no action be taken with regard to the write-off of the regulatory asset. However, the Company further stated that, as a practical matter, it does not object if the write-off is made because by the time this AIF is concluded, or shortly thereafter, the regulatory asset at issue will be fully amortized.

Also, in its Response the Company took issue with the Staff's recommendation that the Company remove from rate base the portion of the assets of WSC allocated to Massanutten and instead include a level of carrying costs for the removed rate base in the Company's O&M expenses. The Company indicated that this same issue was raised in the Company's 2009 AIF, Case No. PUE-2009-00065, and that the Commission, in the Final Order in that AIF, ordered that the Company's proposal to earn an equity return on assets of the service company allocated to the Company be addressed and determined in the Company's next rate case.

The Staff did not file a reply to the Company's Response.

NOW THE COMMISSION, having considered the Staff Report and the Company's Response, is of the opinion and finds that the Company should be required to write-off the 2006 rate case regulatory asset as recommended by the Staff and that the Company's proposal to defer until the next rate case the issue of removing from rate base the portion of the WSC's assets allocated to the Company will close this matter properly.

Accordingly, IT IS ORDERED THAT:

- (1) Massanutten shall write-off the 2006 rate case regulatory asset as recommended in the Staff Report.
- (2) The issue of removing from rate base the portion of assets of WSC allocated to the Company shall be addressed and determined in the Company's next rate case.
- (3) This matter is dismissed, and the record developed herein shall be placed in the file for ended causes.

**CASE NO PUE-2011-00042
FEBRUARY 2, 2012**

APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY

For approval and certification of the proposed Warren County Power Station electric generation and related transmission facilities under §§ 56-580 D, 56-265.2, and 56-46.1 of the Code of Virginia and for approval of a rate adjustment clause, designated as Rider W, under § 56-585.1 A 6 of the Code of Virginia

FINAL ORDER

On May 2, 2011, Virginia Electric and Power Company d/b/a Dominion Virginia Power ("DVP" or "Company") filed with the State Corporation Commission ("Commission") an application and petitions (collectively, "Application") for approval of electric generation and associated transmission facilities (collectively, the "Project") and for approval of a rate adjustment clause ("RAC") to recover costs associated with the proposed Project.

Pursuant to §§ 56-580 D and 56-46.1 of the Code of Virginia ("Code"), the Company seeks a certificate of public convenience and necessity to construct and operate the Warren County Power Station ("Power Station"), a 1,329 megawatt ("MW") (nominal) natural gas-fired combined-cycle generation facility. DVP proposes to build the Power Station on a 39-acre site in the Warren Industrial Park near the Town of Front Royal, Warren County,

Virginia.¹ According to the Application, the Power Station will be fueled by natural gas from the Columbia Gas Transmission, LLC, pipeline located approximately three miles from the Project site.² DVP states that the Project will improve system reliability and reduce dependence on imported power at a reasonable cost.³ The Company proposes to put the Power Station in commercial operation by December 2014.⁴

Pursuant to §§ 56-265.2 and 56-46.1 of the Code, the Company seeks a certificate of public convenience and necessity to construct necessary transmission interconnection facilities.⁵ DVP proposes to construct the Front Royal Switching Station ("Switching Station") on the site and adjacent to the existing right-of-way. A new 500 kilovolt ("kV") transmission line, Line #592, Front Royal-Warren County Power Station, will run approximately 900 feet and will connect the Switching Station and the Power Station. The Switching Station will in turn be connected to the Company's existing 500 kV Line #580, Meadow Brook-Morrisville, by approximately 200 feet of new substation bus work. All construction will be within the Power Station enclosure.⁶ The Company proposes to put these interconnection facilities in service by approximately January 2014.⁷ The estimated construction cost of the Power Station and the transmission interconnection facilities is approximately \$1.091 billion, excluding financing costs.⁸

As provided by § 56-585.1 A 6 of the Code and the Commission's Rules Governing Utility Rate Case Applications and Annual Informational Filings ("Rate Application Rules"), 20 VAC 5-201-10 *et seq.*, the Company seeks approval of a RAC, designated as Rider W, for the recovery of Project costs allowed by statute.⁹ As proposed by the Company, Rider W would take effect on April 1, 2012, and the initial rate year would be the period April 1, 2012 through March 31, 2013.¹⁰

On May 18, 2011, the Commission entered an Order for Notice and Hearing that, among other things, required the Company to publish notice of its Application, established a procedural schedule, permitted the filing of public comments, and scheduled a public hearing. The Commission conducted a hearing on December 6, 2011. The Company, the Commission's Staff ("Staff"), the Attorney General's Division of Consumer Counsel ("Consumer Counsel"), and respondents, the Kroger Company ("Kroger") and the Piedmont Environmental Council ("PEC"), participated in the hearing.¹¹

The Company, the Staff, Consumer Counsel, Kroger and PEC addressed the outstanding issues in post-hearing memoranda or briefs. Kroger, PEC, Consumer Counsel, and the Staff do not oppose approval of the construction and operation of the Power Station and the transmission interconnection facilities; however, PEC raises an issue of mitigation of the Power Station's visual impact.¹² Additionally, Kroger, PEC, Consumer Counsel, and the Staff do not oppose approval of a Rider W to recover the financing costs of the Project in this proceeding. Consumer Counsel¹³ and the Staff¹⁴ both raise issues of the proper return on common equity ("ROE") to apply in calculating the Rider W revenue requirement and the length of time for which an enhanced ROE would apply. While Kroger does not address the Rider W revenue requirement, it challenges the rate design for some classes of DVP's commercial customers.¹⁵

NOW THE COMMISSION, having considered this matter, is of the opinion and finds that the Application is approved subject to the requirements set forth below.

¹ Ex. 2 at 1, 9. The Commission has approved construction and operation of a smaller generation facility at the proposed location. In 2003, the Commission approved construction by CPV Warren LLC ("CPV Warren") of a 520 MW combined-cycle generating facility. *Application of CPV Warren, LLC, For a certificate of public convenience and necessity for electric generation facilities in Warren County, Virginia*, Case No. PUE-2002-00075, 2003 S.C.C. Ann. Rept. 365, Final Order (Mar. 13, 2003). In 2007, the Commission approved CPV Warren's construction of a combined-cycle facility of up to 600 MW capacity. *Application of CPV Warren, LLC, For approval of a certificate of public convenience and necessity pursuant to Va. Code § 56-580 D*, Case No. PUE-2007-00018, 2007 S.C.C. Ann. Rept. 406, Order (June 20, 2007). CPV Warren commenced planning and development and sold its project to DVP on February 8, 2008. Ex. 2 at 9. The Commission canceled the certificate granted to CPV Warren in Case No. PUE-2007-00018, 2010 S.C.C. Ann. Rept. 286, Order Dismissing Case (Nov. 12, 2010).

² Ex. 2 at 5-6.

³ *Id.* at 4-5, 7-8.

⁴ *Id.* at 10.

⁵ *Id.* at 1-2.

⁶ *Id.* at 14-15.

⁷ *Id.* at 15.

⁸ *Id.* at 5.

⁹ *Id.* at 2, 17.

¹⁰ *Id.* at 19, 21.

¹¹ MeadWestvaco Corporation and the Virginia Committee for Fair Utility Rates filed Notices of Participation in this case on May 19, 2011, and June 3, 2011, respectively.

¹² PEC's January 12, 2012 Post-Hearing Brief at 1-4.

¹³ Consumer Counsel's January 12, 2012 Post-Hearing Brief at 2-5.

¹⁴ The Staff's January 12, 2012 Post Hearing Memorandum at 4-18.

¹⁵ Kroger's January 12, 2012 Post Hearing Brief at 1-3.

Code of Virginia

Section 56-580 D of the Code states in part as follows:

The Commission shall permit the construction and operation of electrical generating facilities in Virginia upon a finding that such generating facility and associated facilities (i) will have no material adverse effect upon reliability of electric service provided by any regulated public utility, (ii) are required by the public convenience and necessity, if a petition for such permit is filed after July 1, 2007, and if they are to be constructed and operated by any regulated utility whose rates are regulated pursuant to § 56-585.1, and (iii) are not otherwise contrary to the public interest.

Section 56-46.1 A of the Code states in part as follows:

Whenever the Commission is required to approve the construction of any electrical utility facility, it shall give consideration to the effect of that facility on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact. . . . In every proceeding under this subsection, the Commission shall receive and give consideration to all reports that relate to the proposed facility by state agencies concerned with environmental protection; and if requested by any county or municipality in which the facility is proposed to be built, to local comprehensive plans that have been adopted pursuant to Article 3 (§ 15.2-2223 et seq.) of Chapter 22 of Title 15.2. Additionally, the Commission (i) shall consider the effect of the proposed facility on economic development within the Commonwealth, including but not limited to furtherance of the economic and job creation objectives of the Commonwealth Energy Policy set forth in §§ 67-101 and 67-102, and (ii) shall consider any improvements in service reliability that may result from the construction of such facility.

With regard to generating facilities specifically, § 56-580 D of the Code directs that "the Commission shall give consideration to the effect of the facility and associated facilities on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact as provided in § 56-46.1,"

Sections 56-46.1 A and 56-580 D of the Code also contain nearly identical language explicitly limiting the Commission's authority:

In order to avoid duplication of governmental activities, any valid permit or approval required for an electric generating plant and associated facilities issued or granted by a federal, state or local governmental entity charged by law with responsibility for issuing permits or approvals regulating environmental impact and mitigation of adverse environmental impact or for other specific public interest issues such as building codes, transportation plans, and public safety, whether such permit or approval is granted prior to or after the Commission's decision, shall be deemed to satisfy the requirements of this section with respect to all matters that (i) are governed by the permit or approval or (ii) are within the authority of, and were considered by, the governmental entity in issuing such permit or approval, and the Commission shall impose no additional conditions with respect to such matters.

Section 56-46.1 B of the Code states that, with regard to overhead transmission lines, "[a]s a condition to approval the Commission shall determine that the line is needed and that the corridor or route the line is to follow will reasonably minimize adverse impact on the scenic assets, historic districts and environment of the area concerned." Section 56-46.1 B of the Code also directs that "[i]n making the determinations about need, corridor or route, and method of installation, the Commission shall verify the applicant's load flow modeling, contingency analyses, and reliability needs presented to justify the new line and its proposed method of installation."

Section 56-46.1 D of the Code explains that "'environment' or 'environmental' shall be deemed to include in meaning 'historic,' as well as a consideration of the probable effects of the line on the health and safety of the persons in the area concerned."

Section 56-46.1 C of the Code directs that "[i]n any hearing the public service company shall provide adequate evidence that existing rights-of-way cannot adequately serve the needs of the company."

Section 56-259 C of the Code states that "[p]rior to acquiring any easement of right-of-way, public service corporations will consider the feasibility of locating such facilities on, over, or under existing easements of rights-of-way."

Finally, § 56-596 A of the Code states that "[i]n all relevant proceedings pursuant to [the Virginia Electric Utility Regulation] Act, the Commission shall take into consideration, among other things, the goal of economic development in the Commonwealth."

Public Convenience and Necessity

The Commission finds that, as provided by § 56-580 D of the Code, the public convenience and necessity require the construction and operation of the proposed Power Station and that the Power Station is not contrary to the public interest. Likewise, we find that, as provided by § 56-265.2 of the Code, the public convenience and necessity require construction of the Switching Station and the Front Royal-Warren County Power Station 500 kV Transmission Line.

Need and Reliability

DVP projects that peak demand in the Dominion Zone will increase by approximately 4,900 MW over the next ten years. The Company's 2009 and 2010 Integrated Resource Plans identified the need for additional capacity in service by 2015.¹⁶ The Company presented evidence of its need through the forecasted load growth in the Dominion Zone and the "gap" between the capacity and energy required and the Company's existing resources.¹⁷ The Staff agreed that the Company expects to be capacity deficient by 2012.¹⁸ The Staff concluded that the Company's load forecast appeared reasonable and reflected current market conditions.¹⁹

DVP presented evidence on its analytical process for evaluating resources and reviewing options for power purchases, generation, and demand-side resources and determination that the Project was the best option.²⁰ The Staff identified as a limitation the absence of other generation options if the Project were not constructed.²¹ After DVP conducted further studies, the Staff concluded that the Project compared favorably with other build alternatives.²²

The Company negotiated an engineering, procurement, and construction contract, which should result in costs that are fixed and under the Company's control. Combined with competitive procurement of services and products related to the Project, DVP estimates that approximately 84% of the costs will be controlled.²³ DVP has contracted for transmission of natural gas to fuel the Power Station on favorable terms. The location of the Project near an interstate gas pipeline will limit construction costs and impact.²⁴

Benefits

The Project will also provide benefits as a result of its location in a high load area. The record shows that the size and location of the project will both enhance reserve margin and reduce loading on key west-to-east facilities.²⁵ The Company also anticipates that the construction and operation of the Project may reduce price levels or power purchased and differences in prices across the DVP system.²⁶

DVP presented evidence that the size and location of the unit would also provide benefits to the transmission system.²⁷ Operation of the Project would delay projected thermal overloads on a major transmission line originating at the Company's Mt. Storm Generating Station.²⁸ The Project would also provide dynamic reactive power support and assure adequate voltage.²⁹ As the Staff noted, transmission facilities are necessary to interconnect the Power Station, and no issues with the general design and location were identified.³⁰

The Company also suggests that approval of the Project supports the Virginia Energy Plan's goals to promote the construction of new generation in the Commonwealth of Virginia ("Commonwealth").³¹ The Virginia Energy Plan, among other things, "shall propose actions . . . that will implement the Commonwealth Energy Policy . . ."³² The Virginia Energy Plan is to address the adequacy and siting of generation facilities.³³ As the Commission has previously held, the Commonwealth Energy Policy and the Virginia Energy Plan do not supersede the other statutory standards that the Commission must

¹⁶ Ex. 4 at 5-6; Ex. 5 at 3.

¹⁷ Ex. 5 at 3-6.

¹⁸ Ex. 28 at 3.

¹⁹ Ex. 18 at 2.

²⁰ Ex. 5 at 9-10.

²¹ Ex. 28 at 9-10.

²² *Id.* at 10.

²³ Ex. 7 at 13, 16-17.

²⁴ Ex. 8 at 3-4, 6.

²⁵ Ex. 6 at 2.

²⁶ *Id.* at 3-6.

²⁷ Ex. 25 at 6-7.

²⁸ *Id.* at 7.

²⁹ *Id.* at 7-8.

³⁰ Ex. 16 at 6-7.

³¹ Ex. 3 at 6; Ex. 4 at 11.

³² Va. Code § 67-201 A.

³³ Va. Code § 67-201 B.

apply in this proceeding.³⁴ That is, although our findings herein may be consistent with the Commonwealth Energy Policy or the Virginia Energy Plan, consideration of such does not override our specific statutory obligations and attendant findings with regard to any particular application placed before us.

Economic Development

As required by § 56-46.1 A and § 56-596 A of the Code, the Commission must consider the economic development of the Commonwealth when addressing this Application. The Company supported the anticipated economic benefits for Warren County and the Commonwealth from the Project. The Company would expend significant sums, which would promote employment in Warren County and other parts of Virginia.³⁵ While noting that the extent of any benefit is somewhat uncertain, the Staff agreed that the major expenditures would promote economic activity and employment.³⁶ In addition to these local benefits related to the construction and operation of the Power Station, the benefits of assured reliability of power supply at a reasonable cost will promote economic development in the Commonwealth.³⁷

Environmental Impact

We must consider environmental impact. The relevant statutes, however, do not require the Commission to find any particular level of environmental benefit, or an absence of environmental harm, as a precondition to approval. Rather, the statutes direct that the Commission "shall give consideration to the effect of the facility and associated facilities on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact."³⁸

The Department of Environmental Quality ("DEQ") coordinated an environmental review of the proposed Project by a number of agencies and submitted comments.³⁹ DEQ made the following recommendations:

Follow DEQ's recommendations to avoid and minimize impacts to wetlands and streams as applicable and coordinate with DEQ about potential permitting requirements as applicable.

Consider DEQ's recommendations, including reuse of vegetative waste in lieu of open burning for air quality protection and coordinate with DEQ regarding potential permitting or registration requirements as applicable.

Reduce solid waste at the source, reuse it and recycle it to the maximum extent practicable, and follow DEQ's recommendations to manage waste, as applicable.

Coordinate with the Department of Conservation and Recreation (DCR) regarding its recommendations as well as for updates to the Biotics Data System database if a significant amount of time passes before the project is implemented.

Coordinate with the DCR regarding its recommendations on the Madison Cave Isopod and the associated protection plan.

Coordinate with the Department of Game and Inland Fisheries (DGIF) pertaining to its recommendations on the protection of wildlife and other natural resources.

Coordinate with the Front Royal Country Club regarding its groundwater well as recommended by the Virginia Department of Health.

Contact the Department of Historic Resources regarding its recommendations to protect historic and archeological resources.

Coordinate with the Federal Aviation Administration and the Department of Aviation on recommendations pertaining to aircraft and airport safety.

Follow the principles and practices of pollution prevention to the maximum extent practicable.

Limit the use of pesticides and herbicides to the extent practicable.⁴⁰

³⁴ *Application of Virginia Electric and Power Company, For a certificate to construct and operate a generating facility; for certificates of public convenience and necessity for a transmission line: Bear Garden Generating Station and Bear Garden-Bremo 230 kV Transmission Interconnection Line*, Case No. PUE-2008-00014, 2009 S.C.C. Ann. Rept. 296, Final Order (Mar. 27, 2009) at 300.

³⁵ Ex. 4 at 13.

³⁶ Ex. 19 at 9.

³⁷ See, e.g., Ex. 3 at 4-5.

³⁸ Va. Code §§ 56-46.1 A and 56-580 D.

³⁹ Comments of the Department of Environmental Quality filed August 10, 2011 ("DEQ Comments").

⁴⁰ *Id.* at 6-7 (internal references omitted).

The Company stated that it had obtained or would obtain all of the required permits identified in the DEQ Comments.⁴¹ In this regard, DVP obtained from the U.S. Fish and Wildlife Service a Federal Endangered Species Act permit to cover its activities that might harm the threatened Madison Cave Isopod.⁴² DVP has expressed no objection to any of the recommendations made in the DEQ Comments and summarized above.⁴³

The proposed Power Station would be constructed adjacent to a transmission right-of-way occupied by two existing 500 kV transmission lines. The Switching Station and the 900-foot transmission line will be located entirely on the Project site.⁴⁴ PEC presented testimony on the visual impact of the stacks required for the Power Station and the need for visual screening of impacted properties of historic significance.⁴⁵ PEC recommended that the Commission direct the Company to offer the services of an arborist and to pay for trees and planting to screen the properties from views of the Project.⁴⁶ In response, DVP noted that the Virginia Department of Historic Resources ("DHR") had identified no adverse impact on historic resources posed by the Project.⁴⁷ The Company explained that it had previously cooperated with DHR to identify impacts and to employ DHR's Guidelines for Assessing Impacts of Proposed Electric Transmission Lines and Associated Facilities on Historic Resources in the Commonwealth of Virginia ("DHR Guidelines").⁴⁸

The Commission declines to exercise its jurisdiction to direct DVP to provide assistance to private landowners as proposed by PEC in this case. The Company has stated that the DHR Guidelines are appropriate in this case. In this case, cooperation with DHR and application of the DHR Guidelines meets the requirement of § 56-46.1 of the Code to minimize adverse environmental impact of a transmission line.⁴⁹ The Commission finds that compliance with the DHR Guidelines likewise promotes the virtually identical requirements for minimizing the impacts of a generation facility.

Thus, based on the record in this case, we find that requiring DVP to comply with the recommendations in the DEQ Comments is "desirable or necessary to minimize adverse environmental impact" ⁵⁰ As a requirement of our approval herein, the Company shall comply with the DEQ recommendations set forth above.⁵¹

Code of Virginia — Rider W

Section 56-585.1 A 6 of the Code, pursuant to which DVP applied for a RAC, includes the following:

To ensure a reliable and adequate supply of electricity, to meet the utility's projected native load obligations and to promote economic development, a utility may at any time, after the expiration or termination of capped rates, petition the Commission for approval of a rate adjustment clause for recovery on a timely and current basis from customers of the costs of . . . (ii) one or more other generation facilities A utility that constructs any such facility shall have the right to recover the costs of the facility, as accrued against income, through its rates, including projected construction work in progress, and any associated allowance for funds used during construction [(AFUDC)], planning, development and construction costs, life-cycle costs, and costs of infrastructure associated therewith, plus, as an incentive to undertake such projects, an enhanced rate of return on common equity calculated as specified below. The costs of the facility, other than return on projected construction work in progress and [AFUDC], shall not be recovered prior to the date the facility begins commercial operation.

Section 56-585.1 A 6 of the Code also contains specific requirements attendant to the enhanced ROE, including the following:

Such enhanced rate of return on common equity shall be applied to [AFUDC] and to construction work in progress during the construction phase of the facility and shall thereafter be applied to the entire facility during the first portion of the service life of the facility. . . . [T]he Commission shall determine the duration of the first portion of the service life of any facility, within the range specified in the table below, which determination shall be consistent with the public interest and shall reflect the Commission's determinations regarding how critical the facility may be in meeting the energy needs of the citizens of the Commonwealth and the risks involved in the development of the facility.

⁴¹ Ex. 23 at 2.

⁴² Ex. 9 at 6; Tr. at 30:6-31:6.

⁴³ Ex. 23 at 2.

⁴⁴ Ex. 25 at 8-9.

⁴⁵ Ex. 13.

⁴⁶ *Id.* at 4-5.

⁴⁷ Ex. 23 at 2-4, Rebuttal Schedules 1 and 2.

⁴⁸ *Id.* at 5.

⁴⁹ See also *Application of Virginia Electric and Power Company D/B/A Dominion Virginia Power, For approval and certification of electric facilities: Mt. Storm-Doubs 500 kV transmission line rebuild*, Case No. PUE-2011-00003, Doc. Con. Cen. No. 451669, Final Order (Sept. 1, 2011) at 7-8, *corrected*, Doc. Con. Cen. No. 451858, Erratum Order (Sept. 9, 2011).

⁵⁰ Va. Code §§ 56-46.1 A and 56-580 D.

⁵¹ The Company shall coordinate with DEQ its implementation of these recommendations.

Section 56-585.1 A 6 of the Code also includes the requirements to calculate AFUDC "utilizing the utility's actual capital structure and overall cost of capital, including an enhanced [ROE] as determined pursuant to this subdivision, until such construction work in progress is included in rates."

The Project includes a generation facility and associated transmission facilities, which fall within the scope of § 56-585.1 A 6 of the Code for recovery through a RAC. While the Staff and Consumer Counsel raise several issues with regard to the calculation of the revenue requirement for the Rider W, no participant in the case opposes the prescription of a RAC to recover the Project's allowable costs.

DVP filed the supporting schedules and other materials required by our Rate Application Rules.⁵² Rider W consists of a Projected Cost Recovery Factor, which provides for the projected financing costs of the Project for the rate year. In addition, an AFUDC Cost Recovery Factor provides for the amortization of AFUDC accrued between the expiration of capped rates, January 1, 2009, and March 31, 2012.⁵³ When the record closed, the Company's proposed revenue requirement for the rate year April 1, 2012, to March 31, 2013, was \$35,286,000.⁵⁴ The revenue requirement identified by the Staff was \$34,088,000.⁵⁵ The difference in these revenue requirements arises primarily from differing ROEs, which impact both the AFUDC and the projected cost recovery factors.⁵⁶

Applicability of Enhanced ROE

As previously noted, § 56-585.1 A 6 of the Code awards an enhanced ROE of 100 basis points for a combined-cycle combustion turbine generation facility like the Power Station "as an incentive to undertake such projects" As further provided by this provision, "[s]uch enhanced rate of return on common equity shall be applied . . . during the construction phase of the facility and shall thereafter be applied . . . during the first portion of the service life of the facility." By statute, the first portion of the service life of a combined-cycle combustion turbine facility is at least ten years and may be as long as 20 years. The Commission is to determine the duration of the first portion of the service life based upon the public interest, how critical the facility may be in meeting energy needs, and the risk involved in development of the facility.

The Company maintains that application of the statutory criteria to the record in this case requires the maximum duration of the first portion of the service life, which in this case is 20 years.⁵⁷ The Staff's position is that the first portion of the service life should extend for the shortest period provided by statute, which is ten years.⁵⁸ Consumer Counsel recommends that the first portion of the service life be set in the lower half of the 10-20 year range.⁵⁹

Based on our consideration of the public interest, how critical the facility may be, and the associated development risks, we establish the "first portion of the service life" for the Project at ten years. This duration is supported, in part, by record evidence regarding: (1) the significant portion of project costs fixed by contract;⁶⁰ (2) the choice of a proven generation technology;⁶¹ and (3) the selection of a site previously approved for the construction of generation facilities.⁶² Additionally, we do not find that the criticality of the Project requires the "first portion of the service life" to extend beyond ten years.⁶³

In the Final Order in Case No. PUE-2011-00027, the Commission prescribed a combined ROE of 10.4%.⁶⁴ Accordingly, the Commission finds that an ROE of 10.4% plus 100 basis points for a total of 11.4% is appropriate for determining the Rider W Projected Cost Recovery Factor.

⁵² Ex. 7; Ex. 7C; Ex. 10; Ex. 10C.; Ex. 2, Filing Schedules 46B and 46D.

⁵³ Ex. 10 at 3-4; Ex. 17 at 2. In future years, Rider W will include a third component, the Actual Cost True-up Recovery Factor. Since Rider W is proposed to become effective on April 1, 2012, no true-up is included. Ex. 10 at 4.

⁵⁴ Ex. 11C, Rev. Sched. 1, at 1 of 8.

⁵⁵ Ex. 17, Sched. 1 Rev.

⁵⁶ In its Application, the Company used an ROE of 12.5% pending prescription of an ROE in the biennial review proceeding, Case No. PUE-2011-00027, plus an enhancement of 100 basis points for the first portion of the service life as directed by Va. Code § 56-585.1 A 6, for a total placeholder ROE of 13.5%. Order for Notice and Hearing (May 18, 2011) at 5.

⁵⁷ Ex. 3 at 7-8; Ex. 33 at 5-7.

⁵⁸ Ex. 32 at 8-11.

⁵⁹ Consumer Counsel's January 12, 2012 Post Hearing Brief at 2-4.

⁶⁰ See, e.g., Ex. 4; Ex. 7 at 19; Tr. 103: 6-11.

⁶¹ See, e.g., Ex. 3 at 4, 9; Ex. 7 at 10.

⁶² See, e.g., Ex. 4 at 14; Ex. 9 at 2-3.

⁶³ Although we find herein that the Project is required by the public convenience and necessity, how critical the Project may be is a separate statutory consideration for the limited purpose of establishing the "first portion of the service life."

⁶⁴ *Application of Virginia Electric and Power Company, For a 2011 biennial review of the rates, terms, and conditions for the provision of generation, distribution and transmission services pursuant to § 56-585.1 A of the Code of Virginia*, Case No. PUE-2011-00027, Final Order (Nov. 30, 2011) at 23 ("Biennial Review"). We also prescribed the addition of a 50 basis point Renewable Energy Portfolio Standard ("RPS") performance incentive, for a return of 10.9%. The Commission determined that the RPS incentive did not extend to RACs. *Biennial Review*, Final Order at 25.

Return on Equity for AFUDC

For purposes of calculating AFUDC for Rider W, we reject the Company's request to use an ROE of 11.3% from the Stipulation and Addendum ("Stipulation") in Case No. PUE-2009-00019.⁶⁵ We find that the Stipulation is inapplicable to the instant proceeding. Specifically, as part of the Stipulation, DVP proposed and agreed that the 11.3% ROE would apply to RACs "filed on or before June 30, 2010," and that the 11.3% ROE does not apply to RACs "filed after June 30, 2010."⁶⁶ The instant RAC application was filed on May 2, 2011, and, thus, is not covered by the Stipulation.⁶⁷

In addition, § 56-585.1 A 6 states that the ROE for such RACs shall be "the fair combined rate of return on common equity as it is determined by the Commission from time to time for such utility pursuant to subdivision 2 [of § 56-585.1 A ('Subdivision 2')]." The Commission, however, did not determine ROE pursuant to Subdivision 2 in the 2009 Rate Case Stipulation. Rather, the parties in that case agreed to a specific ROE as part of an overall settlement. The parties did not agree, and the Commission did not find, that the ROE therein was determined pursuant to Subdivision 2. To the contrary, the Stipulation explicitly stated that (i) it was "a compromise for purposes of settlement," and (ii) "none of the signatories . . . necessarily agrees with the treatment of any particular item."⁶⁸ The Commission's Order Approving Stipulation and Addendum likewise "emphasize[d] . . . that such finding does not establish precedent for any specific matter addressed in the Stipulation and Addendum."⁶⁹

In 2008, we determined an ROE for DVP of 11.12% under Subdivision 2.⁷⁰ The next instance in which we determined an ROE for DVP under Subdivision 2 occurred in 2011, where we determined an ROE of 10.4%.⁷¹ In addition, § 56-585.1 A 6 of the Code requires an additional 100 basis points for combined-cycle combustion turbines. For purposes of calculating AFUDC for Rider W, we will allow an ROE of (a) 12.12% (11.12% plus 100 basis points) for calendar years 2009 and 2010, and (b) 11.4% (10.4% plus 100 basis points) for calendar year 2011 and until changed.⁷² Finally, we note that DVP has neither alleged nor established that the ROEs of 12.12% and 11.4% prevent the Company from recovering its reasonable cost of service applicable thereto.⁷³

Rate Design

DVP developed its rates for Rider W using the same general methodology that the Commission has approved for Rider R (Bear Garden Generating Station) and Rider S (Virginia City Hybrid Energy Center).⁷⁴ In lieu of the Company's rate design, Kroger proposes a rate design that would use a demand charge to recover the costs of the Project assigned to Rate Schedules GS-2 and GS-2T.⁷⁵ The Commission will not direct revision of the rate design. The record shows that a redesign as suggested by Kroger would have an impact on a broad range of customers, and some might be affected adversely.⁷⁶

⁶⁵ *Application of Virginia Electric and Power Company, For a 2009 statutory review of rates, terms and conditions for the provision of generation, distribution, and transmission services pursuant to § 56-585.1 A of the Code of Virginia*, Case No. PUE-2009-00019, 2010 S.C.C. Ann. Rept. 301, Order Approving Stipulation and Addendum (March 11, 2010) ("2009 Rate Case").

⁶⁶ See 2009 Rate Case, Stipulation and Addendum at 5. See also Staff's January 12, 2012 Post-Hearing Memorandum at 5-7; Consumer Counsel's January 12, 2012 Post-Hearing Brief at 4-5.

⁶⁷ This is not the first time that the Commission has applied this specific provision of the Stipulation. In DVP's recently concluded biennial review proceeding, the plain language of this provision operated to the Company's benefit as requested by DVP therein. Specifically, we found that 11.3% would apply to four existing RACs (filed prior to June 30, 2010) in accordance with the Stipulation. Biennial Review, Final Order at 24-26.

⁶⁸ 2009 Rate Case, Stipulation and Addendum at 8.

⁶⁹ 2009 Rate Case, Order Approving Stipulation and Addendum at 6. Indeed, in rejecting a previous attempt to use the settlement ROE of 11.3% as precedent, we explained that the Stipulation "encompassed a number of items not present in the instant proceeding, including: (1) refunds or credits of fuel, base rate, and rate adjustment clause recoveries that totaled approximately \$726 million; and (2) the [Dominion Virginia Power] stipulation also provided for no change in base rates until December 2013, at the earliest." *Application of Appalachian Power Company, For a statutory review of the rates, terms and conditions for the provision of generation, distribution and transmission services pursuant to § 56-585.1 A of the Code of Virginia*, Case No. PUE-2009-00030, 2010 S.C.C. Ann. Rept. 308, Final Order (July 15, 2010) at 311 n.30.

⁷⁰ *Application of Virginia Electric and Power Company, For a certificate of public convenience and necessity to construct and operate an electric generation facility in Wise County, Virginia, and for approval of a rate adjustment clause under §§ 56-585.1, 56-580 D, and 56-46.1 of the Code of Virginia*, Case No. PUE-2007-00066, 2008 S.C.C. Ann. Rept. 385, Final Order (Mar. 31, 2008) at 391-92.

⁷¹ Biennial Review, Final Order at 17-21.

⁷² We find that this option, which is permitted by the above statute, represents actual cost of equity capital and results in a reasonable ROE for accrued AFUDC. We further find that it is not necessary to use the Company's proposed quarter-end capital structures (see, e.g., DVP's January 12, 2012 Post-Hearing Brief at 25-26) but, rather, that Staff's proposed use of actual end-of-test period capital structures is permitted by statute and reasonable for this purpose. See, e.g., Ex. 32.

⁷³ In addition, as explained in the Biennial Review, the ROE approved herein is not further modified by the Company's participation in the renewable energy portfolio program under § 56-585.2 C of the Code. Biennial Review, Final Order at 24-26.

⁷⁴ Ex. 27 at 2-4.

⁷⁵ Ex. 12 at 3-4.

⁷⁶ Ex. 36 at 5-7.

Sunset Provision

As a requirement of our approval herein, we find that the authority granted by this Final Order shall expire January 1, 2015, if the Project has not commenced commercial operation and that DVP may subsequently petition the Commission for an extension of this sunset provision for good cause shown.

In conclusion, the Commission finds that the Project, including the Warren County Power Station, the Front Royal Switching Station, and the Front Royal-Warren County Power Station 500 kV Transmission Line, will serve the public convenience and necessity and are in the public interest. Accordingly, we approve construction and operation of the facilities subject to the conditions imposed herein. We also find that Rider W should be approved as modified herein.⁷⁷

Accordingly, IT IS ORDERED THAT:

(1) Subject to the findings and requirements set forth in this Final Order, the Company is granted approval and certificate of public convenience and necessity No. ET-196 to construct and to operate the Warren County Power Station in accordance with the design and configuration set out in its Application.

(2) Subject to the findings and requirements set forth in this Final Order, the Company is granted approval and a certificate of public convenience and necessity to construct and to operate 500 kV transmission interconnection facilities connecting the Warren County Power Station with the Front Royal Switching Station.

(3) Pursuant to the Utility Facilities Act, Chapter 10.1 (§ 56-265.1 *et seq.*) of Title 56 of the Code, the Company is issued the following certificates of public convenience and necessity:

Certificate No. ET-189b, which authorizes Virginia Electric and Power Company under the Utility Facilities Act to operate presently constructed transmission lines and facilities in Warren County, all as shown on the detailed map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUE-2011-00042; Certificate No. ET-189b cancels Certificate No. ET-189a issued to Virginia Electric and Power Company on September 1, 2011, in Case No. PUE-2011-00003.

(4) The Company's Application for approval of a Rate Adjustment Clause, designated as Rider W, is granted in part and denied in part as set forth herein.

(5) The Company shall forthwith file a revised Rider W and supporting workpapers with the Clerk of the Commission and with the Commission's Divisions of Energy Regulation and Utility Accounting and Finance, as necessary to comply with the directives set forth in this Final Order. The Clerk of the Commission shall retain such filing for public inspection in person and on the Commission's website: <http://www.scc.virginia.gov/case>.

(6) Rider W, as approved herein, shall become effective for service rendered on and after April 1, 2012.

(7) The Company shall file its annual Rider W application on or before June 1 of each year.

(8) This case is dismissed from the Commission's docket and placed in closed status in the records maintained by the Clerk of the Commission.

⁷⁷ The Staff identified an additional issue, which may impact periodic determinations of Rider W with the addition of the Actual Cost True-up Factor in 2014. Internal Revenue Code § 199, Income Attributable to Domestic Production Activities, could provide the Company a federal income tax deduction, and this deduction could affect the true-up factor in Rider W as well as other rates prescribed by the Commission. We direct the Staff to review this issue, and we encourage DVP and other entities subject to Commission ratemaking jurisdiction to cooperate with the Staff in developing procedures that balance the interests of the regulated entities and ratepayers.

**CASE NO. PUE-2011-00048
APRIL 18, 2012**

PETITION OF
AQUA VIRGINIA, INC.

Request for extension to file Annual Informational Filing (2010 Test Year)

**ORDER ADOPTING RECOMMENDATIONS
AND DISMISSING PROCEEDING**

On April 28, 2011, Aqua Virginia, Inc. ("Aqua Virginia" or the "Company"), filed a request that the State Corporation Commission ("Commission") grant the Company an extension of time, until July 1, 2011, to file its Annual Informational Filing for the 2010 calendar test year ("2010 AIF"). The Commission granted the request by Order dated April 29, 2011.

On July 1, 2011, Aqua Virginia filed its 2010 AIF which included a request to merge Skyline Water Company and Rebel Water Works (collectively, "Skyline") with the Company's combined regulated systems reviewed by the Commission in the Company's last rate case, Case No.

PUE-2009-00059.¹ On July 11, 2011, the Commission Staff ("Staff") deemed the filing complete pursuant to the provisions of the Commission's Rules Governing Utility Rate Applications and Annual Informational Filings, 20 VAC 5-201-10 *et seq.* ("Rate Case Rules").

On January 11, 2012, the Staff filed its Staff Report which included: a financial review of the Company for the 2010 test year; comments on the financial health of the Company's parent, Aqua America, and an analysis of Aqua Virginia's ratemaking capital structure; and an accounting review of the 2010 AIF for compliance with the Rate Case Rules, Rate Case Order, and Transfer Order. Excluding Skyline, the Staff Report indicates that the Company's fully adjusted test year returns after Staff's adjustments are 8.23% on common equity and 6.21% on rate base for the water operation, and 10.21% on common equity and 7.18% on rate base for the wastewater operation. For the earnings test, the rate of return on average common equity was 7.14% for the water operation and 12.16% for the wastewater operation. Including Skyline, the Staff Report indicates that the Company's fully adjusted test year returns after Staff's adjustments are 7.90% on common equity and 5.92% on rate base for the water operation.² Regarding the Company's achieved rates of return on common equity ("ROE"), Staff concluded that Aqua Virginia over-earned on its wastewater operations and under-earned on its water operations. On its combined wastewater and water operations, the Company earned a 9.52% ROE,³ which is below the 10.40% mid-point of the ROE range of 9.90% to 10.90% authorized by the Commission in the Rate Case Order.

In its assessment of whether the Company implemented the accounting recommendations adopted in the Rate Case Order, Staff concluded that Aqua Virginia fails to apply separate depreciation rates for pre-2009 and post-2008 vintages and that the Company has not provided the Staff with certain tax liability information.⁴ Staff stated that it was unable to determine if the Company is tracking costs of removal and salvage proceeds for use in future depreciation studies. With these exceptions, Staff determined that Aqua Virginia is complying with the accounting recommendations adopted by the Commission in the Rate Case Order. Further, Staff reported its continued concern over the allocation of corporate rate base to Aqua Virginia, and converted the amount of allocated Aqua Services rate base items to service charge expense, excluding an equity return.

Staff also reviewed the accounting information related to Skyline. The partial test year activity for Skyline resulted in an unadjusted rate of return of slightly less than 1% and an ROE of 2.37%. Staff concluded that the effect of merging Skyline with Aqua Virginia would be minimal and that Skyline's rates do not appear to be producing earnings in excess of the authorized level. Staff stated that it "does not oppose the Company's proposed merger of the books and results of Skyline with the Company's existing jurisdictional operations, prospectively."⁵

¹ *Application of Alpha Water Corporation; Aqua Virginia, Inc. (Lake Monticello); Aqua S/L, Inc. (Shawnee Land); Aqua Utility-Virginia, Inc. (Lake Shawnee); Blue Ridge Utility Company; Caroline Utilities, Inc.; Earlysville Forest Water Company; Heritage Homes of Virginia, Inc.; Indian River Water Company; James River Service Corporation; Aqua Lake Holiday Utilities, Inc.; Land'or Utility Company, Inc.; Mountainview Water Company, Inc.; Powhatan Water Works, Inc.; Rainbow Forest Water Corporation; Sydnor Water Corporation; and Water Distributors, Inc., For an increase in water and sewer rates*, Case No. PUE-2009-00059, 2010 S.C.C. Ann. Rept. 346, Order (Oct. 29, 2010) ("Rate Case Order"). For the Commission's authorization of the Company's acquisition and disposition of the utility assets of Skyline *see Joint Petition of Skyline Water Co., Inc., Rebel Water Works, Inc., and Aqua Virginia, Inc., For approval of a transfer of utility assets and for the transfer of a certificate of public convenience and necessity*, Case No. PUE-2009-00098, 2010 S.C.C. Ann. Rept. 389, Final Order (Feb. 9, 2010) ("Transfer Order").

² Skyline does not have wastewater operations.

³ A 9.37% ROE was earned on the combined operations of Aqua Virginia and Skyline.

⁴ The Rate Case Order adopted the following recommendations made by Staff:

- A. Staff recommends that Alpha [Water Corporation] record the difference between the purchase price of the Riverview system and the utility's assets net book value as an acquisition adjustment, in conformance with the Commission's findings in Case No. PUE-2006-00077.
- B. Staff recommends that Alpha [Water Corporation] reinstate the acquisition adjustment balance related to its purchase of the Reedville system.
- C. Staff recommends approval of Aqua Virginia's proposed depreciation rates, and Aqua Virginia should implement the new depreciation rates effective with the January 1, 2009, study date.
- D. For amortizable accounts, Aqua Virginia should apply the depreciation study rates to pre-2009 vintages, and should apply rates based on the amortizable lives to post-2008 vintages.
- E. Aqua Virginia should begin capitalizing the portion of depreciation on transportation equipment and power-operated equipment which is related to capital projects.
- F. Aqua Virginia should track cost removal and salvage proceeds for consideration in future depreciation studies.
- G. Staff recommends that Aqua Virginia comply with the Commission's requirement to annually file the stand-alone tax liability information required in the Order Granting Authority of Case No. PUE-2008-00013.
- H. Staff recommends that the rate case deferral be treated as a regulatory asset and subject to the earnings tests in future Annual Information Filings and rate cases.

⁵ Staff Report at 14.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

At the conclusion of its Report, Staff recommended the following:

- (1) Aqua Virginia investigate ways to implement the depreciation rates on pre-2009 vintages and post-2008 vintages as previously recommended by the Staff in the 2009 Rate Case and report on its findings in the context of Aqua Virginia's next AIF.
- (2) Aqua Virginia be required to file prospectively the stand-alone tax-liability schedule to accompany the 2010 ARAT, as recommended in Case No. PUE-2008-00013.
- (3) That the end of test year balance of the rate case regulatory asset booked to Sewer Operations of \$13,984 be written-off.
- (4) Staff believes the ROE from fully adjusted analysis are not un-reasonable. Staff does not oppose merging Skyline's accounting books with the books of Aqua Virginia, Inc. prospectively.⁶

On March 2, 2012, Aqua Virginia filed its response to the Staff Report ("Response"). In its Response, the Company stated that it "does not concede that Virginia law permits the write-off that is recommended by the Staff in these circumstances"⁷ and that "it continues its objection to the Staff's denial of the Aqua Services amounts allocated to the Company's rate base."⁸ However, the Company stated that it will comply with the recommendations contained in the Staff Report and urged the Commission to close this case without further action.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the Staff's recommendations are reasonable and should be adopted.

Accordingly, IT IS ORDERED THAT:

(1) Consistent with the findings made herein, the Staff's recommendations in its January 11, 2012 Staff Report are hereby adopted.

(2) There being nothing further to be done herein, this case shall be dismissed from the Commission's docket of active proceedings, and the papers filed herein shall be placed in the Commission's file for ended causes.

⁶ *Id.* at 14-15.

⁷ Response at 1.

⁸ *Id.* at 2.

**CASE NO. PUE-2011-00052
JANUARY 18, 2011**

APPLICATION OF
APPALACHIAN NATURAL GAS DISTRIBUTION COMPANY

For an Annual Informational Filing

**ORDER ADOPTING RECOMMENDATIONS
AND DISMISSING PROCEEDING**

On May 4, 2011, Appalachian Natural Gas Distribution Company ("ANGD" or "Company") filed its application for an Annual Informational Filing ("AIF") for the twelve-months ended December 31, 2010, with the Clerk of the State Corporation Commission ("Commission").¹ The Company's AIF consisted of financial and operating data for the twelve-months ended December 31, 2010. On October 14, 2011, the Staff of the Commission ("Staff") filed its Report on ANGD's AIF. That Report included both financial and accounting analyses.

In its financial review, the Staff focused on ANGD's operating results, capital structure, and cost of capital.² With regard to ANGD's capital structure, the Staff noted that because ANGD LLC will now be the entity to access capital on behalf of ANGD and its larger sister affiliate Bluefield Gas Company, the Staff will re-evaluate and likely propose the use of ANGD LLC's consolidated capital structure for ratemaking purposes in ANGD's next rate case.³

In its accounting analysis, the Staff discussed: (a) ANGD's rate base, depreciation expense, and property taxes; (b) a weather normalized level of revenues for ANGD's Bluefield, Virginia, service territory; (c) charitable contributions; (d) interest on customer deposits; and (e) legal expenses related to

¹ On May 16, 2011, the Company filed revised schedules to its AIF, and by memorandum filed on May 17, 2011, the Staff found the Company's filing to be complete as of the revisions filed on May 16, 2011.

² Staff Report at 7-10.

³ *Id.* at 9.

Case No. PUE-2009-00125.⁴ With regard to the Company's rate base, the Staff updated the Company's per books rate base to reflect July 31, 2011, balances. The Staff also updated the depreciation expense and property taxes for the twelve-months ended July 31, 2011, to mirror its adjustments to update rate base.⁵ Additionally, the Staff updated the interest rate the Company used to calculate interest expense on customer deposits.⁶ The Staff corrected an error in the Company's adjustment to reflect a weather normalized level of revenues in Bluefield, Virginia.⁷ The Staff also corrected charitable contributions to present them net of tax on the Company's rate of return statement.⁸ The Staff removed non-jurisdictional expenses related to Case No. PUE-2009-00125, which were included in the Company's jurisdictional cost of service.⁹ For the test year ended December 31, 2010, the Staff's analysis reflects a jurisdictional per books return on common equity of 33.45% and a fully adjusted return on equity of 8.76%.¹⁰

The Staff noted that the Company's combined adjusted earnings in its Appalachian and Bluefield, Virginia, service territories fall below the 11.5% return on equity benchmark used for AIF purposes and recommended to the Commission that no action relating to the Company's rates be taken at this time. The Staff further noted that because the Appalachian service territory's individual return on equity falls above the Commission's return on equity benchmark, the Staff will closely monitor the Company's return on equity in its next AIF.¹¹

The Company did not file a response to the Staff's Report.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the Staff's recommendations are reasonable and should be adopted.

Accordingly, IT IS ORDERED THAT:

(1) Consistent with the findings made herein, the Staff's recommendations in its October 14, 2011 Staff Report are hereby adopted.

(2) There being nothing further to be done herein, this case shall be dismissed from the Commission's docket of active proceedings, and the papers filed herein shall be placed in the Commission's files for ended causes.

⁴ *Id.* at 11-13. See also *Petition of Appalachian Natural Gas Distribution Company, For a Determination of the Price for the Acquisition of Natural Gas Facilities Pursuant to Va. Code § 56-265.4:5 B*; Case No. PUE-2009-00125.

⁵ *Id.* at 11-12.

⁶ *Id.* at 12.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* at 12-13.

¹⁰ *Id.* at 11.

¹¹ *Id.* at 13.

**CASE NO. PUE-2011-00066
MARCH 20, 2012**

APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY

For revision of rate adjustment clause: Rider R, Bear Garden Generating Station for the rate year commencing April 1, 2012

FINAL ORDER

On June 27, 2011, Virginia Electric and Power Company d/b/a Dominion Virginia Power ("DVP" or "Company"), pursuant to § 56-585.1 A 6 of the Code of Virginia ("Code") and the Rules Governing Utility Rate Applications and Annual Informational Filings,¹ filed with the State Corporation Commission ("Commission") its application for approval of the annual revision of its rate adjustment clause ("RAC") Rider R ("Application"). The company seeks to recover through Rider R the costs of the Bear Garden Generating Station, a 580-megawatt (nominal) natural gas- and oil-fired combined-cycle electric generating facility in Buckingham County. DVP proposes to apply the revised RAC to customers' bills beginning fifteen (15) calendar days following the issuance of an order by the Commission approving Rider R, or April 1, 2012, whichever is later.²

On July 19, 2011, the Commission entered an Order for Notice and Hearing that, among other things, required the Company to publish notice of its Application, established a procedural schedule, permitted the filing of comments, and scheduled a public hearing before a Hearing Examiner. Howard P.

¹ 20 VAC 5-201-10 *et seq.*

² The Company proposes a rate year of April 1, 2012, to March 31, 2013 ("2012 rate-year"), for the calculation of the revenue requirement and states that any under-recovery due to an effective date for billing purposes later than April 1, 2012, can be addressed in the next year Rider R true-up. Application at 5, 10.

Anderson, Jr., Hearing Examiner, convened the hearing on December 15, 2011. The Company and the Commission's Staff ("Staff") presented testimony, exhibits, and argument on the outstanding issues.³

The Report of Howard P. Anderson, Jr., Hearing Examiner ("Report") was filed on February 15, 2012.⁴ As noted in the Report, the Staff and counsel for the Company acknowledged at the hearing that they were largely in agreement on the revenue requirement.⁵ The Bear Garden Generating Station commenced commercial operation on May 23, 2011.⁶ The Company and the Staff agreed that the Rider R to be prescribed in this proceeding should include a Projected Cost Recovery Factor designed to recover projected financing costs and operating costs for the rate year.⁷ There also was agreement that Rider R should include an Actual Cost True-up Factor to recover from, or credit to, customers any over- or under-recovery of costs in the most recently completed calendar year.⁸

DVP and the Staff identified only one significant outstanding issue that impacted the revenue requirement in this proceeding: the appropriate return on common equity ("ROE") to apply in this proceeding.⁹ The Staff used the ROE of 10.4% prescribed in the Commission's Biennial Review for the Company's RACs¹⁰ with the addition of 100 basis points as provided by § 56-585.1 A 6 of the Code as an incentive to construct a combined cycle generating unit like the Bear Garden Generating Station for an ROE of 11.4%.¹¹ The Staff calculated a Rider R revenue requirement of \$73,920,000.¹²

At the hearing, DVP noted that in the Biennial Review, the Commission had added 50 basis points to the combined ROE in recognition of the attainment of the renewable portfolio standard ("RPS") goal as provided by § 56-585.2 C of the Code.¹³ The Commission had held, however, that the RPS addition would not apply to RACs.¹⁴ The Company maintained that the 50 basis points should be added to the ROE for RACs.¹⁵ The addition of 50 basis points to the ROE of 11.4% results in a Rider R revenue requirement of \$75,638,000.¹⁶

In addition to the differences over the revenue requirement, the Hearing Examiner addressed the issue of a federal income tax deduction enacted in the American Jobs Creation Act of 2004. The Staff identified the deduction as a possible element for consideration in subsequent Rider R proceedings.¹⁷ The Company acknowledged that consideration of the tax deduction has merit, but calculating the deduction on a station or project level would require assumptions and imprecise allocations.¹⁸ The Staff proposed at the hearing that the Company and Staff explore the issue for consideration in future proceedings, and the Hearing Examiner agreed.¹⁹

The Hearing Examiner found that the Application should be granted.²⁰ The Hearing Examiner found the annual revenue requirement to be \$73,920,000.²¹ The Company and the Staff addressed the use of a multi-year factor in the next Rider R proceeding, and the Hearing Examiner also recommended examination of that option.²²

On March 7, 2012, DVP filed its Comments of Virginia Electric and Power Company in support of the Hearing Examiner's Report ("DVP Comments"). The Company maintains, as it did at the hearing, that the 50 basis points for attaining the RPS goal should be added to the ROE and that an

³ Respondents MeadWestvaco Corporation and the Virginia Committee for Fair Utility Rates did not participate in the hearing.

⁴ An Errata to Report of Howard P. Anderson, Jr., Hearing Examiner ("Report Errata") was filed on February 17, 2012.

⁵ Report at 5-6.

⁶ *Id.* at 2.

⁷ *Id.* at 3, 4.

⁸ *Id.*

⁹ *Id.* at 5-6.

¹⁰ *Application of Virginia Electric and Power Company, For a 2011 biennial review of the rates, terms, and conditions for the provision of generation, distribution, and transmission services pursuant to § 56-585.1 A of the Code of Virginia, Case No. PUE-2011-00027 ("Biennial Review"), Final Order at 23-24 (Nov. 30, 2011).*

¹¹ Ex. 18.

¹² Report at 4, as modified by Report Errata Paragraph 1.

¹³ *Biennial Review, Final Order at 21-22, 23.*

¹⁴ *Id.* at 24.

¹⁵ Report at 5-6.

¹⁶ *Id.* at 5, as modified by Report Errata Paragraph 4.

¹⁷ Report at 4.

¹⁸ *Id.* at 5.

¹⁹ *Id.* at 7.

²⁰ *Id.* at 8.

²¹ *Id.* as modified by Report Errata Paragraph 5.

²² *Id.* at 8.

ROE of 11.9% (11.4% plus 50 basis points) is proper for determining Rider R.²³ DVP further noted that the Commission had rejected this argument, and, in acknowledgment of the Commission's determination, the Company supported the Hearing Examiner's recommendations.²⁴

NOW THE COMMISSION, having considered this matter, is of the opinion and finds that the Application is approved. The Commission adopts the Hearing Examiner's findings and recommendations on the appropriate ROE and revenue requirement.

As DVP acknowledged, aside from the ROE, the Company and the Staff were in agreement on the revenue requirement for Rider R for the rate year commencing April 1, 2012.²⁵ The Commission has addressed the issue of application of the RPS incentive to rate adjustment clauses, and we will not repeat that discussion.²⁶ We adopt the Hearing Examiner's recommended ROE of 10.4%, and approve an additional 100 basis points as required by Subsection A 6 of § 56-585.1 of the Code.

The Hearing Examiner noted the Staff's proposal to consider a multi-year factor in the next Rider R proceeding in light of the relatively stable projected revenue requirement. The Company stated that it will make a proposal in its next Rider R filing.²⁷ The Commission encourages initiatives to reduce regulatory burden on companies subject to our jurisdiction and the corresponding expenditure of public resources. We will give careful consideration of any Company proposal to move to a multi-year filing, consistent with our statutory obligations.²⁸

Accordingly, IT IS ORDERED THAT:

(1) The Company's Application for approval of a revision to its Rate Adjustment Clause, designated as Rider R, is granted in part and denied in part as set forth herein.

(2) The Company shall forthwith file a revised Rider R and supporting workpapers with the Clerk of the Commission and with the Commission's Divisions of Energy Regulation and Utility Accounting and Finance, as necessary to comply with the directives set forth in this Final Order. The Clerk of the Commission shall retain such filing for public inspection in person and on the Commission's website: <http://www.scc.virginia.gov/case>.

(3) Rider R, as approved herein, shall become effective for service rendered on and after April 1, 2012.

(4) On or before July 1, 2012, the Company shall file an application to revise Rider R effective April 1, 2013.

(5) This case is dismissed from the Commission's docket and placed in closed status in the records maintained by the Clerk of the Commission.

²³ DVP Comments at 2.

²⁴ *Id.*

²⁵ Ex. 21, Bear Garden A6 Revenue Requirement Reconciliation.

²⁶ *Biennial Review Final Order at 23-24; see also Application of Virginia Electric and Power Company, For approval and certification of the proposed Warren County Power Station electric generation and related transmission facilities under §§ 56-580 D, 56-265.2, and 56-46. 1 of the Code of Virginia and for approval of a rate adjustment clause, designated as Rider W, under § 56-585. A 6 of Code of Virginia, Case No. PUE-2011-00042 ("Warren County Project"), Final Order at 16 and n.64 (Feb. 2, 2012).*

²⁷ Report at 5.

²⁸ As noted on pages 4-5 of the Report, the Company and Staff also addressed a federal income tax deduction included in the American Jobs Creation Act of 2004. We encouraged the Staff and the regulated companies to consider this issue in a previous order. Warren County Project, Final Order at 19 and n.77.

**CASE NO. PUE-2011-00067
MARCH 23, 2012**

APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY

For revision of rate adjustment clause: Rider S, Virginia City Hybrid Energy Center, for the rate year commencing April 1, 2012

FINAL ORDER

On June 27, 2011, Virginia Electric and Power Company d/b/a Dominion Virginia Power ("Dominion Virginia Power" or "Company"), pursuant to § 56-585.1 A 6 of the Code of Virginia ("Code") and the Rules Governing Utility Rate Applications and Annual Informational Filings,¹ filed with the State Corporation Commission ("Commission") an annual update with respect to the Company's rate adjustment clause ("RAC"), Rider S ("Application"). The Company seeks to recover through Rider S costs associated with the development of the Virginia City Hybrid Energy Center ("VCHC" or "Project") a 585 megawatt nominal coal-fueled generating plant and associated interconnection facilities under construction in Wise County, Virginia.

On July 19, 2011, the Commission entered an Order for Notice and Hearing that, among other things, required Dominion Virginia Power to publish notice of its Application, established a procedural schedule, permitted the filing of comments, and scheduled a public hearing before a Hearing Examiner. Deborah V. Ellenberg, Chief Hearing Examiner, convened the hearing on December 13, 2011. The Company and the Commission's Staff ("Staff") presented testimony, exhibits, and argument on the outstanding issues.²

¹ 20 VAC 5-201-10 *et seq.*

² Respondents MeadWestvaco Corporation and the Virginia Committee for Fair Utility Rates did not participate in the hearing.

Dominion Virginia Power and Staff identified only two significant outstanding issues that impacted the revenue requirement in this proceeding: (i) whether one or two revenue requirements should be implemented during the rate year, and (ii) what is the appropriate rate of return on common equity ("ROE") to apply in this proceeding.

With regard to the first issue, the Company proposes to implement one average projected cost recovery factor revenue requirement for the rate year. Staff, in contrast, proposes to implement two revenue requirements – one for the period of time before the Project becomes operational and a second, separate revenue requirement for the time after which the Project becomes operational. Staff contends that its approach is consistent with § 56-585.1 A 6 of the Code, which states that costs of a facility, other than construction work in progress and allowance for funds used during construction, may not be recovered prior to the date the facility begins commercial operation. The Company does not dispute that Staff's approach is consistent with the Code but contends that its average projected cost recovery factor revenue requirement is also consistent with the law.³

With regard to the second issue, the Staff used the ROE of 10.4% prescribed by the Commission in its Final Order in Case No. PUE-2011-00027,⁴ plus the 100 basis points provided by § 56-585.1 A 6 of the Code as an incentive to utilities to undertake projects like the VCHEC, for a total ROE of 11.4%. Dominion Virginia Power, in contrast, used the 10.4% ROE, plus the 100 basis points provided by § 56-585.1 A 6 of the Code, plus 50 basis points for a renewable portfolio standard ("RPS") performance incentive, which the Company asserts should be added to generation RACs. The Commission has previously held that the RPS addition would not apply to RACs.⁵

The Hearing Examiner's Report stated that Staff's use of two revenue requirements was reasonable and consistent with the language of the Code and that Staff's utilization of an 11.4% ROE was consistent with the Commission's decision in the *Biennial Review* and reasonable.⁶ Thus, the Hearing Examiner recommended that a revenue requirement of \$51,844,000 for the pre-commercial operation period (\$177,750,000 on an annual basis) and a revenue requirement of \$174,278,000 for the commercial operation period (\$246,039,000 on an annual basis) be approved.⁷

In addition to the differences over the revenue requirement and ROE, the Hearing Examiner addressed the issue of a federal income tax deduction enacted in the American Jobs Creation Act of 2004. Staff identified the deduction as a possible element for consideration in subsequent Rider S proceedings. The Company acknowledged that consideration of the tax deduction has merit but noted legal and practical concerns with considering the deduction in future Rider S cases. The Hearing Examiner noted that both the Staff and the Company stated their intentions to explore the applicability of this tax credit to future Rider S proceedings.

Finally, as a result of Staff's suggestion that it would be reasonable to consider the use of a multi-year factor in the next Rider S proceeding, and the Company's agreement to present a proposal for implementing such a mechanism, the Hearing Examiner recommended that the Company "be directed to present alternatives for the Commission's consideration addressing multiple years in its Rider S updates as part of its next Rider S filing."⁸

On March 16, 2012, Dominion Virginia Power filed comments to the findings and recommendations in the Hearing Examiner's Report ("Comments"). The Company maintains that the 50 basis points for attaining the RPS goal should be added to the ROE and that an average projected cost recovery factor revenue requirement for the rate year should be implemented to prevent potential customer confusion or the introduction of unnecessary complexities and costs.⁹

NOW THE COMMISSION, having considered this matter, is of the opinion and finds that the findings and recommendations made in the Hearing Examiner's Report should be adopted.

The Commission agrees with the Hearing Examiner's analysis that the use of two projected cost recovery factor revenue requirements is consistent with the clear language of the applicable statute, and best accommodates any change in the expected in-service date for the VCHEC.

As the Commission has previously addressed the issue of applying the RPS incentive to RACs, we will not repeat that discussion.¹⁰ For the reasons previously established, we adopt the Hearing Examiner's recommended ROE of 10.4% plus the 100 basis point incentive provided by § 56-585.1 A 6 of the Code.

Finally, as is noted above, the Hearing Examiner discussed the Staff's proposal to consider a multi-year factor in the next Rider S proceeding in light of the relatively stable projected revenue requirement. The Company stated that it will make such a proposal in its next Rider S filing. The

³ See Report of Deborah V. Ellenberg, Chief Hearing Examiner ("Report") at 13-14.

⁴ *Application of Virginia Electric and Power Company, For a 2011 biennial review of the rates, terms, and conditions for the provision of generation, distribution, and transmission services pursuant to § 56-585.1 A of the Code of Virginia*, Case No. PUE-2011-00027, ("Biennial Review") Final Order at 23-24 (Nov. 30, 2011).

⁵ See *id.* at 24-26.

⁶ Report at 16-17.

⁷ *Id.* at 16. This revenue requirement is based upon the Company's forecasted completion date of July 16, 2012.

⁸ *Id.* at 17.

⁹ Comments at 4-6.

¹⁰ *Biennial Review*, Final Order at 24-26. See also *Application of Virginia Electric and Power Company, For approval and certification of the proposed Warren County Power Station electric generation and related transmission facilities under §§ 56-580 D, 56-265.2, and 56-46.1 of the Code of Virginia and for approval of a rate adjustment clause, designated as Rider W, under § 56-585.1 A 6 of the Code of Virginia*, Case No. PUE-2011-00042 ("Warren County Project"), Final Order at 16 & n.64 (Feb. 2, 2012).

Commission encourages initiatives to reduce regulatory burden on companies subject to our jurisdiction and the corresponding expenditure of public resources. We will give careful consideration to any Company proposal to move to a multi-year filing, consistent with our statutory obligations.¹¹

Accordingly, IT IS ORDERED THAT:

(1) The Company's Application for approval of a revision of its rate adjustment clause, designated as Rider S, is granted in part and denied in part as set forth herein.

(2) The findings and recommendations in the Hearing Examiner's Report are adopted.

(3) The Company shall forthwith file a revised Rider S and supporting workpapers designed to implement the pre-commercial operation revenue requirement with the Clerk of the Commission and shall further submit such filings to the Commission's Divisions of Energy Regulation and Utility Accounting and Finance. The Clerk of the Commission shall retain such filings for public inspection in person and on the Commission's website: <http://www.scc.virginia.gov/case>.

(4) The Company shall file a revised Rider S and supporting workpapers designed to implement the commercial operation revenue requirement with the Clerk of the Commission, and shall further submit such filings to the Commission's Divisions of Energy Regulation and Utility Accounting and Finance, not less than fourteen (14) business days prior to their effective date. The Clerk of the Commission shall retain such filings for public inspection in person and on the Commission's website: <http://www.scc.virginia.gov/case>.

(5) Rider S, as approved herein, shall become effective for service rendered on and after April 1, 2012.

(6) On or before June 30, 2012, the Company shall file an application to revise Rider S effective April 1, 2013.

(7) This case is dismissed from the Commission's docket and placed in closed status in the records maintained by the Clerk of the Commission.

¹¹ The Company and Staff also addressed a federal income tax deduction included in the American Jobs Creation Act of 2004. As is noted in a previous order, we have directed Staff to review this issue and we have encouraged Dominion Virginia Power and other entities subject to the Commission's ratemaking jurisdiction to cooperate with the Staff in developing procedures that balance the interests of the regulated entities and the rate payers. *See Warren County Project*, Final Order at 19-20 & n.77.

**CASE NO. PUE-2011-00071
NOVEMBER 15, 2012**

APPLICATION OF
WASHINGTON GAS LIGHT COMPANY

For authority to engage in an affiliate transaction pursuant to § 56-76 *et seq.* of the Code of Virginia

ORDER ON RECONSIDERATION

On September 14, 2011, the State Corporation Commission ("Commission") issued its Order Denying Approval in this proceeding. On October 4, 2011, Washington Gas Light Company ("WGL" or "Company") filed its Petition for Reconsideration of Washington Gas Light Company ("Petition for Reconsideration") seeking reconsideration of the Order Denying Approval. On October 5, 2011, the Commission issued an Order Granting Reconsideration for the purpose of continuing the Commission's jurisdiction over this matter to consider the Petition for Reconsideration.

On December 13, 2011, the Commission's Staff filed a Supplement to Action Brief, along with WGL's Comments thereon.

In addition, at the time WGL filed its Petition for Reconsideration, a general rate case for the Company was also pending before the Commission (Case No. PUE-2010-00139). On August 2, 2012, WGL filed revised tariffs and terms and conditions of service in accordance with the Commission's orders in Case No. PUE-2010-00139.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the Petition for Reconsideration is rejected without prejudice, because it seeks final action by the Commission that was not sought as part of the Company's Application in this proceeding.¹

WGL states that "the Company's proposal is to transfer the remainder of the term of contracts with Transcontinental Gas Pipe Line Company, LLC for Washington Storage Service ("WSS") and Eminence Storage Service ("ESS") . . . to an affiliate, Capital Energy Ventures ("CEV")."² In its Petition for Reconsideration, the Company now asserts – and asks the Commission to find – that Virginia statutes governing affiliate transactions do not confer upon the Commission authority over the WSS and ESS asset transfers.³ This new demand, however, was not the relief sought in WGL's Application in this proceeding. Rather, WGL sought an affirmative finding that the proposed asset transfers promote and protect the public interest.

¹ *See, e.g., Potomac Edison Co. v. State Corp. Comm'n*, 2008 Va. LEXIS 57, *13-17 (Va., April 11, 2008) (unpublished) (The Commission's duty is to act on the specific request sought in the application, and it does not err when limiting its decision to such issue.)

² Petition for Reconsideration at 1 n.1.

³ *See, e.g., id.* at 1-2, 6-9, 12-15.

The Company's Application explicitly requested the Commission to approve the transfer of these contracts under § 56-76 *et seq.* of the Code of Virginia ("Affiliates Act"). In its Summary of Position, the Company asserted in its Application as follows:

- (1) "The Affiliates Act requires a public service company to obtain prior approval from the Commission for certain contracts or arrangements with affiliated interests, such as those described in this Application;" and
- (2) "The Commission should approve the proposed transactions between [WGL] and CEV because they meet the Affiliates Act requirement to 'promote and protect the public interest.'"⁴

In accordance therewith, the Application concluded with the following prayer for relief: "WHEREFORE, [WGL] respectfully requests authority: (i) to engage in the three related affiliate transactions described in this [A]pplication; and (ii) to execute the letter agreement with CEV."⁵

The Application sought affirmative approval *under* the Affiliates Act – not an order finding that the WSS and ESS assets are *outside of* the Affiliates Act. The Order Denying Approval has already ruled upon the request set forth in the Application. Any new petition by WGL seeking a determination that such assets or transactions are not covered by the Affiliates Act should be initiated by the Company in a separate proceeding. Thus, this Order on Reconsideration does not address the request set forth in the Application, nor does it rule on WGL's new request contained in its Petition for Reconsideration.

Accordingly, IT IS SO ORDERED and this case is dismissed.

⁴ Application at 2.

⁵ *Id.* at 25. WGL does not assert that the Commission lacks subject matter jurisdiction over this proceeding.

**CASE NO. PUE-2011-00073
MARCH 16, 2012**

APPLICATIONS OF
VIRGINIA ELECTRIC AND POWER COMPANY

For approval and certification of the proposed biomass conversions of the Altavista, Hopewell, and Southampton Power Stations under §§ 56-580 D and 56-46.1 of the Code of Virginia and for approval of a rate adjustment clause, designated as Rider B, under § 56-585.1 A 6 of the Code of Virginia

FINAL ORDER

On June 27, 2011, Virginia Electric and Power Company d/b/a Dominion Virginia Power ("Dominion" or "Company") filed with the State Corporation Commission ("Commission") applications and petitions (collectively, "Applications"¹) to amend and reissue certificates of public convenience and necessity, for approval to convert three electric coal-fired generation facilities owned and operated by the Company into biomass-burning facilities (collectively, "Conversions" or "Biomass Conversions"), and for approval of a rate adjustment clause to recover costs associated with the proposed Biomass Conversions.

Pursuant to §§ 56-580 D and 56-46.1 of the Code of Virginia ("Code"), Dominion seeks approval to convert its coal-fired Altavista, Hopewell, and Southampton Power Stations so that they can burn biomass as the sole fuel for generation from those facilities.² Once completed, the Conversions would, according to the Company, decrease the net capacity rating for each facility from 63 megawatts ("MW") to 51 MW, but increase the expected energy production of the converted power stations compared to continued coal operations.³ In order to qualify for certain federal production tax credits ("PTCs"), the Company proposes to put the converted power stations in commercial operation by December 31, 2013.⁴ The estimated construction cost of the Conversions is approximately \$165.8 million, excluding financing costs.⁵

Pursuant to § 56-585.1 A 6 of the Code and the Commission's Rules Governing Utility Rate Applications and Annual Informational Filings,⁶ the Company seeks approval of a rate adjustment clause, designated Rider B, for the recovery of costs associated with the Conversions.

¹ The three filings are identical except for one footnote. Thus, citations herein are made collectively to the Applications, which were admitted into the record as Exhibit 2.

² In 2001, the Commission approved the Company's purchase of these facilities from LG&E-Westmoreland. *Application of Virginia Electric and Power Company, For a certificate of public convenience and necessity pursuant to the Utility Facilities Act, and authority pursuant to the Utility Transfers Act, to acquire cogeneration facilities in Altavista, Hopewell, and Southampton, Virginia*, Case No. PUE-2000-00745, 2001 S.C.C. Ann. Rept. 504, Final Order (Mar. 2, 2001); Ex. 2 at 6.

³ Ex. 2 at 5, 8.

⁴ *Id.* at 2.

⁵ *Id.* at 7.

⁶ 20 VAC 5-201-10 *et seq.*

As proposed by the Company, Rider B would take effect on April 1, 2012, or fifteen (15) calendar days following Commission approval of Rider B, whichever is later, and the initial rate year would be April 1, 2012 to March 31, 2013.⁷

On July 19, 2011, the Commission entered an Order for Notice and Hearing that, among other things, required the Company to publish notice of its Applications, consolidated review of the Applications into one proceeding, established a procedural schedule, permitted the filing of public comments, and scheduled a public hearing. The Commission conducted a hearing on January 10-12, 2012. The Company, the Commission's Staff ("Staff"), the Attorney General's Division of Consumer Counsel ("Consumer Counsel"), and respondents, the Virginia Committee for Fair Utility Rates, the Virginia Forest Watch, and MeadWestvaco Corporation, participated in the hearing. All case participants filed post-hearing memoranda or briefs addressing legal issues and providing recommendations on the Applications.

NOW THE COMMISSION, having considered this matter, is of the opinion and finds that the Applications are approved subject to the requirements set forth below.

Code of Virginia

Section 56-580 D of the Code states in part as follows:

The Commission shall permit the construction and operation of electrical generating facilities in Virginia upon a finding that such generating facility and associated facilities (i) will have no material adverse effect upon reliability of electric service provided by any regulated public utility, (ii) are required by the public convenience and necessity, if a petition for such permit is filed after July 1, 2007, and if they are to be constructed and operated by any regulated utility whose rates are regulated pursuant to § 56-585.1, and (iii) are not otherwise contrary to the public interest. In review of a petition for a certificate to construct and operate a generating facility described in this subsection, the Commission shall give consideration to the effect of the facility and associated facilities on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact as provided in § 56-46.1. . . .

Section 56-46.1 A of the Code states in part as follows:

Whenever the Commission is required to approve the construction of any electrical utility facility, it shall give consideration to the effect of that facility on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact. . . . In every proceeding under this subsection, the Commission shall receive and give consideration to all reports that relate to the proposed facility by state agencies concerned with environmental protection; and if requested by any county or municipality in which the facility is proposed to be built, to local comprehensive plans that have been adopted pursuant to Article 3 (§ 15.2-2223 et seq.) of Chapter 22 of Title 15.2. Additionally, the Commission (i) shall consider the effect of the proposed facility on economic development within the Commonwealth . . . and (ii) shall consider any improvements in service reliability that may result from the construction of such facility.

Sections 56-46.1 A and 56-580 D of the Code also contain nearly identical language explicitly limiting the Commission's authority:

In order to avoid duplication of governmental activities, any valid permit or approval required for an electric generating plant and associated facilities issued or granted by a federal, state or local governmental entity charged by law with responsibility for issuing permits or approvals regulating environmental impact and mitigation of adverse environmental impact or for other specific public interest issues such as building codes, transportation plans, and public safety, whether such permit or approval is granted prior to or after the Commission's decision, shall be deemed to satisfy the requirements of this section with respect to all matters that (i) are governed by the permit or approval or (ii) are within the authority of, and were considered by, the governmental entity in issuing such permit or approval, and the Commission shall impose no additional conditions with respect to such matters.

Finally, § 56-596 A of the Code states that "[i]n all relevant proceedings pursuant to [the Virginia Electric Utility Regulation] Act, the Commission shall take into consideration, among other things, the goal of economic development in the Commonwealth."

Public Convenience and Necessity

We find that the proposed Biomass Conversions are likely to be cost-effective on a net present value basis. The net present value projections are informed by a number of factors, including: (1) federal PTCs; (2) renewable energy certificate ("REC") revenues; (3) economic value resulting from projected carbon legislation or regulation ("carbon value"); (4) projected fuel prices; and (5) projected capacity factors for the converted units. In this regard, we note that Consumer Counsel reasonably questioned the credibility of many of these assumptions, and we agree that some of the assumptions (including REC revenues and carbon value) may be reasonably questioned and should be discounted at least to some degree. Staff, however, prepared screening curve analyses that remove one-half of the REC value and all of the carbon value, while incorporating the full impact of the PTCs, which we find reasonable in the context and under the circumstances of this proposed project. These analyses conclude that the converted units are cost-effective on a net present value basis at much lower ranges of production than projected by Dominion (and at ranges of production well below that at which Staff projects the converted units will

⁷ Ex. 2 at 23.

operate).⁸ We find that such analyses are reasonable based on the specific facts in this record, noting especially the effect of the PTCs,⁹ and on the current state of the law.

The converted facilities will not adversely impact electric system reliability,¹⁰ and Dominion's forecasted fuel prices are reasonable for purposes of this proceeding.¹¹ In addition, we find that the fuel study and fuel contracts submitted by Dominion are reasonable and further support our findings herein approving the Conversions.¹²

The Commission also must consider the effect of the proposed Conversions on economic development within the Commonwealth.¹³ Economic development encompasses, among other things, local job creation and tax revenue benefits of the proposed Conversions, as well as the effect on economic development throughout the Commonwealth of any potential rate impacts. Based on such considerations, including our finding that the proposed Conversions are cost-effective for electricity customers, we conclude that the Conversions will have a positive impact on economic development within the Commonwealth.

In sum, based on the record presented in this case, we find that: (i) the public convenience and necessity require the proposed Biomass Conversions; (ii) such Conversions will have no material adverse effect upon reliability of electric service provided by any regulated public utility; and (iii) such Conversions are not otherwise contrary to the public interest.¹⁴

Environmental Impact

We also must consider environmental impact. The relevant statutes, however, do not require the Commission to find any particular level of environmental benefit, or an absence of environmental harm, as a precondition to approval. Rather, the statutes direct that the Commission "shall give consideration to the effect of the facility and associated facilities on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact."¹⁵

The Department of Environmental Quality ("DEQ") coordinated an environmental review of the proposed Conversions by a number of agencies and submitted a report on each of the proposed Conversions. DEQ made the following recommendations:¹⁶

Conduct an on-site delineation of all wetlands and streams within the project area with verification by the U.S. Army Corps of Engineers (Corps), using accepted methods and procedures, and follow DEQ's recommendations to avoid and minimize impacts to wetlands and streams.

Reduce solid waste at the source, reuse it and recycle it to the maximum extent practicable, and follow DEQ's recommendations to manage waste, as applicable.

Coordinate with Department of Conservation and Recreation (DCR) for updates to the Biotics Data System database if a significant amount of time passes before the project is implemented.

Coordinate with the Department of Forestry regarding its recommendations for tree protection as necessary.

Follow the principles and practices of pollution prevention to the maximum extent practicable.

Limit the use of pesticides and herbicides to the extent practicable.

⁸ See, e.g., Ex. 41 and 41-ES (Tufaro) at 13-17, Attachment MAT-2 (ES); Ex. 43-ES (Tufaro screening curves); Staff's February 15, 2012 Post-hearing Brief at 11.

⁹ See, e.g., Ex. 52 (Kelly) at 5, 18 ("First, the Biomass Conversions are expected to qualify for federal [PTCs]. The \$11/MWh tax credits will provide approximately \$120 million of [net present value] that will be passed directly to customers. . . . Delaying the Biomass Conversions will likely forfeit the availabilities of PTCs and lead to higher project costs (and higher costs for the Company's customers)."); Tr. 311-312 (Eichenlaub) ("The PTC is a big incentive, as witness Kelly pointed out, to allow this unit to run a lot more. And basically when it's available, it's going to run. Now, it could be argued whether it's 92 percent, 90 percent or 85 percent. Either way it's still going to be relatively high compared to other system units, primarily because of that production tax credit."); Tr. 808 (Leopold) ("[N]ow is the right time to do this. . . . PTCs are available now under existing law, much more certain than what the future brings.").

¹⁰ See, e.g., Ex. 3 (Leopold) at 7, 23-24; Staff's February 15, 2012 Post-hearing Brief at 5.

¹¹ See, e.g., Ex. 33 (Eichenlaub) at 4-7.

¹² See, e.g., Ex. 2-ES at Filing Schedule 46 C. Staff asserts that the fuel supply evidence presented in the instant case "is far more advanced than the information offered in support of" the South Boston biomass application in Case No. PUE-2010-00126. Staff's February 15, 2012 Post-hearing Brief at 12. We also note that the cost analyses provided by Dominion in the instant case are more developed, as well.

¹³ Va. Code §§ 56-46.1 A and 56-596 A.

¹⁴ Va. Code § 56-580 D.

¹⁵ Va. Code §§ 56-46.1 A and 56-580 D.

¹⁶ Exs. 44, 45, 46.

Coordinate with the Department of Historic Resources on its recommendations to protect historic and archaeological resources (Altavista and Southampton Power Stations only).

Coordinate with DCR regarding its recommendation to protect recreational resources (Altavista Power Station only).

Coordinate with the Department of Transportation on its recommendations regarding transportation impacts (Altavista Power Station only).

Take all reasonable precautions to limit emissions of volatile organic compounds and oxides of nitrogen, principally by controlling or limiting the burning of fossil fuels (Hopewell Power Station only).

Coordinate with the Department of Health on its recommendations regarding water sources (Southampton Power Station only).

We find that requiring Dominion to comply with the above recommendations from the DEQ reports is "desirable or necessary to minimize adverse environmental impact."¹⁷ Thus, as a requirement of our approval herein, the Company shall comply with the DEQ recommendations set forth above.¹⁸

In addition, we deny Virginia Forest Watch's request to place detailed conditions on Dominion's fuel supply plan for the converted units.¹⁹ The reasonableness, specific impact, structure, and enforcement of such proposed conditions remain uncertain. For example, Virginia Forest Watch has not shown: (1) how its proposed fuel supply limitations may impact rates, reliability, and electric or fuel supply; (2) how a specific verification and enforcement mechanism would be structured; or (3) how a specific verification and enforcement mechanism would be implemented and imposed on a continuing basis.²⁰

Rate Adjustment Clause – Rider B

Dominion seeks approval of a rate adjustment clause, Rider B, for the Conversions. To qualify for such treatment, Dominion asserts that the proposed Conversions are "major unit modifications" under § 56-585.1 A 6 of the Code. The proposed Conversions necessarily will require major unit modifications; no party to this case asserted otherwise.²¹

These "major unit modifications" will convert the existing units into renewable powered facilities – which are afforded a statutorily mandated addition of 200 basis points to the otherwise authorized return on equity ("ROE").²² As further provided by this statute, "[s]uch enhanced rate of return on common equity shall be applied . . . during the construction phase of the facility and shall thereafter be applied . . . during the first portion of the service life of the facility."²³ The statute further provides that: (a) the first portion of the service life of these renewable powered facilities is between five to fifteen years, and (b) the Commission must determine the first portion of the service life based upon the public interest, how critical the facility may be in meeting energy needs, and the risk involved in development of the facility.²⁴ Based on such considerations, we establish the "first portion of the service life" for these Conversions at five years. This duration is supported, in part, by record evidence regarding the following: (1) the significant portion of project costs fixed by contract;²⁵ (2) the modest investment costs as compared to other projects;²⁶ (3) the generation technology, which is neither new nor experimental in the industry or to the Company;²⁷ and (4) the use of pre-existing generation sites, with existing and operational infrastructure for generation facilities. Additionally, we do not find that the criticality of these Conversions requires the "first portion of the service life" to extend beyond five years.²⁸

The total revenue requirement for Rider B consists of: (a) Projected Cost Recovery Factor; (b) Allowance for Funds Used During Construction ("AFUDC") Cost Recovery Factor; and (c) Actual Cost True-Up Factor. We reject the Company's requested revenue requirement of \$6,444,000 for

¹⁷ Va. Code §§ 56-46.1 A and 56-580 D.

¹⁸ The Company shall coordinate with DEQ concerning its implementation of these recommendations.

¹⁹ See, e.g., Virginia Forest Watch's February 15, 2012 Post-hearing Brief at 8-10. For example, Virginia Forest Watch requests that "[a]t least 95% of the fuel must be logging residue and wood waste," and that "[a]n adequate amount of logging residue, on average at least 40%, must be retained on the logging sites to protect soil resources, wildlife habitat, soil health, and water quality." *Id.*

²⁰ See, e.g., Staff's February 15, 2012 Post-hearing Brief at 13-14.

²¹ See, e.g., Dominion's February 15, 2012 Post-hearing Brief at 63.

²² Va. Code § 56-585.1 A 6. Contrary to Consumer Counsel's argument, we find that these units will be renewable powered under the statute and, thus, that such statute mandates a 200 basis point adder. See, e.g., Consumer Counsel's February 15, 2012 Post-hearing Brief at 46-48.

²³ Va. Code § 56-585.1 A 6.

²⁴ *Id.*

²⁵ See, e.g., Ex. 18 (McKinley) at 18; Tr. 174, 807.

²⁶ See, e.g., Ex. 2; Staff's February 15, 2012 Post-hearing Brief at 24.

²⁷ See, e.g., Ex. 17 (Faison) at 2, 9-11; Ex. 18 (McKinley) at 9.

²⁸ Although we find herein that the Conversions are required by the public convenience and necessity, how critical the Conversions may be is a separate statutory consideration for the limited purpose of establishing the "first portion of the service life."

Rider B.²⁹ Rather, we approve Staff's proposed revenue requirement of \$6,433,000.³⁰ The \$11,000 difference between these two proposals results from using a different ROE for AFUDC. We reject the Company's request to use an ROE of 11.3% (from the Stipulation in Case No. PUE-2009-00019)³¹ for AFUDC for the period June 2011 through November 2011; we previously rejected such a proposal in Case No. PUE-2011-00042 and similarly reject it herein.³² Rather, in Case No. PUE-2011-00027 the Commission prescribed an ROE of 10.4%.³³ Thus, we will allow an ROE of 12.4% (10.4% plus the statutorily required 200 basis point adder for renewable powered facilities) for calendar year 2011 and until changed.³⁴ We also note that Dominion has neither alleged nor established that an ROE of 12.4% prevents the Company from recovering its reasonable cost of service applicable thereto.³⁵ Accordingly, the Commission finds that an ROE of 10.4% plus 200 basis points, for a total of 12.4%, shall be used at this time for determining both (a) the Projected Cost Recovery Factor, and (b) the AFUDC Cost Recovery Factor.

Next, based on the record in this case, we do not find that there are "incremental costs" related to the Biomass Conversions, as that term is used in § 56-585.2 of the Code governing RPS programs. First, we do not find that any incremental costs attendant to these units have been specifically identified and quantified on the current record.³⁶ Second, it has not been established that the costs of the Biomass Conversions are costs of an RPS program under § 56-585.2; rather, these are costs for baseload generation units under § 56-585.1 A 6 of the Code.

Finally, we approve the Company's proposed rate design for Rider B, which we find reasonable and consistent with that proposed and approved in Case No. PUE-2011-00042.³⁷

Sunset Provision

As a requirement of our approval herein, we find that the authority granted by this order shall expire on December 31, 2013, if the Conversions have not commenced timely commercial operation so as to receive the PTCs and that Dominion may subsequently petition the Commission for an extension of this sunset provision for good cause shown.

Accordingly, IT IS ORDERED THAT:

(1) Subject to the findings and requirements set forth in this Final Order, the Company is granted approval for the major unit modifications; certificates of public convenience and necessity Nos. ET-69e, ET-104m and ET-110d are hereby cancelled; and certificates of public convenience and necessity Nos. ET-69f, ET-104n and ET-110e are issued to the Company for the Altavista, Hopewell and Southampton Power Stations, as redesigned and reconfigured and as set out in its Applications.

(2) The Company's Applications for approval of a rate adjustment clause, designated as Rider B, are granted in part and denied in part as set forth herein.

(3) The Company shall forthwith file a revised Rider B and supporting workpapers with the Clerk of the Commission and with the Commission's Divisions of Energy Regulation and Utility Accounting and Finance, as necessary to comply with the directives set forth in this Final Order. The Clerk of the Commission shall retain such filing for public inspection in person and on the Commission's website: <http://www.scc.virginia.gov/case>.

²⁹ Dominion's February 15, 2012 Post-hearing Brief at 70.

³⁰ Staff's February 15, 2012 Post-hearing Brief at 16. This equates to less than 14¢ per month for a residential customer using 1,000 kWh per month. *See, e.g.,* Ex. 25 (Swanson) at Schedule 3, p. 1 of 6. This amount also reflects approval of the Company's proposal, which we find reasonable for purposes of this proceeding, to amortize ten months of AFUDC (June 1, 2011 through March 31, 2012) over the period beginning with the commencement of Rider B rates (April 1, 2012) and ending at the projected end of construction for the Conversions. *See, e.g.,* Tr. 291-294 (Pate). We further note that such treatment is consistent with the amortization of AFUDC as approved in Case No. PUE-2011-00042. *See, e.g.,* Dominion's February 15, 2012 Post-hearing Brief at 74.

³¹ *Application of Virginia Electric and Power Company, For a 2009 statutory review of rates, terms and conditions for the provision of generation, distribution, and transmission services pursuant to § 56-585.1 A of the Code of Virginia*, Case No. PUE-2009-00019, 2010 S.C.C. Ann. Rept. 301, Order Approving Stipulation and Addendum (Mar. 11, 2010).

³² *Application of Virginia Electric and Power Company, For approval and certification of the proposed Warren County Power Station electric generation and related transmission facilities under §§ 56-580 D, 56-265.2, and 56-46.1 of the Code of Virginia and for approval of a rate adjustment clause, designated as Rider W, under § 56-585.1 A 6 of the Code of Virginia*, Case No. PUE-2011-00042, Final Order at 17-18 (Feb. 2, 2012).

³³ *Application of Virginia Electric and Power Company, For a 2011 biennial review of the rates, terms, and conditions for the provision of generation, distribution, and transmission services pursuant to § 56-585.1 A of the Code of Virginia*, Case No. PUE-2011-00027, Final Order at 23 (Nov. 30, 2011) ("*Biennial Review*").

³⁴ We find that this option, which is permitted by the relevant statute, represents actual cost of equity capital and results in a reasonable ROE for accrued AFUDC.

³⁵ In addition, as explained in the *Biennial Review*, the ROE approved herein is not further modified by the Company's participation in the Renewable Energy Portfolio Standard ("RPS") program under § 56-585.2 C of the Code. *Biennial Review*, Final Order at 24-26.

³⁶ *See, e.g.,* Dominion's February 15, 2012 Post-hearing Brief at 74.

³⁷ *See also* Staff's February 15, 2012 Post-hearing Brief at 19. We do not reach, in this proceeding, ratemaking issues that have been identified for future consideration, including: (1) removal of legacy operation and maintenance costs from base rates as related to Rider B updates; (2) inclusion of RECs in Rider B updates; (3) purchases of low-cost RECs through separate rate adjustment clauses; (4) inclusion of PTC benefits in Rider B updates; and (5) the impact of Internal Revenue Code § 199, Income Attributable to Domestic Production Activities. *See, e.g.,* Staff's February 15, 2012 Post-hearing Brief at 19-20.

- (4) Rider B, as approved herein, shall become effective on April 1, 2012.
- (5) The Company shall file its annual Rider B application on or before August 1 of each year.
- (6) This case is dismissed from the Commission's docket and placed in closed status in the records maintained by the Clerk of the Commission.

**CASE NO. PUE-2011-00082
FEBRUARY 24, 2012**

APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY

For approval and certification of electric facilities: Northwest-Lakeside 230 kV Transmission Line

FINAL ORDER

On July 20, 2011, Virginia Electric and Power Company d/b/a Dominion Virginia Power ("Dominion Virginia Power" or "Company") filed with the State Corporation Commission ("Commission") its Application of Virginia Electric and Power Company for Approval and Certification of Electric Facilities for the Northwest-Lakeside 230 kV Transmission Line, Application No. 253.¹ As required by § 56-46.1 and § 56-265.2 of the Code of Virginia ("Code"), the Company applied for approval to construct and operate a new 230 kilovolt ("kV") overhead transmission line between the existing Northwest Substation and the existing Lakeside Substation, both in Henrico County. The proposed line would extend for approximately 9.33 miles in Henrico County and 2.32 miles in Hanover County, for a total approximate length of 11.65 miles.² The Project would include work at the Company's existing Lakeside, Mountain Road, Elmont, and Northwest Substations.³ As explained by Dominion Virginia Power, the proposed line will be installed almost entirely on existing structures on an existing right-of-way that varies from 100 feet to 385 feet in width.⁴ Specifically, the Project requires installation of seven new structures and seven replacement structures. The seven new structures are: one single-shaft steel pole at Lakeside Substation; and three single-shaft steel poles, two steel H-frames, and one steel three-pole structure at Elmont Substation.⁵ The seven replacement structures are: three single-shaft steel poles to replace three lattice towers at Mountain Road Substation; and one steel three-pole structure to replace a similar structure, and three steel H-frames to replace three wood H-frames at Elmont Substation.⁶ Acquisition of approximately one-half acre of right-of-way next to the Elmont Substation may be required.⁷

In its Application, Dominion Virginia Power explained that the proposed line is required by the summer of 2013 to provide adequate and reliable service to growing load.⁸ The Company plans to put the line in service in May 2013.⁹ The estimated cost of the new line is \$16.1 million, and work at the substations will cost an additional \$2.9 million, for a total estimated cost of approximately \$19 million.¹⁰

On August 5, 2011, the Commission entered an Order for Notice and Hearing that, among other things, docketed the Application as Case No. PUE-2011-00082; established a procedural schedule; scheduled a public hearing to commence November 29, 2011; and assigned a Hearing Examiner to conduct all further proceedings in this matter on behalf of the Commission and to file a final report.

As noted in the Commission's Order for Notice and Hearing, the Commission's Staff ("Staff") requested that the Department of Environmental Quality ("DEQ") coordinate a review of the Project by state and local agencies and file a report on the review. On October 6, 2011, DEQ filed its report ("DEQ Report"), which was admitted at the public hearing.¹¹ The DEQ Report offers eleven general recommendations for Commission consideration that are in addition to any requirements of federal, state, or local law.¹² Specifically, the DEQ Report contains the following recommendations regarding the Project:

¹ An Appendix, DEQ Supplement, and prepared testimony and exhibits were filed at the same time. All the documents filed in Case No. PUE-2011-00082 on July 20, 2011, by the Company will collectively be referred to as the "Application."

² The actual distances in each County were adjusted slightly from those stated in the Application, resulting in a total distance of 11.65 miles. Hearing Examiner's Report at 1; Tr. at 12: 5-16.

³ Ex. 1 (Application) at 3. A map of the proposed line is included in the Appendix at 87.

⁴ Ex. 1 (Application) at 4-5.

⁵ *Id.* at 5, n.1; Ex. 7 (Staff Testimony) at 10. The new structures at Elmont Substation will be installed to route the proposed Northwest-Lakeside Line #2127 around the perimeter of the substation. Ex. 1 (Application) at 5, n.1.

⁶ Ex. 1 (Application) at 5, n.1; Ex. 7 (Staff Testimony) at 10. A detailed description of the substation work associated with the Project is provided in the Appendix at 51-62.

⁷ Ex. 1 (Application) at 5.

⁸ *Id.* at 3.

⁹ *Id.* at 4.

¹⁰ *Id.*

¹¹ Ex. 6 (DEQ Report).

¹² *Id.* at 5.

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- Conduct an on-site delineation of wetlands and streams within the project area with verification by the U.S. Army Corps of Engineers, using accepted methods and procedures, and follow DEQ's recommendations to avoid and minimize impacts to wetlands and streams.
- Reduce solid waste at the source, reuse it and recycle it to the maximum extent practicable, and follow DEQ's recommendations to manage waste, as applicable.
- Coordinate with the Department of Conservation and Recreation regarding updates to the Biotics Data System database (if a significant amount of time passes before the project is implemented).
- Coordinate with the Department of Game and Inland Fisheries regarding its recommendations to protect wildlife resources.
- Coordinate with the Department of Historic Resources ("DHR") regarding recommended resource studies and evaluations, and associated results, to protect historic and archaeological resources, as applicable.
- Coordinate with the Federal Aviation Administration to ensure compliance with aviation regulations and with the Department of Aviation regarding its recommendations to ensure aircraft safety.
- Follow the principles and practices of pollution prevention to the extent practicable.
- Limit the use of pesticides and herbicides to the extent practicable.¹³

On November 4, 2011, the Staff filed its testimony and exhibits ("Staff Testimony") summarizing the results of its investigation of the Company's Application. The Staff concluded that the Company reasonably demonstrated the need for the proposed Northwest-Lakeside 230 kV Line #2127, the associated substation work, and the route chosen for the line.¹⁴ In the Staff Testimony, the Staff further described the criteria of the underground pilot program established by Chapter 799 of the 2008 Virginia Acts of Assembly ("HB 1319")¹⁵ and the unsuitability of the Project for this program.¹⁶ The Staff recommended that the Commission approve the construction and operation of the Project as described in the Application.¹⁷

On November 15, 2011, Dominion Virginia Power filed a letter with the Clerk of the Commission stating that it agrees with and supports the recommendations of the Staff Testimony, including the Staff's findings and conclusions concerning the need for the Project and the May 2013 in-service date. Given the Company and the Staff's agreement on the issues in the case, the Company elected not to file testimony in rebuttal to the Staff Testimony.

The public hearing was convened on November 29, 2011. No public witnesses appeared at the hearing and no written comments were received in response to the Company's Application. The Company and the Staff stipulated their direct testimony and exhibits into the record and waived their right to cross-examination.

On December 15, 2011, the Hearing Examiner issued his report ("Hearing Examiner's Report") setting forth the procedural history of the case; summarizing the record; analyzing the evidence and issues in this proceeding; setting forth his findings and recommendations; and advising the case participants of their opportunity to comment on the Hearing Examiner's Report.

The Hearing Examiner recommended that the Commission grant the requested certificates of public convenience and necessity to construct and operate the proposed transmission facilities based on the following findings:

1. The Company's load flow forecasts support the need for the proposed Project;
2. The proposed Project meets the need for reliability at the Northwest and Lakeside Substations;
3. The proposed Project uses existing right-of-way to the maximum extent practicable;
4. The proposed Project is necessary for continued economic development in the areas served by the Northwest, Elmont, and Lakeside Substations;
5. The proposed Project will have minimal impact on scenic assets and historic districts;
6. There are no adverse environmental impacts that would prevent the construction or operation of the proposed Project;
7. The 11 recommendations in the DEQ Report are desirable or necessary to minimize adverse environmental impact associated with the Project;

¹³ *Id.*

¹⁴ Ex. 7 (Staff Testimony) at 24.

¹⁵ During the 2011 legislative session, the General Assembly passed HB 2027, which extended the ending date for underground pilot projects to July 1, 2014. 2011 Va. Acts. ch. 244.

¹⁶ Ex. 7 (Staff Testimony) at 11-13.

¹⁷ *Id.* at 24.

8. The proposed Project does not represent a hazard to human health or safety;
9. The proposed Project is the least costly and least impacting alternative to meet the Company's long-term transmission reliability needs;
10. The proposed Project does not meet the criteria to be considered as an underground pilot project under HB 1319; and
11. A certificate of public convenience and necessity should be issued for the Company to construct and operate the proposed Project.¹⁸

In the only filed response to the Hearing Examiner's Report, the Company supported the Hearing Examiner's recommendations and findings and requested expeditious Commission approval of those recommendations and findings.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the public convenience and necessity require that the Northwest-Lakeside 230 kV Transmission Line and associated work at the Company's existing Lakeside, Mountain Road, Elmont, and Northwest Substations be constructed as proposed in the Company's Application and that certificates of public convenience and necessity should be issued authorizing the Project.

Approval

The statutory scheme governing the Company's Application is found in several chapters of Title 56 of the Code. Section 56-265.2 A of the Code provides that "[i]t shall be unlawful for any public utility to construct . . . facilities for use in public utility service, . . ., without first having obtained a certificate from the Commission that the public convenience and necessity require the exercise of such right or privilege."

Section 56-46.1 of the Code further directs the Commission to consider several factors when reviewing the Company's Application. Subsection A of the statute provides that:

Whenever the Commission is required to approve the construction of any electrical utility facility, it shall give consideration to the effect of that facility on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact In every proceeding under this subsection, the Commission shall receive and give consideration to all reports that relate to the proposed facility by state agencies concerned with environmental protection; and if requested by any county or municipality in which the facility is proposed to be built, to local comprehensive plans that have been adopted Additionally, the Commission (i) shall consider the effect of the proposed facility on economic development within the Commonwealth, . . ., and (ii) shall consider any improvements in service reliability that may result from the construction of such facility.

Section 56-46.1 B of the Code further provides that: "[a]s a condition to approval the Commission shall determine that the line is needed and that the corridor or route the line is to follow will reasonably minimize adverse impact on the scenic assets, historic districts and environment of the area concerned."

The Code further requires the Commission to consider existing right-of-way easements when siting transmission lines. Section 56-46.1 C of the Code provides that "[i]n any hearing the public service company shall provide adequate evidence that existing rights-of-way cannot adequately serve the needs of the company." In addition, § 56-259 C of the Code provides that "[p]rior to acquiring any easement of right-of-way, public service corporations will consider the feasibility of locating such facilities on, over, or under existing easements of rights-of-way."

Finally, for inclusion of a project in the underground pilot program established by HB 1319, the project must satisfy the following three criteria:

- (1) An engineering analysis demonstrates that it is technically feasible to place the proposed line, in whole or in part, underground;
- (2) The estimated additional cost of placing the proposed line, in whole or in part, underground does not exceed 2.5 times the cost of placing the same line overhead, assuming accepted industry standards for undergrounding to ensure safety and reliability. If the public utility, the affected localities, and the State Corporation Commission agree, a proposed underground line whose cost exceeds 2.5 times the cost of placing the line overhead may also be accepted into the pilot program; and
- (3) The governing body of each locality in which a portion of the proposed line will be placed underground indicates, by resolution, general community support for the line to be placed underground.¹⁹

¹⁸ Hearing Examiner's Report at 14-15.

¹⁹ 2008 Va. Acts ch. 799, Enactment Clause 1, § 4. As mentioned previously, during the 2011 legislative session, the General Assembly passed HB 2027, which extended the ending date for underground pilot projects to July 1, 2014. 2011 Va. Acts. ch. 244.

Need

We agree with the Hearing Examiner that the Company's load growth forecasts support the need for the Project and that the Project will meet the need for reliability at the Northwest and Lakeside Substations.²⁰ The need for the Project to resolve projected violations of North American Electric Reliability Corporation Reliability Standards has not been questioned and, as supported by the evidence in this case, the Project is necessary to maintain reliable service for the Richmond metropolitan area.²¹

Economic Development and Service Reliability

We agree with the Hearing Examiner that "[t]he proposed Project is necessary for continued economic development in the areas served by the Northwest, Elmont, and Lakeside Substations."²² The Project will contribute to continued economic development throughout the Richmond metropolitan area.²³

Scenic Assets, Historic Districts, and Existing Rights-of-Way

We agree with the Hearing Examiner that "[t]he proposed Project uses existing right-of-way to the maximum extent practicable."²⁴ The proposed route of the Northwest-Lakeside Line #2127 is largely on an existing right-of-way. Further, the new circuit conductors will be installed on existing structures, with the exception that seven existing structures will be replaced with seven new structures in order to accommodate line routing around the various substations.²⁵ Thus, the Company was not required, in accordance with § 56-46.1 C of the Code, to demonstrate that existing rights-of-way could not adequately serve its needs.

We agree with the Hearing Examiner's finding that the Project, compared to other electrical alternatives considered by the Company in this case, "is the least costly and least impacting alternative to meet the Company's long-term transmission reliability needs."²⁶

We further agree with the Hearing Examiner that the Project will have a minimal impact on scenic assets and historic districts consistent with § 56-46.1 B of the Code.²⁷ The proposed route of the Northwest-Lakeside Line #2127 uses existing right-of-way and the Company has agreed to continue its evaluation of impacts to scenic and historic resources in the Project area in coordination with DHR.²⁸

Environmental Impact

Sections 56-46.1 A and B of the Code require the Commission to consider the proposed Project's impact on the environment and to establish such conditions as may be desirable or necessary to minimize adverse environmental impact. Section 56-46.1 A of the Code further provides that the Commission shall receive, and give consideration to, all reports that relate to the proposed Project by state agencies concerned with environmental protection.

We agree with the Hearing Examiner and find that "[t]here are no adverse environmental impacts that would prevent the construction or operation of the proposed Project."²⁹ The record, which includes the DEQ Report filed by DEQ and the DEQ Supplement prepared by the Company as part of the Application, supports findings that the Company's proposed route reasonably minimizes adverse environmental impact, provided that the Company complies with the DEQ recommendations found by the Hearing Examiner to be necessary to minimize such impact.³⁰ Specifically, we agree with the Hearing Examiner and find that, as a condition to our approval herein, the Company must comply with all of DEQ's recommendations as provided in the DEQ Report.

We further agree with the Hearing Examiner and find that "[t]he proposed Project does not represent a hazard to human health or safety."³¹ There is no evidence in this case that the Project represents a public health or safety hazard.

²⁰ Hearing Examiner's Report at 14.

²¹ Ex. 2 (Kaminsky) at 6; Hearing Examiner's Report at 11, 14.

²² Hearing Examiner's Report at 14.

²³ Ex. 2 (Kaminsky) at 10-11; Ex. 7 (Staff Testimony) at 22; Hearing Examiner's Report at 11, 14.

²⁴ Hearing Examiner's Report at 14.

²⁵ Ex. 5 (Schultis) at 3; Hearing Examiner's Report at 11.

²⁶ Hearing Examiner's Report at 15. *See also* Ex. 1 (Appendix) at 10-14.

²⁷ Hearing Examiner's Report at 12, 14.

²⁸ Ex. 5 (Schultis) at 6; Hearing Examiner's Report at 12.

²⁹ Hearing Examiner's Report at 14.

³⁰ *Id.* at 12, 14.

³¹ *Id.* at 15.

HB 1319

We find that the evidence demonstrates that the Project does not meet the criteria set forth in HB 1319 for inclusion as a pilot program.³²

Accordingly, IT IS ORDERED THAT:

(1) The Company is authorized to construct and operate the proposed 11.65 mile Northwest-Lakeside 230 kV Transmission Line on the route proposed in the Company's Application subject to the findings and conditions imposed herein. The Company is also authorized to perform necessary construction at the Lakeside, Mountain Road, Elmont, and Northwest Substations as set forth in the Company's Application.

(2) Pursuant to §§ 56-46.1, 56-265.2, and related provisions of Title 56 of the Code, the Company's Application for a certificate of public convenience and necessity to construct and operate the proposed Northwest to Lakeside transmission line and perform necessary construction work at the Lakeside, Mountain Road, Elmont, and Northwest Substations is granted, as provided for herein, and subject to the requirements set forth in this Final Order.

(3) Pursuant to the Utility Facilities Act, Chapter 10.1 (§ 56-265.1 *et seq.*) of Title 56 of the Code, the Company is issued the following certificates of public convenience and necessity:

Certificate No. ET-85k, which authorizes Virginia Electric and Power Company under the Utility Facilities Act to operate certificated transmission lines and facilities in Hanover County, all as shown on the map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUE-2011-00082, cancels Certificate No. ET-85j, issued to Virginia Electric and Power Company on August 8, 1990, in Case No. PUE-1989-00017.

Certificate No. ET-86p, which authorizes Virginia Electric and Power Company under the Utility Facilities Act to operate certificated transmission lines and facilities in Henrico County, all as shown on the map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUE-2011-00082, cancels Certificate No. ET-86o, issued to Virginia Electric and Power Company on February 7, 1997, in Case No. PUE-1996-00115.

(4) The Commission's Division of Energy Regulation forthwith shall provide the Company copies of the certificates issued in Ordering Paragraph (3) with the detailed map attached.

(5) The transmission line and associated substation work approved herein must be constructed and in service by July 1, 2013, provided, however, the Company is granted leave to apply for an extension for good cause shown.

(6) As there is nothing further to come before the Commission, this matter is dismissed and the papers filed herein shall be placed in the file for ended causes

³² Ex. 7 (Staff Testimony) at 11-13; Hearing Examiner's Report at 13-15.

**CASE NO. PUE-2011-00083
JUNE 18, 2012**

PETITION OF
AUBON WATER COMPANY, INC.,
DAVID G. PETRUS,
and
EDWARD PARK III

For approval of a transfer of assets of a Virginia water public utility

ORDER GRANTING APPROVAL

On August 15, 2011, Aubon Water Company, Inc. ("Aubon"), David G. Petrus ("Mr. Petrus"), and Edward Park III ("Mr. Park") (collectively, "Petitioners") filed a complete petition ("Petition") with the State Corporation Commission ("Commission") pursuant to Chapter 5 of Title 56 ("Utility Transfers Act") of the Code of Virginia ("Code") for approval of a transfer of utility assets.

Aubon is a small water company located in Franklin County, Virginia. Aubon operates three water systems, Long Island Estates, Alton Park, and Hillcrest, which serve 75 customers. Due to inadequate quality of service, the Commission appointed Mr. Petrus as receiver for Aubon and authorized Mr. Petrus to control the operations of Aubon through an Order Appointing Receiver dated March 1, 2001, in Case No. PUE-2001-00072 ("Receiver Case").¹ Mr. Petrus, individually and through Petrus Environmental Services, Inc. ("PES"), has been in the business of owning, operating, and/or managing water and sewage companies in Virginia since 1991. Mr. Park is a developer who was developing a subdivision adjacent to Long Island Estates.

¹ *Commonwealth of Virginia, ex rel. State Corporation Commission v. Aubon Water Company, Inc.*, Case No. PUE-2001-00072, 2001 S.C.C. Ann. Rept. 544, Order Appointing Receiver (March 1, 2001).

Aubon owned well lot No. 9 ("Well Lot") in the Long Island Estates subdivision. On May 17, 2007, Aubon, acting through Mr. Petrus, sold the Well Lot to Mr. Petrus and Mr. Park. Mr. Petrus and Mr. Park paid a consideration of \$120,000 for the Well Lot.

Among other things, the sale of the Well Lot as well as the reasonableness of its sales price is being reviewed in the Receiver Case. Hence, this order will solely address the transfer of the lot from Aubon to Mr. Petrus and Mr. Park.

The Petitioners state that the well on the Well Lot was taken off line prior to 2006 because of its high level of iron and the diminished amount of water it was producing. The Petitioners further state that the Well Lot would not pass a percolation test and, therefore, would not support a septic system. For these reasons, they represent that the Well Lot had minimal value to the utility. Mr. Petrus used the proceeds from the sale to pay: (i) outstanding debts from Aubon's 2004 rate case; (ii) PES for services related to operating the Aubon system; and (iii) for operation and maintenance costs.

The Petitioners represent that the sale of the Well Lot will not impair or jeopardize the provision of service to the public at just and reasonable rates. They further represent that customers have benefitted from the transfer because it raised capital to pay existing Aubon accounts payable.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the transfer of the Well Lot from Aubon to Mr. Petrus and Mr. Park will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates and, therefore, should be approved.

We are concerned that the transfer was consummated in May 2007, yet Mr. Petrus and Mr. Park did not file the instant Petition until August 2011, more than four years later. In the future, the Petitioners should ensure that, pursuant to the Utility Transfers Act, applications are filed in a timely manner to allow for review and a Commission decision prior to completing such transactions.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to §§ 56-89 and 56-90 of the Code, the Petitioners are hereby granted approval of the transfer of the Well Lot, as described herein.
- (2) The approval granted herein shall have no ratemaking implications. Specifically, it will not guarantee the recovery of any costs directly or indirectly related to the transfer.
- (3) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2011-00084
NOVEMBER 21, 2012**

PETITION OF
T. A. HALL
v.
VIRGINIA ELECTRIC AND POWER COMPANY

For review of a billing dispute for electric service

FINAL ORDER

On July 13, 2011, T. A. Hall ("Petitioner" or "Mr. Hall") filed a complaint ("Petition") with the State Corporation Commission ("Commission") concerning various issues related to a billing dispute for electric service with Virginia Electric and Power Company d/b/a Dominion Virginia Power ("Dominion" or "Company"). In his Petition, Mr. Hall claimed, in part, that due to billing errors and damages, he was owed over \$5,000 from Dominion.¹

On July 27, 2011, the Commission issued an Order Appointing Hearing Examiner that, among other things, docketed the Petition, directed Dominion to file an answer or other responsive pleading to the Petition, and assigned the matter to a Hearing Examiner to conduct all further proceedings. The Company filed its answer on August 31, 2011.

The Hearing Examiner scheduled a hearing for February 7, 2012. On February 6, 2012, the Petitioner filed a motion to continue the hearing date and requested that the proceedings be defined with greater clarity.² The Hearing Examiner granted the Petitioner's motion to continue the hearing, rescheduled the hearing for March 2, 2012, and set a pre-hearing conference for February 24, 2012. The pre-hearing conference was attended by Mr. Hall, the Commission Staff ("Staff"), and representatives of the Company.³

At approximately 9:15 p.m. on March 1, 2012, Mr. Hall sent an e-mail to the Commission requesting a continuance of the March 2, 2012 hearing. According to the Hearing Examiner, this request for a continuance was denied and the hearing proceeded as scheduled.⁴ Dominion and the Staff appeared at the hearing, but the Petitioner did not.⁵ During the hearing, witnesses for Dominion provided a history of the events that culminated in this Petition, stated

¹ Petition at 6.

² Motion to Continue Formal Hearing Date On or About February 7 or 8, 2012, at 1.

³ See September 18, 2012 Report of Howard P. Anderson, Jr., Hearing Examiner ("Report" or "Hearing Examiner's Report") at 2.

⁴ *Id.*

⁵ Tr. 3, 7.

that Mr. Hall was due an outstanding \$374.34 as a result of uncorrected billing errors, and offered apologies and a good will credit of \$250 to Mr. Hall for miscommunications and errors the Company made while handling this matter.⁶ The Petitioner was afforded an opportunity to respond to the statements the Company made at the hearing, and on May 10, 2012, Mr. Hall filed a response, in which he took issue with certain statements made by the Company and requested a third-party audit of his records with the Company.⁷ On May 30, 2012, the Hearing Examiner denied the Petitioner's request for a third-party audit, and on July 20, 2012, the Hearing Examiner found that the Petitioner should file any documents not already included in the record on or before August 3, 2012. Mr. Hall filed several documents on August 2, 2012, and August 3, 2012. In a document filed on August 2, 2012, Mr. Hall stated that he was owed \$4,599.90 as a result of billing errors, as well as an additional \$3,500.⁸ On August 31, 2012, Mr. Hall filed a motion seeking to engage in further discovery by subpoenaing numerous persons.

On September 18, 2012, the Hearing Examiner's Report was filed. The Hearing Examiner found that records pertaining to the Petitioner's account with Dominion have been introduced as evidence in this case; the Company's calculation of a \$374.34 refund still due to the Petitioner is supported by the record; and a good will payment of \$250 is reasonable.⁹ Therefore, the Hearing Examiner recommended that the Commission enter an order that: (i) adopts the findings set forth in the Report, (ii) directs Dominion to pay the Petitioner \$374.34 within thirty (30) days of the date the final order is issued in this matter; (iii) invites the Company to pay the Petitioner any good will payment that it continues to offer within thirty (30) days of the date the final order is issued in this matter; and (iv) dismisses this matter from the Commission's docket of active cases.¹⁰ The Report also denied the Petitioner's August 31, 2012 motion, stating that "[g]ood cause was not shown therein to continue this matter, to allow for discovery at this late date, or to conduct further hearings."¹¹

On October 5, 2012, Mr. Hall filed comments to the Hearing Examiner's Report. Mr. Hall objected to the findings in the Hearing Examiner's Report, sought reconsideration of his August 31, 2012 motion, and asked the Commission to find that he was owed over \$4,500 from the Company due to billing errors.¹² On October 9, 2012, Dominion filed comments to the Hearing Examiner's Report. The Company supported the conclusions and recommendations in the Report and agreed that a \$250 good will payment was reasonable.¹³ Staff also filed comments to the Hearing Examiner's Report on October 9, 2012. Staff took no position on the findings and recommendations set forth in the Report but stated that if a final order was issued in this proceeding, the Commission should direct Dominion "to provide a report of the processes it has initiated to ensure that errors like the ones that [occurred in this case] do not happen again."¹⁴

NOW THE COMMISSION, upon consideration of the captioned Petition, finds that the recommendations of the Hearing Examiner are supported by the record and should be adopted.

First, the evidence in this case supports the Hearing Examiner's finding that the Petitioner is due a refund of \$374.34 as a result of billing errors made by the Company. The filings in this case do not support the Petitioner's claim that Dominion has made billing errors amounting to over \$4,500.

Further, "[t]he Commission is the creation of the Constitution and has no inherent power. All of its jurisdiction is conferred either by the Constitution or is derived from statutes which do not contravene the Constitution."¹⁵ In this proceeding, the Petitioner stated that he is owed \$3,500 in excess of the \$4,500 in alleged billing errors. Mr. Hall refers to this \$3,500 as "compensation past due."¹⁶ However, this Commission has not been conferred with jurisdiction to compensate Mr. Hall for any "compensation past due" or for any damages that he states that he has suffered.¹⁷ Therefore, the Commission does not have jurisdiction to grant Mr. Hall's request for damages or "compensation past due."

The Commission also affirms the Hearing Examiner's denial of the Petitioner's August 31, 2012 motion to engage in further discovery. The Commission finds that good cause has not been shown to allow for discovery at this time. Mr. Hall filed his Petition on July 13, 2011. The Petitioner had ample time to engage in discovery procedures. The evidentiary record in this case is now closed.

Finally, the Commission finds that Dominion is required to provide a report of the review processes it has initiated since this Petition has been filed to help ensure that errors and miscommunications like the ones that occurred in this case are not repeated.

Accordingly, IT IS ORDERED THAT:

- (1) The findings and recommendations of the September 18, 2012 Hearing Examiner's Report are adopted.

⁶ Tr. 11-52.

⁷ [Petitioner's] Response to Hearing Examiner's Ruling at 1-2.

⁸ See Petitioner's August 2, 2012 filing at 11.

⁹ Report at 8.

¹⁰ *Id.*

¹¹ *Id.* at 3.

¹² Objections to Hearing Examiner's Final Report at 1-3.

¹³ Comments of Virginia Electric and Power Company in Support of the Hearing Examiner's Report at 2.

¹⁴ Comments of the Staff of the State Corporation Commission to the Hearing Examiner's Report at 1.

¹⁵ See *Commonwealth v. Old Dominion Power Co.*, 184 Va. 6, 11-12 (1945).

¹⁶ See Petitioner's August 2, 2012 filing at 11.

¹⁷ See Petition at 6. Mr. Hall stated in his Petition that "[d]amages are immense and over billing charges surpass values of \$5,000"

(2) Within thirty (30) days of the date of this Final Order, Dominion shall file a report with the Clerk of the Commission that details the review processes it has initiated to correct the errors and miscommunications that occurred in this case.

(2) This case is hereby dismissed and the papers herein are placed in the files for ended causes.

**CASE NO. PUE-2011-00085
MARCH 29, 2012**

APPLICATION OF
KESWICK UTILITIES, INC.,
and
KESWICK CORPORATION

For approval of the transfer of utility assets from Keswick Corporation to Keswick Utilities, Inc.

ORDER GRANTING APPROVAL

On August 11, 2011, Keswick Utilities, Inc. ("Keswick"), and Keswick Corporation ("Parent") (jointly, the "Applicants") filed an application ("Application") with the State Corporation Commission ("Commission") pursuant to Chapter 5 of Title 56 ("Utility Transfers Act") of the Code of Virginia ("Code") for approval of a transfer of certain utility assets ("Utility Assets").

Keswick is a public service company that provides water and sewer service to the Keswick Estates subdivision in Albemarle County, Virginia. Keswick Estates is an upscale residential golf course community. There are fifty-two (52) residential customers, a country inn, and a golf club house connected to Keswick's system ("System"). Keswick is owned by Parent. At the time this Application was filed, Parent was owned by Orient Express Hotels ("OEH"), a publicly traded company that is involved in the hotel and travel business.¹ OEH is headquartered in Hamilton, Bermuda. Parent was the developer of the Keswick Estates community.

Keswick recently surpassed the fifty (50)-customer threshold and, thus, was required to obtain a certificate of public convenience and necessity ("CPCN") from the Commission pursuant to Chapter 10.1 of Title 56 of the Code of Virginia. On March 29, 2010, Keswick filed an application for a CPCN, which was docketed as Case No. PUE-2010-00025 ("Certificate Case")² and is currently pending before the Commission. During its review of the Certificate Case, the Commission Staff discovered certain Utility Assets used by Keswick to provide service to customers were owned and recorded on the books of Parent. Upon such finding, Staff filed a motion to suspend the Certificate Case and requested that the Commission require Keswick to file an application to transfer the Utility Assets from Parent to Keswick prior to Staff continuing its review. On May 16, 2011, the Commission issued an Order ("Motion Order") accepting Staff's motion and suspending the procedural schedule.

As directed by the Commission's Motion Order, the Applicants propose to transfer the Utility Assets, which comprise the water and sewer infrastructure for Phase II of Keswick Estates. The Applicants state that because the proposed transfer will take place between affiliated companies, there is no formal agreement for the proposed transfer, and the Utility Assets will be transferred at no cost.

After the proposed transfer, Parent will no longer own or record any of the Keswick System assets on its books. Keswick will own and operate the Keswick System assets. The transfer allows Keswick to record all of the Keswick System assets it uses to provide service to its customers on its books as opposed to the assets being spread among multiple companies. Customers will continue to be served by Keswick, and Keswick anticipates there will be no impact on rates. The Applicants provided notice of the proposed transfer to customers at Staff's request. No comments or complaints were filed.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the proposed transfer will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates and, therefore, should be approved.

We are aware that the Keswick development, including the Keswick System, was recently sold to an unrelated third party. The Keswick System portion of that transaction requires Commission approval under § 56-89 of the Code. Further, it is unclear what impact the Keswick development sale has had on Keswick's books and we believe further investigation is necessary. Therefore, Keswick will be required to file an application ("New Application") pursuant to the Utility Transfers Act for approval of the Keswick System transfer. The New Application should address the specifics of the transaction, including the purchase price paid for the Keswick System assets and the impact on Keswick's books. Specifically, the New Application should address Keswick's intercompany payables account with Parent, OEH and its umbrella of companies, and any other affiliates, and explain how the new transfer of the Keswick System affected these intercompany payables. Finally, the New Application should identify the entity that acquired the Keswick System and detail its ability to provide adequate service to the customers at just and reasonable rates.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to §§ 56-89 and 56-90 of the Code, Parent is hereby granted approval of the disposition and Keswick is granted approval of the acquisition of the Utility Assets, as described herein.

¹ During the pendency of this proceeding, OEH sold the Keswick development, including Parent and the Keswick System, to an investment group.

² *Application of Keswick Utilities, Inc., For a certificate of public convenience and necessity*, Case No. PUE-2010-00025, Doc. Con. Cen. No. 100360156 (Mar. 29, 2010).

(2) Within ninety (90) days of completing the transfer, subject to administrative extension by the Commission's Director of Utility Accounting and Finance, Keswick shall file a Report of Action with the Commission that includes the date of the transfer, any legal documentation, and the actual accounting entries recording the transfer.

(3) Keswick shall file a New Application requesting approval of the transfer of the Keswick System pursuant to the Utility Transfers Act. The New Application shall address the specifics of the transaction, including the purchase price paid for the Keswick System and the impact on Keswick's books. Specifically, the New Application shall address Keswick's intercompany payables account with Parent, OEH and its umbrella of companies, and any other affiliates, and explain how the new transfer of the Keswick System affected these intercompany payables. Finally, the New Application shall identify the entity that acquired the Keswick System and detail its ability to provide adequate service to the customers at just and reasonable rates.

(4) The approval granted herein shall have no ratemaking implications. Specifically, it will not guarantee the recovery of any costs directly or indirectly related to the transfer.

(5) There appearing nothing further to be done in this matter, it hereby is dismissed.

CASE NO. PUE-2011-00088
JANUARY 17, 2012

APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY

For approval of a standby charge and methodology and revisions to its tariff and terms and conditions of service pursuant to § 56-594 F of the Code of Virginia

ORDER ON RECONSIDERATION

On November 23, 2011, the State Corporation Commission ("Commission") issued its Final Order ("Order") in this proceeding. Twenty days later, on December 13, 2011, MD DC VA Solar Energy Industries Association ("MDV-SEIA") filed its Petition for Reconsideration ("Petition") seeking reconsideration of the Order. Specifically, MDV-SEIA requests the Commission to: (1) clarify the Order such that standby charges will be implemented after Virginia Electric and Power Company ("DVP" or "Company") has evaluated the generation component of the standby charge and presented such evidence to the Commission for approval, and (2) amend the Order to delay the effectiveness of any standby charge until after a generation component application has been filed and evaluated. For the purpose of extending its jurisdiction, the Commission issued its Order Granting Reconsideration on December 14, 2011.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the Petition should be denied.

In our Final Order, we found – based on the record therein – that there were no "quantifiable benefits provided by eligible customer-generators to apply to the methodology approved herein." This finding encompassed any alleged generation, as well as transmission and distribution, benefits. Contrary to MDV-SEIA's suggestion, this finding was separate and distinct from our finding on DVP's proposed generation component of the standby charge approved therein. Moreover, based on the evidence in this proceeding, we found – as required by statute – that "the standby charges collected from all such eligible customer-generators allow the supplier to recover only the portion of the supplier's infrastructure costs that are properly associated with serving such eligible customer generators."¹

In addition, we note that DVP committed to incorporating a generation component into its standby charge but stated that it would need to collect at least a year's worth of data before it could calculate such a component in a future application.² We expect the Company to comply with its commitment.

Finally, we note, as we did in our Order for Notice and Comment, that the standby charge as approved in this proceeding is required by § 56-594 F of the Code, which provides that "[a]ny residential eligible customer-generator . . . with a capacity that exceeds 10 kilowatts shall pay to its supplier . . . a monthly standby charge."

Accordingly, IT IS ORDERED THAT:

- (1) The Petition for Reconsideration is denied.
- (2) This matter is dismissed.

¹ Va. Code § 56-594 F.

² Tr. at 121.

**CASE NO. PUE-2011-00090
MAY 4, 2012**

PETITION OF
STEVE HYPES and
CHRISTINE HYPES
v.
APPALACHIAN POWER COMPANY

ORDER DISMISSING PROCEEDING

On August 5, 2011, Steve and Christine Hypes ("Petitioners") filed a complaint ("Petition") with the State Corporation Commission ("Commission") concerning tree trimming surrounding an electric line near the Petitioners' house on right-of-way maintained by Appalachian Power Company ("APCo" or "Company"). On September 6, 2011, the Company filed its response to the Petition. Among other things, the Company's response requested a 90-day continuance of the proceeding to allow the Company and Petitioners time to pursue a resolution of the matter. The Hearing Examiner granted the Company's request by ruling dated November 1, 2011.

On December 19, 2011, APCo filed a Motion to Dismiss ("Motion") stating that it had completed a relocation of the line that was the subject of the Petition. On January 11, 2012, Staff filed a letter in the proceeding stating that they had spoken with the Petitioner who confirmed the line had been relocated and was satisfied with the resolution of the case regarding the Company's line. The Petitioner stated that he continued to be concerned about a large tree and a cable line that remained near his house, but nonetheless stated that he would not be opposed to the case being dismissed.

On February 21, 2012, the Report of Howard P. Anderson Jr., Hearing Examiner ("Hearing Examiner's Report" or "Report") was filed. The Hearing Examiner's Report summarized the proceeding and the various filings. Further, the Report found that the Motion should be granted and recommended that the Commission enter an Order adopting the Report's finding and dismissing the matter from its docket of active cases.

NOW THE COMMISSION, upon consideration of the filings and the Hearing Examiner's Report, is of the opinion and finds that the Motion should be granted and the Petition should be dismissed.

Accordingly, IT IS ORDERED THAT:

- (1) The finding and recommendations of the Hearing Examiner's February 21, 2012 Report are adopted.
- (2) APCo's Motion to Dismiss is granted.
- (3) The Petition is hereby dismissed.
- (4) The papers submitted herein shall be sent to the file for ended causes.

**CASE NO. PUE-2011-00091
DECEMBER 18, 2012**

APPLICATION OF
RAPPAHANNOCK ELECTRIC COOPERATIVE

For approval of prepaid electric service tariffs

ORDER ON APPLICATION

On August 11, 2011, Rappahannock Electric Cooperative ("Rappahannock" or "Cooperative") filed with the State Corporation Commission ("Commission") an application and exhibits ("Application") requesting that the Commission approve, pursuant to § 56-247.1 A 7 of the Code of Virginia ("Code"), proposed tariffs to allow the Cooperative to install and operate, upon a customer's request, the equipment and processes necessary to allow a customer to prepay for electric service and to allow the Cooperative to suspend service when a customer incurs charges equal to the customer's prepayments for that service.

On September 9, 2011, the Commission issued an Order for Notice and Hearing that, among other things, docketed this proceeding; directed Rappahannock to provide public notice of its Application; directed the Cooperative to file testimony in support of its Application; ordered the Commission's Staff ("Staff") to investigate and file a report addressing the Application; provided opportunities for interested persons to comment, intervene, and participate in this proceeding; scheduled an evidentiary hearing on the Application; and assigned a Hearing Examiner to conduct further proceedings in this matter on behalf of the Commission and to file a report.

A notice of intent to participate was filed by the Office of the Attorney General's Division of Consumer Counsel ("Consumer Counsel").¹

On October 14, 2011, Rappahannock filed the direct testimony and exhibits of its witnesses. On January 30, 2012, Staff filed the testimony and exhibits of its witness. On February 17, 2012, Rappahannock filed its rebuttal testimony.

On March 1, 2012, the evidentiary hearing on the Application was convened and evidence was received into the record.²

¹ A notice of participation in this proceeding was also filed, then subsequently withdrawn, by the Town of Stephens City, Virginia.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

On April 18, 2012, Rappahannock, Consumer Counsel, and Staff filed post-hearing briefs. On April 25, 2012, Rappahannock filed a motion to strike portions of Consumer Counsel's brief. Consumer Counsel responded to Rappahannock's motion, and Rappahannock replied. By Hearing Examiner's Ruling entered May 30, 2012, the Hearing Examiner granted Rappahannock's motion to strike.

On July 19, 2012, the Report of Howard P. Anderson, Jr., Hearing Examiner ("Hearing Examiner's Report" or "Report") was filed. In his Report, the Hearing Examiner summarized the history and record in this case and recommended that the Commission enter an order that approves Rappahannock's prepaid service program as modified by findings identified in the Report. Specifically, the Hearing Examiner made the following findings:

1. The Cooperative's proposed prepaid electric service program, as modified during the process of this proceeding and subject to the provisions set forth below, is not contrary to the public interest and should be approved;
2. The Commission, and not the Cooperative's Board of Directors, has final authority over the tariff, which includes Appendix D, Terms and Conditions, of the proposed prepaid program;
3. Staff and the Cooperative should work together to formulate a consumer education process;
4. There should be no grace period or friendly credit extended to prepaid service customers prior to service termination. Service termination for insufficient funds should be immediate and automatic. However, the Cooperative should be directed to set forth in its terms and conditions that there will be no suspension of service prior to 7:00 a.m. or after 3:00 p.m.;
5. The Cooperative should be allowed up to three (3) hours to restore service once service is suspended;
6. The Cooperative should not be required to set a particular time of day to read meters;
7. The Cooperative should not be required to provide In-Home Devices ("IHD") to prepaid service customers;
8. The Cooperative should track and provide information to Commission Staff at the end of one year for Items 1 through 11 of Appendix A of this Report; and
9. For future rate determination, the prepaid program should be included in the normal course of preparing a cost of service study compiled in association with future rate filings.³

On August 9, 2012, Rappahannock and Consumer Counsel filed comments on the Hearing Examiner's Report.⁴

On August 20, 2012, Rappahannock filed a motion to strike portions of Consumer Counsel's comments on the Hearing Examiner's Report, and Consumer Counsel filed a response thereto.⁵

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds as follows.

Section 56-247.1 A 7 of the Code expressly allows an electric cooperative such as Rappahannock to provide certain prepaid electric service that "immediately and automatically" terminates when the customer's charges equal the customer's prepayments. Specifically, the statute states as follows:

[The Cooperative] may install and operate, upon a customer's request and pursuant to an appropriate tariff for any type or classification of service, a prepaid metering equipment and system that is configured to terminate electric service immediately and automatically when the customer has incurred charges for electric service equal to the customer's prepayments for such service.⁶

This statute further mandates that "[s]uch tariffs shall be filed with the Commission for its review and determination that the tariff is not contrary to the public interest."⁷

We find that Rappahannock's tariffs for prepaid electric service, as modified throughout this case, are not contrary to the public interest only if (i) the Cooperative is subject to the requirements of, and (ii) such tariffs include the specific provisions directed by, this Order on Application. Absent such,

² During the hearing, the Hearing Examiner further directed the Cooperative, Consumer Counsel, and the Staff to meet to discuss potential reporting obligations for the prepaid metering program and directed the filing of an additional exhibit summarizing the result of such meetings, which was filed by the parties and Staff on April 23, 2012. *See* Ex. 13.

³ Report at 29-30.

⁴ Also on August 9, 2012, counsel for Staff filed a letter indicating that Staff would not file comments on the Hearing Examiner's Report.

⁵ Having not relied upon the comments moved to be stricken in order to reach our findings herein, we deny Rappahannock's August 20, 2012 motion to strike as unnecessary.

⁶ Va. Code § 56-247.1 A 7.

⁷ *Id.*

we find that the Cooperative's prepaid electric service tariffs are contrary to the public interest and, thus, that the prepaid electric service program does not satisfy the requirements of § 56-247.1 A 7 of the Code.

In this regard: (1) the tariffs shall provide that there will be no termination of service prior to 7 a.m. or after 3 p.m.;⁸ (2) the tariffs shall provide that the prepaid electric service program is not available to households receiving service subject to a Serious Medical Condition Certification;⁹ (3) the tariffs shall provide that the Cooperative is allowed up to three hours to restore service once prepaid service is terminated; (4) the Cooperative shall track, and file in this docket, on an annual basis (from the date on which the prepaid program is first available to customers) the information included in Items 1 through 11 of Appendix A of the Hearing Examiner's Report; (5) for future rate determinations, the prepaid program shall be included in the normal course of preparing a cost of service study compiled in association with future rate filings; (6) the Cooperative is not required to set a particular time of day to read meters, and paper bills shall not be a part of the prepaid service program; and (7) Staff and the Cooperative shall work together to formulate a consumer education process prior to offering the prepaid service program to customers.

Further, the tariffs shall require Rappahannock to provide customers with direct notification of low balance conditions prior to termination of service as follows:¹⁰

- (a) Rappahannock shall provide direct notice to a customer when the customer's prepayment balance represents approximately five days of estimated normal usage;
- (b) Daily notifications shall continue to be made to the customer until the prepayment balance exceeds the predetermined notification level in (a), above, or reaches zero;
- (c) If the Cooperative does not have sufficient historic usage information for a customer or premise, the predetermined notification level for (a), above, shall initially be set at \$25 (*i.e.*, the amount of the Minimum Initial Prepayment Balance), until the Cooperative obtains sufficient usage information to establish a reasonable approximation for five days of normal usage;
- (d) Such notifications shall be provided by the Cooperative using one of the following means, as selected by the customer: telephone call; electronic mail; or text message; and
- (e) The Cooperative shall offer to provide, in addition to the notifications required herein, contemporaneous notifications to a third-party designated by the customer.

Finally, Consumer Counsel requested use of IHDs, while Rappahannock objected thereto.¹¹ Rappahannock has asserted that its prepaid program was "modeled on" the prepaid program offered by Brunswick Electric Membership Corporation ("BEMC") in North Carolina, and the Cooperative also cited the prepaid program offered by Jackson Electric Cooperative ("JEC") in Kentucky in support of its Application.¹² Consumer Counsel has noted that both BEMC and JEC provide such IHDs as part of their prepaid programs.¹³ In this regard, we find that: (1) the tariffs shall require Rappahannock to offer all customers under this program an IHD unit;¹⁴ and (2) such requirement shall be suspended at this time pending further order of the Commission after receipt of one or more of the annual reports required above. Thus, before requiring implementation of IHDs, we find that Rappahannock shall prepare and file the annual report(s) required herein on the actual implementation of this new prepaid service program, which will assist in assessing whether IHDs are necessary to provide effective notification to customers prior to terminating service and to reduce unintentional service terminations.

Accordingly, IT IS HEREBY ORDERED THAT:

(1) The Application is granted subject to the requirements ordered herein; otherwise, the prepaid electric service program does not satisfy § 56-247.1 A 7 of the Code, and the Application is denied.

(2) If Rappahannock elects to operate a prepaid service program pursuant to the requirements ordered herein, the Cooperative shall file revised prepaid tariffs, in conformance with this Order on Application, with the Clerk of the Commission no less than thirty (30) days prior to offering prepaid electric service to customers. The Clerk of the Commission shall retain such filing for public inspection in person and on the Commission's website: <http://www.scc.virginia.gov/case>.

(3) This matter is continued pending further order of the Commission.

⁸ The terms "termination" and "suspension" (and variations thereof) appear to have been used somewhat interchangeably in the record. This Order on Application uses "termination" and "terminated" consistent with the use of "terminate" in § 56-247.1 A 7 of the Code, and not to refer to a permanent service disconnection. *See, e.g.*, Ex. 14 (Faulconer Rebuttal) at 9.

⁹ *See, e.g.*, Hearing Examiner's Report at 17; Ex. 14 (Faulconer Rebuttal) at 15-16.

¹⁰ *See, e.g.*, Ex. 7 (Schoonover Direct) at 9; Ex. 10 (Grant Direct) at 15; Ex. 14 (Faulconer Rebuttal) at 11; Hearing Examiner's Report at 8, 15.

¹¹ *See, e.g.*, Comments of Division of Consumer Counsel, Office of Attorney General at 7-10; Rappahannock's Response to Hearing Examiner's Report at 5-6.

¹² *See, e.g.*, Ex. 3 (Faulconer Direct) at 17-18; Tr. 71.

¹³ *See, e.g.*, Comments of Division of Consumer Counsel, Office of Attorney General at 7-8; Tr. 72.

¹⁴ The IHD provides (i) a constant visual reminder showing how much energy credit remains in the customer's account, and (ii) an audible alarm and visual alert when the amount of energy credit has declined to five or less days of estimated usage. *See, e.g.*, Ex. 4 (Order from the Kentucky Public Service Commission, dated November 30, 2010) at 2; Ex. 12 (Brunswick program material); Tr. 66-67.

**CASE NO. PUE-2011-00092
OCTOBER 5, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

In re: Virginia Electric and Power Company's Integrated Resource Plan filing pursuant to Va. Code § 56-597 *et seq.*

FINAL ORDER

On September 1, 2011, Virginia Electric and Power Company d/b/a Dominion Virginia Power ("Dominion" or "Company") filed its Integrated Resource Plan ("IRP") with the State Corporation Commission ("Commission") as required by § 56-599 C of the Code of Virginia ("Code"). Pursuant to § 56-599 E of the Code, the Commission must, after giving notice and an opportunity to be heard, determine whether Dominion's IRP is reasonable and is in the public interest.

On September 26, 2011, the Commission issued an Order for Notice and Comment in this proceeding that, among other things, directed Dominion to provide public notice of its IRP and afforded interested persons an opportunity to file comments or request a hearing on the Company's IRP. The Chesapeake Climate Action Network, Appalachian Voices, and the Virginia Chapter of the Sierra Club (collectively, "Environmental Respondents"), the Virginia Committee for Fair Utility Rates ("VCFUR"), MeadWestvaco Corporation ("MeadWestvaco"), Doswell Limited Partnership ("Doswell"), the Electric Power Supply Association ("EPSA"), and the Office of the Attorney General—Division of Consumer Counsel ("Consumer Counsel") filed notices of participation in this proceeding. Numerous comments related to the Company's IRP also were received, including comments from Consumer Counsel, EPSA, and the Environmental Respondents. The Environmental Respondents also requested a hearing.

On January 6, 2012, the Commission issued its Order Scheduling Hearing ("Order"), granting the Environmental Respondents' request for hearing. The Commission's Order, among other things, also provided for the pre-filing of testimony and exhibits by Dominion, respondents, and the Staff of the State Corporation Commission ("Staff"). The Company, Staff, Environmental Respondents, and EPSA pre-filed testimony in this proceeding.

On May 8, 2012, the Commission convened an evidentiary hearing on the Company's IRP. At the outset of the hearing, the Commission received public testimony. Thereafter, the Company, Staff, Environmental Respondents, EPSA, VCFUR, and Consumer Counsel fully participated at the hearing.¹ At the conclusion of the evidentiary hearing on May 10, 2012, the Commission directed the parties to file post-hearing briefs on the legal issues relevant to this case. On August 8, 2012, the Company, Staff, Environmental Respondents, EPSA, VCFUR, and Consumer Counsel filed post-hearing briefs. On August 16, 2012, Doswell also filed a post-hearing brief in this proceeding.²

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds, subject to the requirements and limitations discussed below, that Dominion's IRP is reasonable and in the public interest for the specific purpose of filing the planning document mandated by §§ 56-597 *et seq.* of the Code.

As we noted in Dominion's prior IRP case, the IRP is a planning document, not a document that will control future decisions on specific resources. Thus, we described the IRP proceeding in the following manner:

As such, the Commission's determination in this proceeding does not preclude the Commission from approving or rejecting a particular supply-side or demand-side resource in the future, nor does the Commission's determination in this case create any presumption in favor, or not in favor, of a particular resource, including generation construction projects, generation from non-utility generators, conservation or other options.³

Accordingly, the reasonableness and prudence of any actual or projected expenditures toward one or more specific demand- or supply-side resource option is not an issue in an IRP proceeding. Indeed, in the instant case, the Commission previously directed as follows:

Dominion acknowledged that actual expenditures incurred toward any specific resource option that has not been approved by this Commission in an applicable formal proceeding are incurred solely at the risk of Dominion's stockholders. Further, . . . finding that an IRP is reasonable and in the public interest under § 56-599 E of the Code in no manner represents – *and should not be characterized as representing* – explicit or implicit approval for construction or cost recovery of any specific resource option contained in the IRP.⁴

¹ MeadWestvaco and Doswell did not appear at the hearing.

² Specifically, on August 16, 2012, Doswell filed its Motion of Doswell Limited Partnership to File Post-Hearing Brief Out-of-Time and Post-Hearing Brief. On August 22, 2012, Dominion filed its Response to Doswell's motion in which the Company asserted that Doswell's proposed Post-Hearing Brief contained certain factual mischaracterizations. Neither Staff, nor any respondent filed responses to Doswell's motion. We grant Doswell's Motion to File Post-Hearing Brief Out-of-Time and accept Doswell's Post-Hearing Brief and Dominion's Response.

³ *Commonwealth of Virginia, ex rel., State Corporation Commission, In re: Virginia Electric and Power Company's Integrated Resource Plan filing pursuant to Va. Code § 56-597 et seq.*, Case No. PUE-2009-00096, 2010 S.C.C. Ann. Rept. 385, Final Order at 5-6 (Aug. 6, 2010).

⁴ *Commonwealth of Virginia, ex rel., State Corporation Commission, In re: Virginia Electric and Power Company's Integrated Resource Plan filing pursuant to Va. Code § 56-597 et seq.*, Case No. PUE-2011-00092, Doc. Con. Cen. No. 120320147, Order on Certified Question at 4 (Mar. 19, 2012) (emphasis added).

With regard to the IRP submitted by Dominion in this proceeding, we find deficiencies in the breadth of some of the Company's modeling used for the IRP. For example, as discussed by Staff and respondents, the planning models forced the addition of North Anna 3 into each plan.⁵ Dominion suggested, in part, that this restriction was designed to address fuel diversity.⁶ Dominion is not precluded from submitting its preferred models in the IRP, and the Commission is aware of arguments regarding diversity of fuel mix. Such considerations, however, do not warrant limiting the IRP as presented by Dominion. Thus, Dominion's future IRP filings also shall include models where North Anna 3 (if included in subsequent IRPs) competes against other resource options.⁷

Dominion also excluded new coal-based alternatives, because, "[a]ccording to the Company, it decided not to move forward with coal-fired technologies at this time due to uncertainties surrounding future carbon dioxide legislation."⁸ As further noted by Staff, "non-carbon capture sequestration capable coal technologies were not considered for analysis in the Company's busbar screening model."⁹ Again, while Dominion may submit its preferred models, we find that future IRP filings should not be so limited. A decision to prohibit the construction of any type of power plant, coal-fired or otherwise, in Virginia is a policy decision for the General Assembly. Accordingly, Dominion's future IRP filings shall include consideration of non-carbon capture sequestration capable coal resources (as new construction and through the purchase of existing facilities) relative to other technologies included in its busbar screening process. In sum, both coal and nuclear options should be considered against the full panoply of conventional, renewable, and other resource alternatives.

We also believe that Dominion should adequately consider third-party market alternatives as capacity resources. We do not conclude, however, that Dominion should be required to perform independent market tests as part of the IRP because, as noted by Consumer Counsel, "the IRP is a planning document, and is not a commitment to pursue any particular investment."¹⁰ Rather, we find that market alternatives are appropriate for consideration in cases where Dominion seeks a certificate of public convenience and necessity for specific investments. Indeed, the Commission has previously explained that third-party alternatives, including purchased power and new construction, "would likely be relevant evidence in an application proceeding [for a self-build option for new generation]."¹¹

The Environmental Respondents request "the addition of generic blocks of DSM in the middle and later years of the planning period."¹² The Company notes that its IRP "sets forth the 2010 Commission-approved DSM programs, the proposed DSM programs that were pending approval through the most recent DSM proceeding, and currently identified future DSM programs for which approval may be sought from this Commission at a later time," and that generic DSM blocks "would have little meaning [and] be potentially misleading."¹³ We find that the IRP should continue to model DSM alternatives but will not require changes thereto. Further, we note that Staff submitted a specific exhibit directly comparing the costs of demand- and supply-side alternatives.¹⁴ Any future application for approval of a specific DSM resource obviously must be found reasonable under the particular statutory requirements relevant to such request.

Next, we conclude that rate design issues are appropriate for consideration in IRP as well as other proceedings. As discussed by Staff: "[R]eviewing rate design in an IRP would not be intended to re-establish the design of a Company's rates. Instead, the purpose of such review would be to identify: (i) potential, generalized designs; and (ii) possible rate design pilot programs."¹⁵ In addition, Consumer Counsel discusses rate design options that may affect energy usage over the longer term.¹⁶ In future IRPs, rate design options should be modeled by the Company, for example, to analyze how alternative rate designs may impact demand and the plans to meet demand, particularly given Dominion's "commitment to meeting the Commonwealth's [10%] energy reduction goals."¹⁷

Finally, we conclude that no changes shall be required to the stakeholder process and reports previously undertaken by Dominion between its biennial IRP filings.

Accordingly, IT IS SO ORDERED AND this matter is dismissed.

⁵ See, e.g., Staff's August 8, 2012 Post-Hearing Brief at 2-6; Consumer Counsel's August 8, 2012 Post-Hearing Brief at 5-6; VCFUR's August 8, 2012 Post-Hearing Brief at 12-14.

⁶ See, e.g., Tr. 191, 304-305; see also Dominion's August 8, 2012 Post-Hearing Brief at 12-15.

⁷ See, e.g., Staff's August 8, 2012 Post-Hearing Brief at 10.

⁸ Ex. 22 (Stevens) at 11; see also Ex. 2 (IRP) at 69.

⁹ Ex. 22 (Stevens) at 13.

¹⁰ Consumer Counsel's August 8, 2012 Post-Hearing Brief at 5.

¹¹ *Application of Virginia Electric and Power Company, For a certificate to construct and operate a generating facility; for certificates of public convenience and necessity for a transmission line: Bear Garden Generating Station and Bear Garden-Bremo 230 kV Transmission Interconnection Line*, Case No. PUE-2008-00014, 2009 S.C.C. Ann. Rept. 296, Final Order (Mar. 27, 2009).

¹² Environmental Respondents' August 8, 2012 Post-Hearing Brief at 4.

¹³ Dominion's August 8, 2012 Post-Hearing Brief at 19-20.

¹⁴ Ex. 23 ES (Walker).

¹⁵ Staff's August 8, 2012 Post-Hearing Brief at 8.

¹⁶ See, e.g., Consumer Counsel's August 8, 2012 Post-Hearing Brief at 6-7.

¹⁷ Ex. 24 (Wood Rebuttal) at 5.

**CASE NO. PUE-2011-00093
APRIL 30, 2012**

APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY

For approval to implement new demand-side management programs and for approval of two updated rate adjustment clauses pursuant to § 56-585.1 A 5 of the Code of Virginia

ORDER

On September 1, 2011, Virginia Electric and Power Company ("Dominion" or "Company"), pursuant to the Order Approving Rate Adjustment Clauses ("RACs") issued by the State Corporation Commission ("Commission") in Case No. PUE-2010-00084,¹ as modified by the Commission's June 30, 2011 Order Granting Motion ("Order Granting Motion"),² and § 56-585.1 A 5 of the Code of Virginia ("Code"), filed an application ("Application") requesting approval to implement demand-side management ("DSM") programs for a period of five years commencing on June 1, 2012.

Dominion proposes the following programs: Residential Home Energy Check-Up Program; Residential Duct Testing & Sealing Program; Residential Heat Pump Tune-Up Program; Residential Heat Pump Upgrade Program; Residential Lighting Program (Phase II); Commercial Refrigeration Program; Commercial Energy Audit Program; Commercial Duct Testing and Sealing Program; and Commercial Distributed Generation Program.

Additionally, the Company's Application, as filed, sought approval to increase funding for the purpose of recovering two previously approved non-residential DSM programs, and to continue two RACs, Riders C1 and C2, for the purpose of recovering costs associated with the Company's programs previously approved by the Commission in Dominion's first DSM proceeding.³

The Company is also seeking to recover the costs related to its Electric Vehicle Pilot Program ("EV Pilot Program"), which the Commission approved in its Order Granting Approval in Case No. PUE-2011-00014.⁴ Finally, the Company is seeking to recover under Rider C2 projected lost revenues, subject to true-up in a later proceeding, resulting from the approved and proposed energy efficiency programs.

The total proposed revenue requirement for the rate year of the RACs proposed in the Application is approximately \$71.8 million.⁵ Dominion requests approval of its proposed revenue requirement, cost allocation, rate design, and accounting treatment for service rendered on and after May 1, 2012, and further requests that its proposed modifications to existing rates become effective, for billing purposes, ten (10) days after the Commission's Order in this proceeding or May 1, 2012, whichever is later.⁶

On September 26, 2011, the Commission issued an Order for Notice and Hearing that, among other things, established a procedural schedule for this case and directed the Company to provide public notice of its Application.

The following parties filed notices of participation in this proceeding: Chesapeake Climate Action Network, Appalachian Voices, and the Virginia Chapter of the Sierra Club (collectively, "Environmental Respondents"); the Virginia Committee for Fair Utility Rates; and the Office of the Attorney General, Division of Consumer Counsel ("Consumer Counsel").

On January 17, 2012, Consumer Counsel filed the testimony and exhibits of its expert witness. Environmental Respondents filed the testimonies and exhibits of its expert witnesses on January 17 and 18, 2012. On February 6, 2012, the Commission's Staff ("Staff") filed the testimonies and exhibits of its expert witnesses. The Company subsequently filed its rebuttal testimony. The Commission convened a hearing commencing on March 6, 2012, which continued on March 7, 8, 14, and 15, 2012. The Commission also received public testimony, as well as written and electronic public comments, in this matter. On March 26, 2012, Dominion, Consumer Counsel, Environmental Respondents, and the Staff filed legal memoranda.

Consumer Counsel opposes all of Dominion's proposed programs, except for the Commercial Distributed Generation Program (with modifications). Environmental Respondents support all of Dominion's proposed programs, except for the Commercial Distributed Generation Program. The

¹ *Application of Virginia Electric and Power Company, For approval to continue two rate adjustment clauses, Riders C1 and C2, as required by the Order Approving Demand-Side Management Programs of the State Corporation Commission in Case No. PUE-2009-00081*, Case No. PUE-2010-00084, 2011 S.C.C. Ann. Rept. 342, Order Approving Rate Adjustment Clauses (March 22, 2011) ("Order Approving Rate Adjustment Clauses").

² *Application of Virginia Electric and Power Company, For approval to continue two rate adjustment clauses, Riders C1 and C2, as required by the Order Approving Demand-Side Management Programs of the State Corporation Commission in Case No. PUE-2009-00081*, Case No. PUE-2010-00084, Doc. Con. Cen. No. 110660064, Order Granting Motion (June 30, 2011) ("Order Granting Motion").

³ *Application of Virginia Electric and Power Company, For approval to implement new demand-side management programs and for approval of two rate adjustment clauses pursuant to § 56-585.1 A 5 of the Code of Virginia*, Case No. PUE-2009-00081, 2010 S.C.C. Ann. Rept. 362, Order Approving Demand-Side Management Programs (March 24, 2010) ("Order Approving Demand-Side Management Programs").

⁴ *Application of Virginia Electric and Power Company, For approval to establish an electric vehicle pilot program pursuant to § 56-234 of the Code of Virginia*, Case No. PUE-2011-00014, 2011 S.C.C. Ann. Rept. 436, Order Granting Approval (July 11, 2011) ("Order Granting Approval").

⁵ The incremental revenue increase, above the level approved for DSM programs in the Order Approving Rate Adjustment Clauses, is \$53 million, which Dominion proposes to recover through Riders C1A and C2A. *See, e.g.*, Ex. 62 (Propst Rebuttal) Schedule 1 at 1; Ex. 67 (Swanson Rebuttal), Schedule 5 at 1 and 2.

⁶ Ex. 2 (Application) at 26.

Staff recommends approval of the Commercial Energy Audit Program, the Commercial Duct Testing and Sealing Program, and the Commercial Distributed Generation Program (as a peak-shaving program).

NOW THE COMMISSION, having considered this matter, is of the opinion and finds as follows.

Code of Virginia

Dominion seeks approval of its Application pursuant to § 56-585.1 A 5 of the Code, which, among other things, allows a utility to petition the Commission for approval of a rate adjustment clause for the timely and current recovery from customers of the following costs:

- b. Projected and actual costs for the utility to design and operate fair and effective peak-shaving programs. The Commission shall approve such a petition if it finds that the program is in the public interest; provided that the Commission shall allow the recovery of such costs as it finds are reasonable;
- c. Projected and actual costs for the utility to design, implement, and operate energy efficiency programs, including a margin to be recovered on operating expenses, which margin for the purposes of this section shall be equal to the general rate of return on common equity determined as described in subdivision A 2 of this section. The Commission shall only approve such a petition if it finds that the program is in the public interest. As part of such cost recovery, the Commission, if requested by the utility, shall allow for the recovery of revenue reductions related to energy efficiency programs. The Commission shall only allow such recovery to the extent that the Commission determines such revenue has not been recovered through margins from incremental off-system sales as defined in § 56-249.6 that are directly attributable to energy efficiency programs.

Section 56-576 of the Code includes definitions relevant to this matter, including the following (emphasis in original):⁷

"Energy efficiency program" means a program that reduces the total amount of electricity that is required for the same process or activity Energy efficiency programs include equipment, physical, or program change designed to produce measured and verified reductions in the amount of electricity required to perform the same function and produce the same or a similar outcome. Energy efficiency programs may include, but are not limited to, (i) programs that result in improvements in lighting design, heating, ventilation, and air conditioning systems, appliances, building envelopes, and industrial and commercial processes; and (ii) measures, such as but not limited to the installation of advanced meters, implemented or installed by utilities, that reduce fuel use or losses of electricity and otherwise improve internal operating efficiency in generation, transmission, and distribution systems. Energy efficiency programs include demand response, combined heat and power and waste heat recovery, curtailment, or other programs that are designed to reduce electricity consumption so long as they reduce the total amount of electricity that is required for the same process or activity. . . .

"Measured and verified" means a process determined pursuant to methods accepted for use by utilities and industries to measure, verify, and validate energy savings and peak demand savings. This may include the protocol established by the United States Department of Energy, Office of Federal Energy Management Programs, Measurement and Verification Guidance for Federal Energy Projects, measurement and verification standards developed by the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE), or engineering-based estimates of energy and demand savings associated with specific energy efficiency measures, as determined by the Commission.

"Peak-shaving" means measures aimed solely at shifting time of use of electricity from peak-use periods to times of lower demand by inducing retail customers to curtail electricity usage during periods of congestion and higher prices in the electrical grid.

"Revenue reductions related to energy efficiency programs" means reductions in the collection of total non-fuel revenues, previously authorized by the Commission to be recovered from customers by a utility, that occur due to measured and verified decreased consumption of electricity caused by energy efficiency programs approved by the Commission and implemented by the utility, less the amount by which such non-fuel reductions in total revenues have been mitigated through other program-related factors, including reductions in variable operating expenses.

⁷ We also note that amendments to § 56-576 of the Code were passed by the General Assembly in its 2012 Regular Session (House Bill 894 and Senate Bill 493), which address cost-benefit analyses for energy efficiency programs. As held by the Supreme Court of Virginia, "when a statute is amended while an action is pending, the rights of the parties are to be decided in accordance with the law in effect when the action was begun, unless the amended statute shows a clear intention to vary such rights." *Washington v. Commonwealth of Virginia*, 216 Va. 185, 193, 217 S.E. 2d 815, 823 (1975). Nothing in the language of these amendments shows a clear intention that the legislation should operate retroactively. In addition, during its Reconvened Session on April 18, 2012, the General Assembly adopted amendments proposed by the Governor to SB 493, which include an enactment clause stating that the aforesaid "shall not apply to any case or proceeding filed with the State Corporation Commission prior to March 10, 2012."

In addition, Riders C1 and C2 are impacted by the Commission's decision in the Company's recent biennial review (Case No. PUE-2011-00027).⁸ Specifically, § 56-585.1 A 3 of the Code requires as follows:

If the Commission determines that rates should be revised or credits be applied to customers' bills pursuant to subdivision 8 or 9, any rate adjustment clauses previously implemented pursuant to subdivision 4 or 5 or those related to facilities utilizing simple-cycle combustion turbines described in subdivision 6, shall be combined with the utility's costs, revenues and investments until the amounts that are the subject of such rate adjustment clauses are fully recovered. The Commission shall combine such clauses with the utility's costs, revenues and investments only after it makes its initial determination with regard to necessary rate revisions or credits to customers' bills, and the amounts thereof, but after such clauses are combined as herein specified, they shall thereafter be considered part of the utility's costs, revenues, and investments for the purposes of future biennial review proceedings.

Public Interest

In evaluating Dominion's Application to determine whether its proposals are "in the public interest" under § 56-585.1 A 5 of the Code, we have considered all four tests (Utility Cost, Participant, Ratepayer Impact Measure ("RIM"), and Total Resource Cost) discussed by the participants in this case, as well as other relevant factors. We have not used any of the four tests as a sole determining factor in our analysis. For example, we have approved herein informational and other programs (subject to the requirements set forth below) that have a RIM score less than 1.0. Moreover, while we approve the programs below subject to specific requirements, there remain concerns regarding the assumptions and projections that lead to the proffered test scores and the potential total costs to customers of the programs.

In addition, we find that the impact on customers' bills, especially the impact on the bills of customers not participating in these programs ("non-participants"), is a relevant factor in our determination of the public interest. In adopting § 56-585.1 A 5 of the Code, the General Assembly could have, but did not, provide for increases without limit to customers' bills from DSM programs. As discussed below, Dominion's evidence as to the long-term costs – and impacts on customers' bills – of these programs was unclear, particularly with regard to the lost revenues that the Company is projecting to result from these programs and that it expects to collect through customers' bills. Indeed, the evidence indicates that the costs associated with lost revenues could constitute more than half of the total costs to customers of these programs.⁹

We also considered concerns, similar to those noted above, expressed by Consumer Counsel. For example, Consumer Counsel states that "there will be little or no customer benefits from proposed DSM programs over the next 15 years," that "there is significant uncertainty in Dominion's DSM program cost estimates," that "the program savings estimates are similarly uncertain and overstated," and that "most of the proposed programs are not forecasted to provide ratepayer benefits."¹⁰ In addition, Consumer Counsel asserts that "there is insufficient evidence to support the Company's lost revenue estimates,"¹¹ and that recovery of potential lost revenues is "a rate impact issue" that represents a "new rate increase."¹² Although we have considered these concerns, we have not adopted Consumer Counsel's request to reject all but one of the proposed programs; rather, we have approved certain programs subject to specific requirements set forth below. We have also considered the evidence from Dominion and Environmental Respondents regarding the potential benefits of these DSM programs.

The recovery of program costs, including lost revenues, in many cases results in rate increases to benefit a limited group of customers participating in the DSM programs; this represents an involuntary wealth transfer (*i.e.*, cross-subsidy) from one set of Dominion's customers to another.¹³ In this case, Dominion's own evidence indicates that the vast majority of its customers will be non-participants¹⁴ and thus will pay higher rates with no equal and offsetting monetary benefit. The magnitude of the potential recovery of lost revenues, and the bill increases attendant thereto, are among the other relevant factors we consider in evaluating the public interest.¹⁵

The record indicates that Dominion's actual program implementation costs are calculated with reasonable specificity and, most importantly, predictability. In contrast, the evidence indicates that the calculation of lost revenues from these programs is not reasonably specific, is confusing, and lacks both credibility and predictability.¹⁶ Put simply, Dominion's evidence as to the actual lost revenues it expects to recover from customers, as well as other

⁸ *Application of Virginia Electric and Power Company, For a 2011 biennial review of the rates, terms, and conditions for the provision of generation, distribution, and transmission services pursuant to § 56-585.1 A of the Code of Virginia*, Case No. PUE-2011-00027, 2011 S.C.C. Ann. Rept. 456, Final Order (Nov. 30, 2011) ("Biennial Review Final Order").

⁹ *See, e.g.*, Tr. 474 (Norwood).

¹⁰ Ex. 23 (Norwood) at 4.

¹¹ *Id.* at 6.

¹² Tr. 474 (Norwood).

¹³ *See, e.g.*, Tr. 470-471 (Norwood). In addition, Dominion acknowledged that non-participants would see an increase in their annual bill as a result of lost revenue recovery. Tr. 1100 (Pickles).

¹⁴ *See, e.g.*, Ex. 11 (Turner Direct), Schedule 2; Ex. 9 (Newcomb Direct), Schedule 1 and Schedule 5.

¹⁵ Dominion's customers have also experienced significant increases in rates for other projects, and such increases have been continuing.

¹⁶ In addition, Dominion does not provide any evidence regarding the recovery of lost revenues beyond the first year. *See, e.g.*, Tr. 1231 (Propst); Ex. 13 (Haynes Direct), Schedule 46F.

salient questions such as how it expects to recover such revenues (whether through RACs or base rates), and for how long – remains unclear.¹⁷ This lack of clarity and predictability with regard to important questions of cost recovery for lost revenues is another factor that we consider. This lack of quantifiable and reliable evidence on the total amount of, and recovery mechanisms for, lost revenues is relevant to the broader context in which the public interest must be determined.

We find that a program's impact on customer rates in both the near and long term is particularly relevant in our evaluation of the public interest. As noted, rates are impacted not only by the operating cost of a program, but by the lost revenue cost that Dominion may collect from customers for an unspecified number of years. For example, Consumer Counsel notes that projected operating costs for new programs are about \$186 million, while projected lost revenue costs are estimated to be in excess of \$300 million.¹⁸

In sum, Dominion has failed to provide reasonable long-term projections of the lost revenues that could result from its proposals. Thus, we simply do not know, nor do we have reasonable projections of, the total cost that customers could be required to pay for these programs. We do not find that it is in the public interest to approve a program for which total costs to customers have not been reasonably projected or limited.

Accordingly, in light of these factors, the new energy efficiency programs authorized herein will be subject to specific cost caps, which include all potential costs of the programs – including but not limited to operating costs, lost revenues, common costs, return on capital expenditures, margins on O&M, and evaluation, measurement and verification ("EM&V") costs.¹⁹ That is, under the circumstances existing in this case, we find that in order for the programs approved herein to be in the public interest, there must be a cost cap on these programs. We likewise find that such programs are not in the public interest, and are not approved, absent such cost cap.

Similarly, we conclude that such programs are only in the public interest if the risk of exceeding the cost cap established herein remains with the utility, not with customers.²⁰ Dominion can operate its authorized programs accordingly. As to projected program costs, Dominion must continue to show in subsequent rider cases involving the programs that the costs remain in the public interest for purposes of such programs. As to actual expenditures, Dominion must provide support to establish the reasonableness of such in subsequent rider cases involving the programs. As to lost revenues: (1) we find that it is neither reasonable nor in the public interest to include projected lost revenues in the riders for new or existing programs; and (2) Dominion must prove in subsequent cases that it incurred "revenue reductions related to energy efficiency programs" before recovery of lost revenues will be permitted.²¹ In addition, we do not rule herein on how lost revenues may be addressed in future RAC or biennial review proceedings.

New Programs

We authorize a five-year Residential Bundle Program consisting of the following four programs: (1) Residential Home Energy Check-Up Program; (2) Residential Duct Testing & Sealing Program; (3) Residential Heat Pump Tune-Up Program; and (4) Residential Heat Pump Upgrade Program. The total cost cap for the Residential Bundle Program is \$90 million for the five-year period.²² We find that such cap reasonably enables Dominion to implement these programs. While we do not specifically allocate the cap among the four programs, we find that Dominion should strive to allocate a significant portion of its program expenditures to the Residential Home Energy Check-Up Program, which appears to have merit by informing customers of energy savings opportunities, which customers can then choose whether to implement, and which has the potential to benefit a larger share of Dominion's customers compared to other programs.

We reject the continuation and expansion of the Residential Lighting Program, as we do not find it in the public interest.²³ We find that critical assumptions in extending this program have not been established as reasonable, including the actual usage conditions for CFL bulbs, baseline technology assumptions, and overall cost effectiveness.²⁴ In addition, we find that there are significant free rider concerns with this program, which further militates against a finding that Dominion's proposed Residential Lighting Program (Phase II) is in the public interest. Moreover, there is significant information available to the public regarding the potential energy saving benefits of CFL bulbs even absent a ratepayer-subsidized program through the utility.

We similarly reject the Commercial Refrigeration Program as not in the public interest.²⁵ We find that Dominion has not established the cost effectiveness of this program as a whole, and that the RIM score is particularly low when compared to other commercial programs.²⁶ Moreover, of the seven

¹⁷ See, e.g., Tr. 1218-1222, 1228-1234 (Propst).

¹⁸ Tr. 462-463 (Norwood); Tr. 1330, 1334-1335. See also Ex. 46C. Although this example was contested by Dominion, the Company did not provide a more reliable estimate – and we find that Consumer Counsel's example is reasonable for purposes of our finding that lost revenues are a major cost component to be considered in evaluating programs and determining whether they are in the public interest.

¹⁹ Moreover, if actual lost revenues turn out to be less than projected by various parties hereto, more funds under the cap can be spent on the energy efficiency programs authorized herein.

²⁰ Further, the cost caps required herein do not represent an amount to which Dominion is guaranteed recovery.

²¹ Va. Code § 56-585.1 A 5 c.

²² See, e.g., Ex. 60ES (Turner Rebuttal), Schedule 46D, Statement 8 (Revised); Ex. 56 (Jesensky Rebuttal), Schedule 1. This cap may be exceeded by a maximum of 5% without being in violation of this Order.

²³ See, e.g., Ex. 35ES (Carsley) at 15-18; Ex. 23ES (Norwood) at 20-21.

²⁴ *Id.*

²⁵ See, e.g., Ex. 35 (Carsley) at 18-19; Ex. 23 (Norwood) at 21.

²⁶ See, e.g., Ex. 9 (Newcomb Direct), Schedule 4; Ex. 35 (Carsley), Attachment MKC-2; Ex. 48 (Newcomb Rebuttal), Schedule 3.

measures contained within this program, the cost effectiveness is derived primarily from one item – the condenser coil cleaning measure.²⁷ As discussed below, we find that the potential benefits of condenser coil cleaning can be adequately communicated through the Commercial Energy Audit Program.

Next, we authorize a five-year Commercial Bundle Program consisting of the following two programs: (1) Commercial Energy Audit Program; and (2) Commercial Duct Testing and Sealing Program. The total cost cap for the Commercial Bundle Program is \$45 million for the five-year period.²⁸ We find that such cap reasonably enables Dominion to implement these programs. In addition, as noted above, we find that the Commercial Energy Audit Program may also include condenser coil cleaning information. While we do not specifically allocate the cap among the two authorized commercial programs, we find that Dominion should strive to allocate a significant portion of its program expenditures to the Commercial Energy Audit Program, which appears to have merit by informing customers of energy savings opportunities, which customers can then choose whether to implement, and which has the potential to benefit a larger share of Dominion's customers compared to other programs.

Finally, we authorize the Commercial Distributed Generation Program as a peak-shaving program under § 56-585.1 A 5 b of the Code. Section 56-576 of the Code defines peak-shaving as "measures aimed solely at shifting time of use of electricity from peak-use periods to times of lower demand by inducing retail customers to curtail electricity usage during periods of congestion and higher prices in the electrical grid." We agree with Environmental Respondents that this program "shifts generation from the Company to the customer's site."²⁹ This proposed program permits Dominion to call on commercial customers to self-generate during the Company's system peaks.³⁰ Thus, while the amount of energy supplied by the Company decreases in such circumstances, "this does not mean that the amount of energy required for a given process or activity has decreased."³¹ We find that this program is not an energy efficiency program designed to reduce required electricity, and we would not find it to be in the public interest as a DSM program based only upon the limited energy reduction or shifting alleged by Dominion. Rather, we conclude that this program is in the public interest as a five-year peak-shaving program with a cost cap at the program level proposed by Dominion: \$14.2 million, including common costs.³² In addition, as a peak-shaving program: (1) the costs therefor shall be included in the peak-shaving rider,³³ and (2) § 56-585.1 A 5 b of the Code does not require the recovery of alleged lost revenues associated therewith, and we find that recovery of such is not reasonable herein, especially for a program that is used to help meet, as opposed to lower, overall demand.

Rate Design and Accounting

We adopt the Staff's proposal, as agreed to by the Company, to use a marginal rate design for cost recovery from the residential class. In addition, for purposes of this case, we approve the Company's proposed rate design for cost recovery from the commercial class.

For this case, the Company's cost allocation methodology, which was unopposed, for proposed program costs will use an average and excess production demand factor, adjusted in Rider C2A for exempt and opt-out customers. We need not reach herein the cost allocation methodology attendant to projected lost revenues. In addition, since § 56-585.1 A 5 b of the Code does not exclude large customers from cost recovery of peak-shaving programs (unlike energy efficiency programs under § 56-585.1 A 5 c), Dominion shall modify the cost allocation for the Commercial Distributed Generation Program accordingly.³⁴

The calculation of margins on operating expense shall be based on a December 31, 2010 year-end capital structure including a 10.4% return on common equity for the Rate Year Projected Revenue Requirement, consistent with the Commission's Orders in Case Nos. PUE-2011-00027³⁵ and PUE-2009-00019.³⁶

Finally, we also direct Dominion, when it next files for new energy efficiency and/or peak-shaving programs, to propose one or more alternative class allocation methodologies and to address the rationale and ramifications thereof.

²⁷ Ex. 38ES (Carsley); Tr. 766 (Carsley).

²⁸ See, e.g., Ex. 60ES (Turner Rebuttal), Schedule 46D, Statement 8 (Revised); Ex. 56 (Jesensky Rebuttal), Schedule 1. This cap may be exceeded by a maximum of 5% without being in violation of this Order.

²⁹ Ex. 15 (Loiter) at 7.

³⁰ Ex. 31 (Abbott) at 4.

³¹ *Id.* at 4-5.

³² See, e.g., Ex. 60ES (Turner Rebuttal), Schedule 46D, Statement 8 (Revised). Thus, we adopt the Staff's recommendation that this program should be approved as a peak-shaving program, and that the costs associated therewith should be recovered through Rider C1A. Ex. 31 (Abbott) at 5; Tr. 650-652 (Abbott).

³³ Ex. 67 (Swanson Rebuttal), Schedule 6 at 1.

³⁴ See, e.g., Ex. 13 (Haynes Direct) at 10-11; Ex. 14 (Swanson Direct) at 5-6.

³⁵ Biennial Review Final Order. See also, Ex. 30 (Oliver) at 5.

³⁶ *Application of Virginia Electric and Power Company, For a statutory review of rates, terms and conditions for the provision of generation, distribution, and transmission services pursuant to § 56-585.1 A of the Code of Virginia*, Case No. PUE-2009-00019, 2010 S.C.C. Ann. Rept. 301, Order Approving Stipulation and Addendum (March 11, 2010).

Evaluation, Measurement, and Verification

The Company shall provide, as it has proposed, updated cost-benefit tests and EM&V plans on an annual basis. We also note that Dominion has proposed the general parameters for its EM&V plans for existing and proposed programs. Environmental Respondents, while not opposing the overall plans, asserted that improvements need to be made thereto,³⁷ and Consumer Counsel recommended that the Commission not approve the EM&V plans at this time.³⁸ Indeed, neither respondents nor the Staff supported approval of the EM&V plans for purposes of future proceedings. For example, Staff witness Carsley noted that "[s]ufficient rigor in both methodology and in developing the data employed in a given methodology is critical," and that "even if a given methodology is appropriate, mistakes can be made in application . . . samples can be taken incorrectly . . . [and] general statistical approximations may be applied in methodologies when it is not appropriate to do so."³⁹ Thus, even if the structure of an EM&V plan is well developed, the reasonableness of its use for determining cost effectiveness or lost revenues will be further dependent upon the actual application thereof. Indeed, such questions will necessarily be part of any such future proceedings – where actual lost revenues or the actual cost effectiveness of particular programs is at issue. Dominion will bear the burden of proving actual lost revenues in future proceedings.

Existing Programs

The Company has requested recovery of costs associated with its EV Pilot Program. The Company, in its prior EV Pilot Program application, requested approval to begin deferring incremental costs related to the EV Pilot Program for future recovery in a cost recovery rate adjustment clause pursuant to § 585.1 A 5 of the Code.⁴⁰ In our Order Granting Approval in that case, we approved the Company's application subject to several requirements, including placing a cost recovery cap not to exceed \$825,000 on the EV Pilot Program and not permitting the Company to recover any alleged lost revenues resulting from the EV Pilot Program.⁴¹ In the instant proceeding, none of the participants opposed the Company's request for recovery of the EV Pilot Program costs. We find that the request is reasonable and grant the Company's request for recovery of costs related to its EV Pilot Program through Rider C1A.

We reject, as not in the public interest, Dominion's request to increase the spending cap by more than \$10 million for the previously approved Commercial HVAC Upgrade Program and Commercial Lighting Program.⁴² Dominion has not established that the assumptions underlying its proposed cost-benefit tests for these programs are reasonable. For example, Staff witness Carsley noted that the actual energy savings and demand savings in the Commercial Lighting Program have reached 126% and 122% of planned savings, respectively, while participation has reached 1,311% of planned levels.⁴³ Moreover, Mr. Carsley also highlighted significant concerns with the free ridership levels that may be associated with this program, which could be as high as 65%.⁴⁴

In our Order Granting Motion in Case No. PUE-2010-00084, we extended the effective date for Riders C1 and C2 for service rendered on and after April 1, 2011, through the effective date of the Rider C1 and C2 updates proposed in this proceeding: May 1, 2012. As a result, we grant Dominion's request to increase the cost cap for these previously approved programs.⁴⁵

Dominion also asks to increase the cost cap for the previously approved Residential Lighting Program to conduct a Virginia-specific CFL Study in order to measure and verify any revenue reductions resulting from the program using Virginia-specific information.⁴⁶ We note that the caps for the existing programs previously approved in Case No. PUE-2009-00081 may be exceeded by 5%.⁴⁷ For the residential bundle including Residential Lighting, that 5% equates to almost \$3 million. In this instance, we find that Dominion can use funds up to that extended cap for a Virginia-specific EM&V study for the Residential Lighting Program.⁴⁸

³⁷ See, e.g., Tr. 1309-1310.

³⁸ Ex. 23 (Norwood) at 30-31.

³⁹ Ex. 35 (Carsley) at 32-33.

⁴⁰ *Application of Virginia Electric and Power Company, For approval to establish an electric vehicle pilot program pursuant to § 56-234 of the Code of Virginia*, Case No. PUE-2011-00014, Doc. Con. Cen. No. 110140024, Application at 7 (Jan. 31, 2011).

⁴¹ Order Granting Approval at 438.

⁴² See, e.g., Ex. 4 (Hubbard Direct) at 4-5.

⁴³ Ex. 35 (Carsley) at 31.

⁴⁴ Tr. 775-776 (Carsley).

⁴⁵ Ex. 47 (Barker Rebuttal) at 12-13.

⁴⁶ Ex. 10 (Jesensky Direct) at 8-10; Ex. 56 (Jesensky Rebuttal) at 9-10.

⁴⁷ Order Approving Demand-Side Management Programs at 366, n.30.

⁴⁸ Our approval of this study obviously does not constitute this Commission's preapproval or endorsement of any data or results yielded by that study.

Section 56-585.1 A 3 of the Code

We previously approved the Company's five existing programs for recovery through two RACs designated as Riders C1 and C2 in Case Nos. PUE-2009-00081 and PUE-2010-00084.⁴⁹ Consistent with § 56-585.1 A 3 of the Code and our Final Order in the Company's biennial review proceeding, Case No. PUE-2011-00027, Riders C1 and C2 are now combined in the Company's base rates and must be considered as part of future biennial review proceedings.⁵⁰

Specifically, § 56-585.1 A 3 of the Code: (1) requires the Commission to "combine" these "previously implemented" RACs with the utility's costs, revenues, and investments "until the amounts that are the subject of such [RACs] are fully recovered;" and (2) directs that after such RACs are combined, they "shall thereafter be considered part of the utility's costs, revenues, and investments for the purposes of future biennial review proceedings."

As a result, we reject Dominion's request (i) to identify and track separately the revenues of existing Riders C1 and C2, and (ii) to preserve deferral accounting therefor in base rates.⁵¹ Rather, we find that incremental costs including incremental common costs associated with the five previously approved programs that are now in base rates shall be recovered in base rates.⁵² As such, deferral accounting shall cease for these programs beginning December 1, 2011.⁵³

We reach this finding because, when previously implemented RACs are combined with Dominion's other costs, revenues, and investments as required by the statute, the amounts of such RACs become components of base rates for purposes of future biennial reviews. Thus, Dominion will recover such combined RAC costs as a component of base rates for purposes of those future biennial reviews. Similarly, revenues associated with these RACs combined under § 56-585.1 A 3 of the Code will be considered base rate revenues for purposes of future biennial reviews. Nonetheless, Dominion may subsequently apply for approval of new RACs – as it has done in the instant proceeding – for recovery of costs of programs that were not associated with any RAC previously combined under § 56-585.1 A 3.⁵⁴

Accordingly, IT IS ORDERED THAT:

(1) The Company's Application is hereby granted in part and denied in part as set forth herein.

(2) The Company shall forthwith file revised tariffs, designed to recover a revenue requirement of \$5.1 million for Rider C1A and \$11.8 million for Rider C2A, and terms and conditions of service and supporting workpapers with the Clerk of the Commission and with the Commission's Divisions of Energy Regulation and Utility Accounting and Finance, as necessary to comply with the directives set forth in this Final Order. The Clerk of the Commission shall retain such filing for public inspection in person and on the Commission's website: <http://www.scc.virginia.gov/case>.

(3) Riders C1A and C2A as approved herein shall become effective for service rendered on and after May 1, 2012, and for billing purposes within 10 days of the date of this Order.

(4) On or before September 1, 2012, the Company shall file its application to continue Riders C1A and C2A.

(5) This matter is continued.

⁴⁹ The Company's approved existing programs include the Residential Lighting Program; Low Income Program; Commercial HVAC Upgrade Program; Commercial Lighting Program; and Air Conditioner Cycling Program. We approved these programs for a period of three years, expiring March 31, 2013. See Order Approving Demand-Side Management Programs. These five programs were approved for recovery through two rate adjustment clauses designated as Riders C1 and C2. *Id.*; see also Order Approving Rate Adjustment Clauses.

⁵⁰ Biennial Review Final Order at 465-466.

⁵¹ See Ex. 62 (Propst Rebuttal) at 4-5. We note that our decision herein regarding § 56-585.1 A 3 of the Code is limited to the treatment of Riders C1 and C2, which have been approved pursuant to § 56-585.1 A 5 of the Code. This order does not address, and sets no precedent for, the combining with base rates of any RAC approved pursuant to § 56-585.1 A 4 of the Code.

⁵² See Ex. 41 (Pate) at 4-5; Ex. 43.

⁵³ We approve the Company's true-ups for calendar years 2009 and 2010 for the incremental costs associated with five previously approved programs because these costs were incurred prior to the combination of Riders C1 and C2 with base rates.

⁵⁴ Section 56-585.1 A 5 c of the Code provides for a margin to be recovered on operating expenses for energy efficiency RACs. Such margin continues upon the combination of these RACs with base rates pursuant to § 56-585.1 A 3 of the Code. In addition, large customers previously exempt from paying costs associated with the combined RAC shall continue to be exempt until rates are modified; if such customer exemptions are discontinued absent a concurrent reduction in the rate, Dominion would effectively receive a revenue increase.

**CASE NO. PUE-2011-00093
MAY 16, 2012**

APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY

For approval to implement new demand-side management programs and for approval of two updated rate adjustment clauses pursuant to § 56-585.1 A 5 of the Code of Virginia

ORDER GRANTING RECONSIDERATION

On April 30, 2012, the State Corporation Commission ("Commission") issued its Order ("Order") in this proceeding. Fifteen days later, on May 15, 2012, the Virginia Committee for Fair Utility Rates ("Committee") filed a petition for reconsideration or rehearing ("Petition") for the purpose of clarifying that, in its Order, the Commission did not decide to discontinue the statutory exemption from paying the costs of Virginia Electric and Power Company's ("Dominion") energy efficiency programs for certain customers described in § 56-585.1 A 5 c of the Code of Virginia ("Code") if Dominion's base rates are modified, but rather the Commission left that issue presently undecided. In the alternative, if the Commission declines to issue an order containing such clarification, the Committee requests that the Commission grant rehearing and reconsider the Order to determine that the exemption continues for such customers once Dominion's base rates are modified.

NOW THE COMMISSION, upon consideration of these matters and for the purpose of continuing the Commission's jurisdiction over these matters, will grant reconsideration to consider the Petition and any other matters raised in timely filed petitions for reconsideration.

Accordingly, IT IS ORDERED THAT:

(1) Reconsideration is granted for the purpose of continuing the Commission's jurisdiction over these matters to consider the Petition and any other matters raised in timely filed petitions for reconsideration.

(2) This case is continued.

**CASE NO. PUE-2011-00093
JUNE 20, 2012**

APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY

For approval to implement new demand-side management programs and for approval of two updated rate adjustment clauses pursuant to § 56-585.1 A 5 of the Code of Virginia

ORDER ON RECONSIDERATION

On April 30, 2012, the State Corporation Commission ("Commission") issued its Order ("Order") in this proceeding. On May 15, 2012, the Virginia Committee for Fair Utility Rates ("Committee") filed a petition for reconsideration or rehearing ("Petition") for the purpose of clarifying that, in its Order, the Commission did not decide to discontinue the statutory exemption from paying the costs of Virginia Electric and Power Company's ("Dominion") energy efficiency programs for certain customers described in § 56-585.1 A 5 c of the Code of Virginia ("Code") if Dominion's base rates are modified, but rather the Commission left that issue presently undecided. In the alternative, if the Commission declines to issue an order containing such clarification, the Committee requests that the Commission grant rehearing and reconsider the Order to determine that the exemption continues for such customers once Dominion's base rates are modified.

On May 16, 2012, the Commission issued an Order Granting Reconsideration for the purposes of retaining its jurisdiction over the matter and to consider the Committee's Petition.

NOW THE COMMISSION, upon consideration of this matter, hereby states that the Order did not address whether the statutory exemption described in § 56-585.1 A 5 c of the Code continues if base rates are subsequently modified.

Accordingly, IT IS SO ORDERED and this case is DISMISSED.

**CASE NO. PUE-2011-00093
OCTOBER 19, 2012**

APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY

For approval to implement new demand-side management programs and for approval of two updated rate adjustment clauses pursuant to § 56-585.1 A 5 of the Code of Virginia

ORDER ON MOTION

On April 30, 2012, the State Corporation Commission ("Commission") issued its Order ("Order") in this proceeding, which granted in part and denied in part the application of Virginia Electric and Power Company ("Dominion" or "Company") in this matter. The Order also directed Dominion to "file revised tariffs . . . and terms and conditions of service and supporting workpapers . . . as necessary to comply with the directives set forth" in the Order.¹

On May 25, 2012, the Company filed revised tariffs that, among other things, combined former Riders C1 and C2 into base rates. On June 18, 2012, the Company filed a Motion to Accept Revised Tariffs and Terms and Conditions of Service ("Motion"). Dominion states that it was informed by the Commission's Staff ("Staff"), in a letter dated June 6, 2012, that Staff could not accept the May 25, 2012 filing, because the "tariff sheets should continue to identify Riders C1 and C2 separately until such time as the Commission has resolved all [Va. Code §] 56-585.1 A 3 issues."² In response, the Company contends that its revised tariffs "are in accordance with the directives contained in the Order, which states that the intent is to combine Riders C1 and C2 into the Company's base rates in accordance with § 56-585.1 A 3 of the Code of Virginia [(Code)]."³

On June 28, 2012, Staff filed a Response. Staff states as follows:

[M]aintaining separate identification of former Riders C1 and C2 within base rate tariffs provides the Commission with information permitting the determination of such revenues for the purpose of implementing the language of § 56-585.1 A 3, which requires that these [rate adjustment clauses] be combined with base rates "until the amounts that are the subject of such rate adjustment clauses are fully recovered."⁴

Staff asserts that "continuing to identify former Riders C1 and C2 separately until such time as the Commission has resolved all Section 56-585.1 A 3 issues would seem an obvious and reasonable means of preserving all Commission options with respect to its ultimate implementation of this language."⁵

On July 2, 2012, Dominion filed a Reply. The Company states that Staff's position "appears to be in conflict with the Commission's clear findings in this proceeding."⁶ In this regard, Dominion notes that the Order contains the following directives:

[W]e reject Dominion's request (i) to identify and track separately the revenues of existing Riders C1 and C2, and (ii) to preserve deferral accounting therefor in base rates. Rather, we find that incremental costs including incremental common costs associated with the five previously approved programs that are now in base rates shall be recovered in base rates. As such, deferral accounting shall cease for these programs beginning December 1, 2011.⁷

The Company: (1) "reasserts that its May 25, 2012 compliance filing is compliant with the Commission's directives and the Order," and (2) "in the alternative, asks the Commission to provide different guidance as to how compliance with the Order should otherwise be achieved."⁸

NOW THE COMMISSION, having considered this matter, is of the opinion and finds that Dominion's May 25, 2012 compliance filing satisfies the requirements of the Order and shall be accepted for filing. As requested by the Company, it shall have 60 days to implement any billing system changes necessitated by this matter.

Accordingly, IT IS SO ORDERED and THIS CASE IS DISMISSED.

¹ Order at 18-19.

² Motion at 3 (quoting Staff's June 6, 2012 letter).

³ *Id.* at 3-4.

⁴ Response at 3 (quoting Va. Code § 56-585.1 A 3) (emphasis omitted).

⁵ *Id.*

⁶ Reply at 2.

⁷ Order at 18-19 (footnotes omitted).

⁸ Reply at 3.

**CASE NO. PUE-2011-00096
JANUARY 6, 2012**

APPLICATION OF
A & N ELECTRIC COOPERATIVE

For a revenue-neutral adjustment of its electric rates and consolidation of tariffs

ORDER FOR NOTICE AND HEARING

On November 22, 2011, A & N Electric Cooperative ("A & N" or "Cooperative") filed an application ("Application") with the State Corporation Commission ("Commission") for a revenue-neutral adjustment of its electric rates and for the consolidation of tariffs. A & N filed this Application pursuant to §§ 56-231.33, 56-231.34, 56-236, and 56-585.3 of the Code of Virginia ("Code").

A & N is a utility consumer services cooperative organized under the laws of the Commonwealth of Virginia. Its service territory is located in the Virginia portion of the Delmarva Peninsula on what is commonly referred to as the Eastern Shore. In Virginia, A & N serves Accomack and Northampton Counties and the towns of Parksley, Bloxom, Hallwood, Mappsville, Tangier, Onancock, Onley, Accomac, Cape Charles, Chincoteague, Temperanceville, Eastville, Nassawadox, and Nelsonia. In its Virginia service territory, the Cooperative serves approximately 34,653 accounts.¹

In 2007, A & N filed an application with the Commission for approval of its proposed acquisition of Delmarva Power & Light Company's ("Delmarva") Virginia service territory and, in conjunction with that application, A & N filed applications for approval of amended certificates of public convenience and necessity and for approval of special rate schedules designed to accommodate the Delmarva customers gained as a part of the acquisition ("acquired customers").² On October 19, 2007, the Commission issued an Order Approving Applications.³

As a result of the Commission's approval of special rate schedules for the acquired customers ("special rate schedules") in its October 19, 2007 Order Approving Applications, A & N currently has different rate schedules for its acquired customers than for its customers that were served within its Virginia service territory as it existed prior to the acquisition of Delmarva ("legacy rate schedules").⁴ In the present proceeding, A & N is seeking to consolidate all of the Cooperative's rate schedules into a single set of rate schedules that are applicable to all customers. To achieve the objective of consolidation, A & N proposes to withdraw all of the special rate schedules applicable to acquired customers, except the security light schedules, and to transfer all customers currently served under the special rate schedules onto appropriate, comparable legacy rate schedules. The Cooperative is also seeking in this filing to improve class and rate parity to the extent practicable by allocating revenue recovery among the customer classes in a manner that better reflects inter-class and intra-class cost of service.⁵

As a result of these proposals, residential acquired customers, who are currently receiving service under a residential special rate schedule, would be transferred to the comparable legacy rate schedule ("Schedule A"). The facility charge under the residential special rate schedule was \$3.84. The facility charge on Schedule A is \$8.00, but Schedule A also has a lower kilowatt-hour ("kWh") charge. Therefore, according to the Cooperative, ignoring seasonal differences, member customers using 1,000 kWh per month would see no change in their monthly billings. However, acquired customers using less than 1,000 kWh per month would experience a slight increase in their monthly bills, while acquired customers using more than 1,000 kWh per month would see a slight decrease in their monthly bills. A & N asserts that the change to Schedule A would be revenue and rate-neutral for legacy customers.⁶

Similarly, if A & N's Application were approved, commercial acquired customers currently receiving service under special rate schedule AST SGS-S would be moved to the comparable legacy rate schedule (either "Schedule B" or "Schedule LP-A," depending on which schedule is applicable based on eligibility and service characteristics).⁷

¹ Direct Testimony of Vernon N. Brinkley at 2, 4. A & N also has approximately 333 active accounts in Somerset County, Maryland.

² Application at 2.

³ See *Joint Petition of A&N Electric Cooperative and Delmarva Power & Light Company, For approval of purchase and sale of service territory and facilities*, Case No. PUE-2007-00060; *Joint Application of A&N Electric Cooperative and Delmarva Power & Light Company, For approval of certificates of public convenience and necessity*, Case No. PUE-2007-00061; and *Application of A&N Electric Cooperative, For approval of special rates*, Case No. PUE-2007-00065, 2007 S.C.C. Ann. Rept. 460, Order Approving Applications (Oct. 19, 2007).

⁴ Application at 4. Generally, the special rate schedules include the designation "AST". *Id.* at 5.

⁵ *Id.* at 4-5. With regard to the security light schedules, the Cooperative has proposed that the special rate schedules remain, while the comparable legacy rate schedule be withdrawn. Further, charges for the special rate schedules would be modified. *See id.* at 5, 7.

⁶ *Id.* at 5-6. According to the Cooperative, the \$8.00 facility charge on Schedule A is significantly lower than the actual cost-supported facility charge of \$24.96. *See* Direct Testimony of Vernon N. Brinkley at 7.

⁷ Application at 6. For Schedule B and Schedule LP-A, slight net reductions would be applied to the legacy rate schedules to offset the additional revenues that would be produced and to mitigate partially the customer impacts when the acquired customers migrate to the corresponding legacy rate schedules.

Several other changes to existing schedules also have been proposed by the Cooperative in its Application.⁸

Moreover, A & N has requested approval of several new rate offerings. For example, in an effort to provide members the ability to lower their energy costs through conservation efforts, the Cooperative has proposed to offer time-of-use rates for both residential and commercial members.⁹ One schedule ("Schedule TOU-A") is designed for residential consumers who wish to take service with an on-peak and off-peak component for Electricity Supply Service, while the other proposed schedule ("Schedule TOU-B") is designed for commercial customers. Both Schedule TOU-A and Schedule TOU-B are voluntary, and members must request to be placed on the schedules. Schedule TOU-A would replace an existing schedule, Schedule AST-R-TOU, while Schedule TOU-B is designed as an optional rate for customers otherwise taking service on Schedule B.¹⁰ Moreover, several other new rate offerings in addition to Schedule TOU-A and Schedule TOU-B have also been proposed.¹¹

The Cooperative is also proposing several changes to its Terms and Conditions, including the elimination of the \$2.00 per month meter reading fee. The elimination of this fee was to become effective beginning December 1, 2011.¹²

According to the Cooperative, other than the increase necessary to roll in the currently effective rider surcharge, A & N is not proposing any increase in base rate revenues in its Application.¹³ A & N claims that it "is proposing what is nearly a revenue neutral set of rate changes that are designed to ameliorate the consolidation of customers into a single set of rate schedules."¹⁴ In total, as the net result of the proposed rate schedule consolidation, there would be a small decrease in the test year jurisdictional revenues of \$189,626. This would result in a proposed 2.24 jurisdictional Times Interest Earned Ratio (TIER).¹⁵ However, it must be noted that while the overall rate filing is alleged to be revenue-neutral, as a result of the proposed consolidation of the special rate schedules and legacy rate schedules and the Cooperative's attempt to improve class and rate parity by allocating revenue recovery among the customer classes in a manner that better reflects inter-class and intra-class cost of service, certain members in a rate class would see a slight increase in rates while others in the same rate class would see a slight decrease.¹⁶

Pursuant to 20 VAC 5-200-21 B 7, A & N requests a waiver of 20 VAC 5-200-21 E, which requires any electric cooperative filing a rate application pursuant to § 56-582 of the Code to submit Schedules 15 through 19.¹⁷

Finally, A & N proposes that the revised rates and charges set forth in its Application be suspended for less than the allowable 150-day suspension period established in § 56-238 of the Code. The Cooperative requests that the revised rates and charges be permitted to take effect, on an interim

⁸ For example, A & N has proposed that acquired customers receiving service under Schedule AST LGS-S, and all but one customer on Schedule AST GS-P, be moved to the Cooperative's comparable legacy rate schedule ("Schedule LP-A" or Large Power Schedule). The one acquired customer currently receiving service under Schedule AST GS-P that would not be moved to Schedule LP-A would be moved to a separate legacy rate schedule ("Schedule LP-B" or High Load Factor Large Power Schedule), as that customer has a demand of greater than 1,000 kilowatts. Schedule LP-B would be reduced such that the transfer of the acquired customer from Schedule AST GS-P to Schedule LP-B would be revenue neutral for that customer. The net effect is a \$176,613, or 3.29%, reduction in Schedule LP-B revenue. This adjustment comprises the majority of the overall revenue reduction proposed in this case. Schedule LP-C (Low Load Factor Large Power Schedule) would be adjusted in conjunction with Schedule LP-B so that the rates would be effectively equal at 60% load factor. The effect of this is a \$4,533, or 1.66%, reduction in revenue. Furthermore, A & N proposes that Schedule I (Irrigation) and Schedule ILM (Irrigation Load Management) be combined ("Schedule I") and that the charges be increased based on the cost of service. No acquired customers would be transferred to Schedule I. A & N has also proposed that changes be made to Schedule EF (Excess Facilities) so that the excess facilities charge percentages would be updated in order to reflect the fixed charge rates produced by the new cost of service study. *See id.* at 6-8.

⁹ *See* Direct Testimony of Vernon N. Brinkley at 8.

¹⁰ Application at 8. The schedules have different charges for on-peak and off-peak hours. The on-peak hours are defined as all weekday hours between 3:00 p.m. and 8:00 p.m., for all months, as well as the hours between 6:00 a.m. and 8:00 a.m. for the billing months October through May. New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day are excluded from the on-peak hours. All remaining hours are off-peak. Further, it should be noted that the rate is designed to be revenue neutral for a customer with the same load profile as the overall class, *i.e.*, a customer that has a usage pattern that is identical to the usage pattern of the aggregate Schedule A or Schedule B customer group, respectively. Thus, the "average" residential customer would pay the same amount under Schedule TOU-A and Schedule A, and the "average" commercial customer would pay the same amount under Schedule TOU-B and Schedule B, unless the customer makes a change in its usage profile. *See id.* at 8-9.

¹¹ For example, A & N has proposed to add Schedule LP-T-SG (Large Power-Transmission Self Generation Backup & Supplemental Service). Schedule LP-T-SG, as proposed, includes a dollar-for-dollar pass through of wholesale power costs from the Old Dominion Electric Cooperative ("ODEC"), which would protect A & N in the event of a power purchase during a Delmarva Zone Coincident Peak. As proposed, Schedule LP-T-SG includes a customer charge of \$100 per month, which the Cooperative claims is a nominal amount relative to the character of service. This schedule was specifically designed for customers like Commonwealth Chesapeake Co., LLC. The Cooperative is also proposing to offer an option for customers served on Schedule A, Schedule B, and Schedule LP-A that have customer-owned generation that can be operated during unspecified hours of any month to reduce demand ("Rider SG"). Rider SG is designed to benefit both the customer-owner and all of the members of A & N by splitting the demand savings from ODEC equally when the customer can generate during a Delmarva Zone Coincident Peak. *See id.* at 9-10.

¹² *Id.* at 11-12.

¹³ Direct Testimony of Vernon N. Brinkley at 6.

¹⁴ Direct Testimony of Jack D. Gaines at 4.

¹⁵ *Id.* at 7. The proposed rate consolidation would also result in a jurisdictional revenue requirement of \$65,837,209.

¹⁶ Application at 4-5; Direct Testimony of Vernon N. Brinkley at 11.

¹⁷ Application at 14-15. These schedules include projected balance sheets, income statements, capital structure, and detail and workpapers for certain adjustments.

basis and subject to refund, on and after April 1, 2012. A & N notes that it is more convenient for the Cooperative to institute bill changes at the beginning of a month and that its proposed April 1, 2012 effective date is only slightly earlier than the date the changes would take effect if the full 150-day suspension was enforced.¹⁸

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that a public hearing should be convened to receive evidence on the Application and that this matter should be assigned to a Hearing Examiner to conduct all further proceedings. The Commission Staff ("Staff") shall investigate the Application and present its findings in testimony. The Cooperative will be permitted to file testimony in rebuttal to the testimony filed by any respondents and the Staff. We will grant the Cooperative's request for waiver of Schedules 15 through 19 as required by 20 VAC 5-200-21 E. We also will grant the Cooperative's request for the revised rates and charges proposed in its Application to take effect, on an interim basis and subject to refund, for all bills rendered on and after April 1, 2012.

Accordingly, IT IS ORDERED THAT:

- (1) This case is docketed and assigned Case No. PUE-2011-00096.
- (2) As provided by § 12.1-31 of the Code and 5 VAC 5-20-120, *Procedure before hearing examiners*, of the Commission's Rules of Practice and Procedure, ("Rules of Practice"),¹⁹ a hearing examiner is appointed to conduct all further proceedings in this matter.
- (3) A & N's proposed rates and charges shall take effect for bills rendered on and after April 1, 2012, on an interim basis and subject to refund.
- (4) A & N's request for waiver of 20 VAC 5-200-21 E with regard to the filing of Schedules 15 through 19 is granted.
- (5) A public hearing shall be convened on June 6, 2012, at 10:00 a.m., in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, to receive the testimony of public witnesses and evidence offered by the Cooperative, respondents, and the Staff on the Cooperative's Application. Any person desiring to offer testimony as a public witness at this hearing should appear in the Commission's Courtroom fifteen (15) minutes prior to the starting time of the hearing and identify himself or herself to the Commission's Bailiff.
- (6) A & N shall make copies of its Application, as well as a copy of this Order for Notice and Hearing, available for public inspection during regular business hours at A & N's business office at 21275 Cooperative Way, Tasley, Virginia 23441. Copies also may be obtained by submitting a written request to counsel for A & N, John A. Pirko, Esquire, LeClairRyan, 4201 Dominion Boulevard, Suite 200, Glen Allen, Virginia 23060. If acceptable to the requesting party, the Cooperative may provide the documents by electronic means. Copies of the public versions of all documents shall also be available for interested persons to review in the Commission's Document Control Center, located on the First Floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5:00 p.m., Monday through Friday, excluding holidays. Interested persons may also download unofficial copies from the Commission's website: <http://www.scc.virginia.gov/case>.
- (7) On or before February 10, 2012, A & N shall cause a copy of the following notice to be published as display advertising (not classified) on one occasion in newspapers of general circulation in its service territory:

NOTICE TO THE PUBLIC OF AN APPLICATION BY
A & N ELECTRIC COOPERATIVE,
FOR A REVENUE-NEUTRAL ADJUSTMENT
OF ITS ELECTRIC RATES AND CONSOLIDATION OF TARIFFS
CASE NO. PUE-2011-00096

On November 22, 2011, A & N Electric Cooperative ("A & N" or "Cooperative") filed an application ("Application") with the State Corporation Commission ("Commission") for a revenue-neutral adjustment of its electric rates and for the consolidation of tariffs.

In 2007, A & N filed an application with the Commission for approval of its proposed acquisition of Delmarva Power & Light Company's ("Delmarva") Virginia service territory and, in conjunction with that application, A & N filed applications for approval of amended certificates of public convenience and necessity and for approval of special rate schedules designed to accommodate the Delmarva customers gained as a part of the acquisition ("acquired customers"). On October 19, 2007, the Commission issued an Order Approving Applications. As a result of the Commission's approval of special rate schedules for the acquired customers ("special rate schedules") in its October 19, 2007 Order Approving Applications, A & N currently has different rate schedules for its acquired customers than for its customers that were served within its Virginia service territory as it existed prior to the acquisition of Delmarva ("legacy rate schedules").

In the present proceeding, A & N is seeking to consolidate all of the Cooperative's rate schedules into a single set of rate schedules that are applicable to all customers. To achieve the objective of consolidation, A & N proposes to withdraw all of the special rate schedules applicable to acquired customers, except the security light schedules, and to transfer all customers currently served under the special rate schedules onto appropriate, comparable legacy rate schedules. The Cooperative is also seeking in this filing to improve class and rate parity to the extent practicable by allocating revenue recovery among the customer classes in a manner that better reflects inter-class and intra-class cost of service.

¹⁸ *Id.* at 14.

¹⁹ 5 VAC 5-20-10 *et seq.*

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As a result of these proposals, residential acquired customers, who are currently receiving service under a residential special rate schedule, would be transferred to the comparable legacy rate schedule ("Schedule A"). The facility charge under the residential special rate schedule was \$3.84. The facility charge on Schedule A is \$8.00, but Schedule A also has a lower kilowatt-hour ("kWh") charge. Therefore, according to the Cooperative, ignoring seasonal differences, member customers using 1,000 kWh per month would see no change in their monthly billings. However, acquired customers using less than 1,000 kWh per month would experience a slight increase in their monthly bills, while acquired customers using more than 1,000 kWh per month would see a slight decrease in their monthly bills. A & N asserts that the change to Schedule A would be revenue and rate-neutral for legacy customers.

Moreover, A & N has requested approval of several new rate offerings. For example, in an effort to provide members the ability to lower their energy costs through conservation efforts, the Cooperative has proposed to offer time-of-use rates for both residential and commercial members. Both new time-of-use schedules are voluntary, and members must request to be placed on the schedules.

Changes to other existing schedules have also been proposed by the Cooperative in its Application, and additional new schedules have also been introduced. Further, the Cooperative is also asking for approval of several changes to its Terms and Conditions. For more information related to these proposals, a copy of the Commission's Order for Notice and Hearing ("Order") should be obtained.

According to the Cooperative, other than the increase necessary to roll in the currently effective rider surcharge, A & N is not proposing any increase in base rate revenues in its Application. A & N claims that it "is proposing what is nearly a revenue neutral set of rate changes that are designed to ameliorate the consolidation of customers into a single set of rate schedules. In total, as the net result of the proposed rate schedule consolidation, there would be a small decrease in the test year jurisdictional revenues of \$189,626. This would result in a proposed 2.24 jurisdictional Times Interest Earned Ratio (TIER). However, while the overall rate filing is alleged to be revenue neutral, as a result of the proposed consolidation of the special rate schedules and legacy rate schedules and the Cooperative's attempt to improve class and rate parity by allocating revenue recovery among the customer classes in a manner that better reflects inter-class and intra-class cost of service, certain members in a rate class would see a slight increase in rates while others in the same rate class would see a slight decrease.

Interested persons should TAKE NOTICE that after considering all of the evidence, the Commission may approve revenues and adopt rates, fees, charges, tariff revisions, and terms and conditions of service that differ from those appearing in the Cooperative's Application, or may apportion revenues among customer classes or design rates in a manner differing from that shown in the Cooperative's Application.

The Commission's Order, among other things, scheduled a public hearing on June 6, 2012, at 10:00 a.m., in the Commission's Second Floor Courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, to receive testimony from members of the public and evidence related to the Application from the Cooperative, any respondents, and the Commission's Staff. Any person desiring to testify as a public witness at this hearing should appear fifteen (15) minutes prior to the starting time of the hearing and contact the Commission's Bailiff. Individuals with disabilities who require an accommodation to participate in the hearing should contact the Commission at least seven (7) days before the scheduled hearing at 1-800-552-7945 (voice) or 1-804-371-9206 (TDD).

Copies of A & N's Application, as well as a copy of the Commission's Order in this proceeding, are available for public inspection during regular business hours at A & N's business office at 21275 Cooperative Way, Tasley, Virginia 23441. Copies also may be obtained by submitting a written request to counsel for A & N, John A. Pirko, Esquire, LeClairRyan, 4201 Dominion Boulevard, Suite 200, Glen Allen, Virginia 23060. If acceptable to the requesting party, the Cooperative may provide the documents by electronic means. Copies of the public versions of all documents also are available for interested persons to review in the Commission's Document Control Center, located on the First Floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5:00 p.m., Monday through Friday, excluding holidays. Interested persons may also download unofficial copies from the Commission's website: <http://www.scc.virginia.gov/case>.

On or before May 30, 2012, any interested person wishing to comment on the Cooperative's Application shall file with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, written comments on the Application. Any interested person desiring to file comments electronically may do so on or before May 30, 2012, by following the instructions on the Commission's website: <http://www.scc.virginia.gov/case>. Compact discs or any other form of electronic storage medium may not be filed with the comments. All such comments shall refer to Case No. PUE-2011-00096.

Any person or entity may participate as a respondent in this proceeding by filing, on or before March 16, 2012, a notice of participation. If not filed electronically, an original and fifteen (15) copies of the notice of participation shall be submitted to Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. A copy of the notice of participation as a respondent must also be sent to counsel for the Cooperative at the address set forth above. Pursuant to

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5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice and Procedure, 5 VAC 5-20-10 *et seq.*, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. All filings shall refer to Case No. PUE-2011-00096. For additional information about participation as a respondent, any person or entity should obtain a copy of the Commission's Order.

The Commission's Rules of Practice and Procedure may be viewed at: <http://scc.virginia.gov/case>. A printed copy of the Rules of Practice and Procedure may be obtained from Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118.

A & N ELECTRIC COOPERATIVE

(8) On or before February 10, 2012, A & N shall serve a copy of this Order for Notice and Hearing on the chairman of the board of supervisors and county attorney of each county and upon the mayor or manager of every city and town (or upon equivalent officials in counties, towns and cities having alternate forms of government) in which the Cooperative provides service. Service shall be made by first class mail to the customary place of business or residence of the person served.

(9) On or before February 28, 2012, A & N shall file with the Clerk of the Commission proof of the notice and service required by Ordering Paragraphs (7) and (8) herein.

(10) On or before May 30, 2012, any interested person may file with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, written comments on the Application. Any interested person desiring to submit comments electronically may do so on or before May 30, 2012, by following the instructions found on the Commission's website: <http://www.scc.virginia.gov/case>. Compact discs or any other form of electronic storage medium may not be filed with the comments. All comments shall refer to Case No. PUE-2011-00096.

(11) Any person or entity may participate as a respondent in this proceeding by filing, on or before March 16, 2012, a notice of participation. If not filed electronically, an original and fifteen (15) copies of the notice of participation shall be submitted to Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, and the respondent shall simultaneously serve a copy of the notice of participation on counsel to the Cooperative, John A. Pirko, Esquire, LeClairRyan, 4201 Dominion Boulevard, Suite 200, Glen Allen, Virginia 23060. Pursuant to 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation or government body participating as a respondent must be represented by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUE-2011-00096.

(12) Within five (5) business days of receipt of a notice of participation as a respondent, A & N shall serve upon each respondent a copy of this Order for Notice and Hearing, a copy of the Application, and all materials filed by the Cooperative with the Commission, unless these materials have already been provided to the respondent.

(13) On or before April 13, 2012, each respondent may file with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, and serve on the Staff, the Cooperative, and all other respondents, any testimony and exhibits by which the respondent expects to establish its case. If not filed electronically, an original and fifteen (15) copies of such testimony and exhibits shall be submitted to the Clerk of the Commission. In all filings, the respondent shall comply with the Commission's Rules of Practice, including: 5 VAC 5-20-140, *Filing and service*; 5 VAC 5-20-150, *Copies and format*; and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUE-2011-00096.

(14) The Staff shall investigate A & N's Application. On or before May 9, 2012, the Staff shall file with the Clerk of the Commission an original and fifteen (15) copies of the Staff's testimony and exhibits and shall serve a copy thereof on counsel to A & N and all respondents.

(15) On or before May 23, 2012, A & N may file with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, any rebuttal testimony and exhibits that it expects to offer and simultaneously shall serve a copy on the Staff and all respondents. If not filed electronically, an original and fifteen (15) copies of such rebuttal testimony and exhibits may be submitted to the Clerk of the Commission.

(16) The Commission's Rules of Practice, 5 VAC 5-20-260, *Interrogatories or requests for production of documents and things*, shall be modified for this proceeding as follows: answers to interrogatories and requests for production of documents shall be served within seven (7) calendar days after receipt of the same. Except as modified above, discovery shall be in accordance with Part IV of the Commission's Rules of Practice, 5 VAC 5-20-240 *et seq.*

(17) This matter is continued generally.

**CASE NO. PUE-2011-00096
JULY 25, 2012**

APPLICATION OF
A & N ELECTRIC COOPERATIVE

For a revenue-neutral adjustment of its electric rates and consolidation of tariffs

FINAL ORDER

On November 22, 2011, A & N Electric Cooperative ("A & N" or "Cooperative") filed an application ("Application") with the State Corporation Commission ("Commission") for a revenue-neutral adjustment of its electric rates and for the consolidation of tariffs. A & N filed this Application pursuant to §§ 56-231.33, 56-231.34, 56-236, and 56-585.3 of the Code of Virginia.

In 2007, A & N filed an application with the Commission for approval of its proposed acquisition of Delmarva Power & Light Company's ("Delmarva") Virginia service territory and, in conjunction with that application, A & N filed applications for approval of amended certificates of public convenience and necessity and for approval of special rate schedules designed to accommodate the Delmarva customers gained as a part of the acquisition. On October 19, 2007, the Commission issued an Order Approving Applications.¹ As a result of the approval, the Cooperative developed two distinct member classes: "Legacy Members" who would be served under its existing rate schedules and "Acquired Members" who would be served under special rate schedules.

In its Application, A & N sought to consolidate all of the Cooperative's rate schedules into a single set of rate schedules applicable to all customers. To achieve the objective of consolidation, A & N proposed to withdraw all of the special rate schedules applicable to Acquired Members, except the security light schedules, and to transfer all customers currently served under the special rate schedules onto appropriate, comparable legacy rate schedules. In addition, the Cooperative sought to improve class and rate parity to the extent practicable by allocating revenue recovery among the member classes in a manner that better reflects inter-class and intra-class cost of service. The Cooperative also proposed several changes to its legacy rate schedules and Terms and Conditions as well as several new rate offerings.²

On January 6, 2012, the Commission issued an Order for Notice and Hearing in this proceeding ("Procedural Order"). In the Procedural Order, the Commission granted the Cooperative's request to implement its revised rates and charges on April 1, 2012, on an interim basis subject to refund.³ The Procedural Order also scheduled a public hearing on the Application for June 6, 2012; directed the Cooperative to publish notice of its Application; directed the Commission Staff ("Staff") to conduct an investigation of the Application; and assigned the case to a Hearing Examiner to conduct all further proceedings on behalf of the Commission and file a final report.

No notices of participation were filed in this case. On May 9, 2012, Staff filed its testimony in this case.⁴ On May 23, 2012, A & N filed its rebuttal testimony.

A public hearing on the Application was convened on June 6, 2012. The following participants were represented by counsel at the hearing: A & N and Staff. No public witnesses testified at the hearing. The parties submitted a jointly executed stipulation ("Stipulation") for the Commission's consideration recommending a resolution of the issues in this proceeding. Pursuant to the Stipulation, all testimony and exhibits were entered into the record without cross-examination of the witnesses.

In the Stipulation, A & N and the Staff agreed to a decrease in annual revenue for the Cooperative of \$503,514, producing a TIER of 2.38x. The Stipulation further provided an agreed upon allocation of the settlement revenue decrease and specifically set forth other changes to the Cooperative's tariff.

On July 2, 2012, the Hearing Examiner issued his Report. An amended Report was issued by the Hearing Examiner on July 5, 2012 ("Amended Hearing Examiner's Report"). The Amended Hearing Examiner's Report found that the Stipulation was fair, reasonable, and in the public interest and that the comment period to the report should be waived. The Hearing Examiner recommended that the Commission enter an order that accepts the Stipulation.

NOW THE COMMISSION, upon consideration of the record in this case, the Amended Hearing Examiner's Report, and the applicable laws and statutes, is of the opinion and finds that the jointly executed Stipulation should be accepted, and the revenue requirement stipulated to should be granted.

Accordingly, IT IS ORDERED THAT:

(1) A & N's Application for a revenue-neutral adjustment of its electric rates and for the consolidation of tariffs is granted in part and denied in part, as set forth herein.

¹ See *Joint Petition of A&N Electric Cooperative and Delmarva Power & Light Company, For approval of purchase and sale of service territory and facilities*, Case No. PUE-2007-00060; *Joint Application of A&N Electric Cooperative and Delmarva Power & Light Company, For approval of certificates of public convenience and necessity*, Case No. PUE-2007-00061; and *Application of A&N Electric Cooperative, For approval of special rates*, Case No. PUE-2007-00065, 2007 S.C.C. Ann. Rept. 460, Order Approving Applications (Oct. 19, 2007).

² In total, as the net result of the proposed rate schedule consolidation, A & N stated in its Application that there would be a small decrease in the test year jurisdictional revenues of \$189,626. According to the Cooperative, this would result in a proposed 2.24 jurisdictional Times Interest Earned Ratio ("TIER").

³ On January 23, 2012, A & N filed a Motion for Change Regarding Effective Date in which it requested that the Procedural Order be modified to read: "A & N may, but is not obligated to, place its proposed rates and charges into effect on an interim basis, subject to refund, for bills rendered on and after April 1, 2012." The Cooperative's Motion for Change Regarding Effective Date was granted by the Hearing Examiner's Ruling entered January 25, 2012. The Cooperative did not place its proposed rates and charges into effect on an interim basis; therefore, no refunds are required in this case.

⁴ Staff filed a replacement page to Appendix A of Staff Witness Justin M. Morgan's testimony on May 11, 2012.

(2) The Stipulation presented by A & N and Staff is hereby accepted.

(3) A & N shall file revised rate schedules and terms and conditions of service with the Commission's Division of Energy Regulation, in accordance with the Stipulation, within thirty (30) days from the date of this Final Order. The Cooperative shall begin billing revised rates no later than the commencement of the first billing cycle that occurs after thirty (30) days have passed since the receipt of stamped rate schedules.

(4) There being nothing further to come before the Commission, this matter is dismissed from the Commission's active docket, and the papers filed herein placed in the Commission's file for ended causes.

**CASE NO. PUE-2011-00097
JUNE 13, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

In re: Kentucky Utilities Company d/b/a Old Dominion Power Company's Integrated Resource Plan filing pursuant to Va. Code § 56-597 *et seq.*

FINAL ORDER

On August 31, 2011, Kentucky Utilities Company d/b/a Old Dominion Power Company ("KU/ODP" or "Company") filed with the State Corporation Commission ("Commission") the Company's Integrated Resource Plan ("IRP") pursuant to § 56-599 C of the Code of Virginia ("Code"). An IRP, as defined by § 56-597 of the Code, is "a document developed by an electric utility that provides a forecast of its load obligations and a plan to meet those obligations by supply side and demand side resources over the ensuing 15 years to promote reasonable prices, reliable service, energy independence, and environmental responsibility." Pursuant to § 56-599 E of the Code, the Commission is to make a determination as to whether KU/ODP's IRP is reasonable and is in the public interest.

According to the Company, KU/ODP and Louisville Gas & Electric Company ("LG&E") are subsidiaries of LG&E and KU Energy, LLC, which in November 2010 was acquired by PPL Corporation.¹ KU/ODP stated that the Company and LG&E are owners and operators of interconnected electric generation, transmission, and distribution facilities that achieve economic benefits through operation as a single interconnected and centrally dispatched system and through coordinated planning, construction, operation, and maintenance of their facilities.² The Company noted that it supplies electric service to 6,600 non-contiguous square miles in Kentucky, Tennessee, and Virginia and that LG&E serves an area of about 700 square miles in Kentucky.³ Specifically, KU/ODP indicated in its IRP that it serves five counties in southwestern Virginia, representing approximately 5% of the Company's 2010 retail sales.⁴

KU/ODP's IRP filing in Virginia therefore consists of a copy of the 2011 IRP that it filed with the Kentucky Public Service Commission ("KPSC"), along with certain supplemental information and amendments to provide information consistent with the Commission's December 23, 2008 *Order Establishing Guidelines For Developing Integrated Resource Plans*, Case No. PUE-2008-00099 ("Order Establishing Guidelines").⁵

On September 26, 2011, the Commission issued an Order for Notice and Comment, which, among other things, directed KU/ODP to provide public notice of its IRP and afforded interested persons an opportunity to file comments or request a hearing on the IRP. No comments or requests for hearing were received by the Commission regarding KU/ODP's IRP.

On January 6, 2012, the Commission issued a Procedural Order that directed the Staff of the Commission ("Staff") to analyze KU/ODP's IRP and present its findings in a Staff Report.

On February 23, 2012, the Staff of the Commission's Division of Energy Regulation filed the Staff Report. The Staff recommended that the Commission accept KU/ODP's IRP as reasonable and in the public interest.⁶ In support of this recommendation, the Staff stated that it believes KU/ODP's IRP complies with the legislative requirements imposed by § 56-597 *et seq.*, of the Code and the guidelines established by the Commission in the Commission's Order Establishing Guidelines.⁷ The Staff noted that the KPSC requires the Company to file a similarly comprehensive IRP and that the KPSC Staff performs a thorough investigation of such IRP.⁸ The Staff further believes that the Company's effort to develop its IRP in Kentucky complies

¹ IRP at 5-1.

² *Id.*

³ *Id.* at 5-1, 5-2.

⁴ *Id.* at 5-2, 5-6.

⁵ Cover letter from Rick E. Lovekamp, Manager, Regulatory Affairs, Old Dominion Power Company, dated August 30, 2011. *See Commonwealth of Virginia, ex rel., State Corporation Commission Concerning Electric Utility Integrated Resource Planning Pursuant to §§ 56-597 et seq. [of the] Code of Virginia*, Case No. PUE-2008-00099, 2008 S.C.C. Ann. Rept. 606, Order Establishing Guidelines (Dec. 23, 2008).

⁶ Staff Report at 11-13.

⁷ *Id.* at 12.

⁸ *Id.*

with requirements in Virginia.⁹ Accordingly, the Staff does not object to KU/ODP continuing to provide the same information for Virginia as it develops for its IRP for Kentucky and supplementing its IRP with Virginia-specific data requirements.¹⁰

Furthermore, the Staff acknowledged that KU/ODP's IRP is an ongoing planning process and noted that the results in the Company's IRP are subject to further scrutiny prior to implementation.¹¹ Accordingly, the Staff stated that any determination in this proceeding should not preclude the Commission from approving or rejecting a particular supply-side or demand-side resource in the future, nor should the Commission's determination in this case create any presumption in favor, or not in favor, of a particular resource.¹²

On March 22, 2012, KU/ODP filed a letter stating that it had no comments on the Staff Report. In this letter, the Company also requested that the Commission issue an order finding KU/ODP's IRP reasonable and in the public interest under § 56-599 E of the Code, and dismissing the matter from the Commission's active docket.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the IRP of KU/ODP is reasonable and is in the public interest under § 56-599 E of the Code. As noted by the Staff, the Commission's determination in this proceeding does not preclude the Commission from approving or rejecting a particular supply-side or demand-side resource in the future, nor does the Commission's determination in this case create any presumption in favor, or not in favor, of a particular resource.

Accordingly, IT IS ORDERED THAT this matter is dismissed from the Commission's active docket and the papers filed herein placed in the Commission's file for ended causes.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* at 11-12.

¹² *Id.* at 12-13.

**CASE NO. PUE-2011-00099
JANUARY 12, 2012**

APPLICATION OF
AQUA VIRGINIA, INC.
and
SYDNOR HYDRODYNAMICS, INC.

For an increase in water and sewer rates

ORDER NUNC PRO TUNC

On November 1, 2011, Aqua Virginia, Inc. and Sydnor Hydrodynamics, Inc., filed an application with the State Corporation Commission ("Commission") for an increase in water and sewer rates ("Application"). The Application was filed pursuant to Chapter 10 of Title 56 of the Code of Virginia¹ and the Commission's Rules Governing Utility Rate Applications and Annual Informational Filings.²

On December 21, 2011, the Commission entered its Order for Notice and Hearing ("December 21, 2011 Order") which docketed this matter, prescribed notice, scheduled a hearing, and established a procedural schedule. Due to a typographical error, the December 21, 2011 Order that was entered must now be corrected. The prescribed notice, contained in Ordering Paragraph (6), includes a paragraph stating the following:

Interested persons are encouraged to review the Application and supporting documents for the details of these and other proposals. While the total revenue that may be approved by the Commission is limited to the amount produced by the Company's current rates, TAKE NOTICE that the Commission may approve revenues and adopt rates, fees, charges, tariff revisions, and terms and conditions of service that differ from those appearing in the Company's Application and supporting documents and may apportion revenues among customer classes and/or design rates in a manner differing from that shown in the Application and supporting documents.

The word *current* contained in the second sentence of the above-referenced paragraph should be stricken and replaced by the word *proposed*. This paragraph should read as follows:

Interested persons are encouraged to review the Application and supporting documents for the details of these and other proposals. While the total revenue that may be approved by the Commission is limited to the amount produced by the Company's proposed rates, TAKE NOTICE that the Commission may approve revenues and adopt rates, fees, charges, tariff revisions, and terms and conditions of service that differ from those appearing in the Company's Application and supporting documents and may apportion revenues among customer classes and/or design rates in a manner differing from that shown in the Application and supporting documents.

¹ Va. Code §§ 56-232 *et seq.*

² 20 VAC 5-201-10 *et seq.*

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the December 21, 2011 Order should be corrected *nunc pro tunc* as described above.

Accordingly, IT IS ORDERED THAT:

- (1) The December 21, 2011 Order is hereby amended, *nunc pro tunc*, consistent with the findings above.
- (2) In all other respects, the December 21, 2011 Order remains unaltered.
- (3) This matter is continued generally.

**CASE NO. PUE-2011-00102
JANUARY 31, 2012**

APPLICATION OF
SECURE FUTURES, L.L.C.

For a license to conduct business as a competitive service provider of 100% renewable electric service in Virginia

ORDER CANCELLING LICENSE

On September 1, 2011, Secure Futures, L.L.C., and its affiliate special purpose entity, Lexington Solar, L.C. ("Lexington Solar") filed an application with the State Corporation Commission ("Commission") for a license to conduct business as a competitive service provider pursuant to the Commission's Rules Governing Retail Access to Competitive Energy Services, 20 VAC 5-312-10 *et seq.* ("Retail Access Rules").

On October 17, 2011, the Commission issued its Order Granting License, granting a license ("License No. E-27") to Lexington Solar to conduct business as a competitive service provider in Lexington, Virginia, to the campus of Washington & Lee University ("W&L"); and keeping the case open for consideration of any subsequent amendments or modifications to License No. E-27.¹

On November 2, 2011, Lexington Solar filed its Notice of Abandonment of License ("Notice") pursuant to 20 VAC 5-312-80 (O) of the Retail Access Rules. In its Notice, Lexington Solar notified the Commission that it was abandoning its license because it had decided to change the transaction structure between Lexington Solar and W&L.²

NOW THE COMMISSION, upon consideration of the foregoing, is of the opinion and finds that License No. E-27 issued to Lexington Solar should be cancelled. The Commission further finds that this proceeding should be dismissed and the papers filed herein placed in the Commission's file for ended causes.

Accordingly, IT IS ORDERED THAT:

- (1) License No. E-27, issued to Lexington Solar, L.C., to conduct business as a competitive service provider in Lexington, Virginia, to the campus of Washington & Lee University, is hereby cancelled.
- (2) There being nothing further to come before the Commission, this proceeding is dismissed and the papers filed herein shall be placed in the Commission's file for ended causes.

¹ October 17, 2011 Order at 3.

² Notice at 2.

**CASE NO. PUE-2011-00107
JANUARY 27, 2012**

PETITION OF
SECURE FUTURES, LLC,
LEXINGTON SOLAR, LLC, AND
WASHINGTON & LEE UNIVERSITY

For a declaratory judgment

ORDER DISMISSING CASE

On September 21, 2011, Secure Futures, LLC ("Secure Futures"), Lexington Solar, LLC ("LS"), and Washington & Lee University ("W&L"), (collectively, "Petitioners"), by counsel, pursuant to Rule 100 C, *Declaratory judgments*, of the Commission's Rules of Practice and Procedure, 5 VAC 5-20-10 *et seq.*, filed a Petition for a Declaratory Judgment ("Petition") with the State Corporation Commission ("Commission").

Specifically, the Petitioners requested that the Commission, on an expedited basis, declare that LS, upon approval of a competitive supplier license¹ and pursuant to § 56-577 A 5 of the Code of Virginia ("Code"), has the right to sell energy from 100% renewable resources to W&L and that W&L is authorized to purchase renewable energy from LS's solar generation facilities for use at the W&L campus located in the service territory of Virginia Electric and Power Company ("Dominion Virginia Power" or "Company") notwithstanding that W&L would continue to purchase a large portion of its electricity needs from Dominion Virginia Power.² The Petitioners contended that the subject controversy has arisen due to two "cease and desist" letters Dominion Virginia Power sent to Secure Futures objecting to arrangements contemplated by a Solar Power Purchase Agreement ("SPPA") between LS and W&L and alleging that the SPPA runs afoul of both the Code and Section 10.4 of the Company's Competitive Service Provider Coordination Tariff ("CSP Tariff") because LS will not supply 100% of W&L's load at the Lexington campus.³

On October 4, 2011, the Commission issued an Order for Comment in this proceeding, which, among other things, deemed Dominion Virginia Power a party to this proceeding and established procedures for the Petitioners, Dominion Virginia Power, and the Commission Staff ("Staff") to file responsive pleadings. On October 17, 2011, Dominion Virginia Power filed its Response, Answer and Request for Hearing ("Response"). In its Response, Dominion Virginia Power requested that the Commission deny the Petition and find and declare that: (1) Section 10.4 of the Company's CSP Tariff precludes LS from serving less than 100% of W&L's load; (2) the Petition's assertion that Section 10.4 of the Company's CSP Tariff is "superseded" by § 56-577 A 5 of the Code constitutes a collateral attack on the Commission's 2010 Final Order affirming the CSP Tariff,⁴ which is beyond the scope of this proceeding; and (3) the proposed arrangement between LS and W&L violates the Company's exclusive franchise to furnish electric service in its service territory.⁵

On October 20, 2011, the Commission entered its Order assigning the case to a Hearing Examiner to conduct all further proceedings in this matter, granting Dominion Virginia Power's request for hearing, scheduling a prehearing conference for October 27, 2011, and suspending the remaining procedural schedule established in the Commission's October 4, 2011 Order for Comment. With regard to the prehearing conference, the Commission ordered the Hearing Examiner, parties, and the Staff to:

consider the scope of the Petition and the scope of any appropriate parameters for discovery that may need to be conducted in this case; consider the extent to which consideration of the Petition should be expedited; provide for any necessary participation by the Staff, set a hearing date; and address procedural and other issues in this proceeding as the Hearing Examiner may see fit.⁶

On October 27, 2011, a prehearing conference was convened as scheduled and was attended by counsel and representatives of the Petitioners, Dominion Virginia Power, and the Staff. Based on the discussions of the prehearing conference, a Hearing Examiner's Ruling dated October 28, 2011, limited the scope of the Petition to determining whether the arrangements contemplated by the SPPA are permitted by the Code and Dominion Virginia Power's CSP Tariff.⁷ The Hearing Examiner's Ruling also: (1) limited discovery to factual information concerning the arrangements contemplated by the SPPA; (2) established procedures and a schedule to provide the Petitioners with the opportunity to pursue state and federal grants; (3) provided for participation by the Staff; and (4) set a hearing for December 12, 2011.⁸

On November 2, 2011, the Petitioners filed a Motion to Withdraw Petition ("Motion") and Notice of Abandonment of License.⁹ The Petitioners stated that they have elected to put in place a transaction structure that does not involve the sale of electricity from LS to W&L.¹⁰ The Petitioners maintained that the change in transaction structure eliminates the issue in controversy and asked that their Petition be withdrawn and that the case be dismissed without prejudice.¹¹

¹ LS obtained a license to conduct business as a competitive service provider to the campus of W&L in Lexington, Virginia, on October 17, 2011, but filed a Notice of Abandonment of License on November 2, 2011. See *Application of Secure Futures, L.L.C., For a license to conduct business as a competitive service provider of 100% renewable electric service in Virginia*, Case No. PUE-2011-00102.

² Petition at 1, 7.

³ *Id.* at 4.

⁴ *Application of Virginia Electric and Power Company d1bla Dominion Virginia Power, For revised Competitive Service Provider Coordination Tariff*, Case No. PUE-2010-00043, 2010 S.C.C. Ann. Rept. 506, Final Order (Aug. 23, 2010).

⁵ Response at 4, 31.

⁶ October 20, 2011 Order at 4.

⁷ Hearing Examiner's Ruling at 2.

⁸ *Id.* at 2-3.

⁹ These documents also were filed in Case No. PUE-2011-00102. See *supra* n. 1.

¹⁰ Motion at 1-2.

¹¹ *Id.* at 2.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

On November 7, 2011, Dominion Virginia Power filed the Response of Virginia Electric and Power Company to Motion to Withdraw. Dominion Virginia Power stated that it understands the Petitioners' Motion to mean that W&L will be self-generating its own power for its own consumption.¹² Based on this understanding, Dominion Virginia Power did not object to the Commission granting the Motion.¹³ The Staff also did not object to the Motion.

On November 9, 2011, the Hearing Examiner issued his Report stating that it appears that the Petitioners and Dominion Virginia Power have resolved the issue presented in this proceeding and canceling the hearing scheduled for December 12, 2011.¹⁴ The Hearing Examiner found that the Petitioners' Motion should be granted and that this matter should be dismissed without prejudice.¹⁵ The Hearing Examiner recommended that the Commission adopt his findings and dismiss this case without prejudice.¹⁶

On November 16, 2011, the Petitioners filed comments to the Hearing Examiner's Report requesting that the Commission enter an order as recommended in the Report. Dominion Virginia Power and the Staff did not file comments.

NOW THE COMMISSION, for good cause shown, finds that no issue remains in controversy, that the Petitioners' Motion to Withdraw should be granted, and that this case should be dismissed without prejudice.

Accordingly, IT IS ORDERED THAT:

(1) The Petitioners' Motion to Withdraw is granted.

(2) As there is nothing further to come before the Commission, this matter is dismissed without prejudice and the papers herein placed in the file for ended causes.

¹² Response of Virginia Electric and Power Company to Motion to Withdraw at 2.

¹³ *Id.*

¹⁴ Report at 3.

¹⁵ *Id.*

¹⁶ *Id.*

**CASE NO. PUE-2011-00112
OCTOBER 18, 2012**

APPLICATION OF
MASSANUTTEN PUBLIC SERVICE CORPORATION

To amend certificates of public convenience and necessity

JOINT PETITION OF
MASSANUTTEN PUBLIC SERVICE CORPORATION
and
GREAT EASTERN RESORT CORPORATION

For authority to acquire and dispose of utility assets

FINAL ORDER

Before the State Corporation Commission ("Commission") is the application of Massanutten Public Service Corporation ("Massanutten" or "Company") to amend its certificates of public convenience and necessity authorizing it to provide water and sewer service in Rockingham County ("Application"). The Company proposes to expand its service territory as provided by § 56-265.3 D of the Code of Virginia ("Code") and to acquire facilities in the additional service territory as provided by § 56-265.2 A of the Code. In addition, as provided by §§ 56-89 and 56-90 of the Code, Massanutten has petitioned for authority to acquire utility assets to be constructed in the additional service territory by Great Eastern Resort Corporation ("Great Eastern"), and Great Eastern has petitioned for authority to dispose of these assets ("Joint Petition").

The Commission has issued Massanutten certificates of public convenience and necessity ("CPCN") to provide water and sewer service to the Massanutten Mountain ski resort and related and adjacent developments in Rockingham County.¹ The Company now proposes to expand its service territory to include thirteen (13) parcels adjacent to its existing service territory. With regard to utility assets, Great Eastern will install all water and sewer facilities to serve the additional territory as it is developed. These facilities will be transferred to Massanutten at no charge as the property is developed. In addition, Great Eastern also will pay for the expansion of Massanutten's wastewater treatment facility should the Company find it has insufficient capacity to serve the additional service territory. Massanutten does not propose any revision in its rates and charges in this proceeding.

¹ *Application of Massanutten Public Service Corporation, For a certificate of public convenience and necessity to provide water and sewer service*, Case No. PUE-1988-00007, 1988 S.C.C. Ann. Rept. 309, Final Order (Aug. 30, 1988); *Application of Massanutten Public Service Corporation, For amendment of its certificates of public convenience and necessity pursuant to Va. Code § 56-265.3 D*, Case No. PUE-2002-00571, 2003 S.C.C. Ann. Rept. 419, Final Order (Apr. 3, 2003).

Before the Commission is the August 24, 2012 Report of A. Ann Berkebile, Hearing Examiner ("Report"). The Report sets forth the procedural history of the case; summarizes the record; analyzes the evidence and issues in this proceeding; makes findings and recommendations; and advises the case participants of their opportunity to file responses. The Hearing Examiner recommended that the Commission grant the Application to expand the service territory, issue amended CPCNs, with certain conditions, and approve the acquisition and transfer of facilities.

Based on the record developed in the proceeding, the Hearing Examiner found that there are issues related to service quality and the condition of existing facilities in the currently certificated service territory. The Hearing Examiner recommended that the amendment of the CPCNs for water and sewer service be conditioned on the Company completing replacement of suspect service laterals and the filing of periodic reports on water losses, customer complaints, and lateral replacements.² The Hearing Examiner also recommended that Massanutten be required to maintain records in support of Great Eastern's transfers of utility assets and report annually on transfers.³ During the hearing, Massanutten agreed to these reporting requirements.⁴

Both Massanutten and Great Eastern filed responses to the Report. Massanutten agreed with the Hearing Examiner's recommendations.⁵ While it had no comments on the Report, Great Eastern requested that the Commission accept the recommendations.⁶

NOW THE COMMISSION, upon consideration of the Application, is of the opinion and finds that the public convenience and necessity require that Massanutten's service territory be expanded and that CPCNs for water and sewer service, with certain conditions discussed below, should be issued. The Commission also finds that as requested in the joint Petition, Massanutten should be authorized to acquire utility assets to be constructed in the additional service territory by Great Eastern and that Great Eastern should be authorized to dispose of these assets.

The Commission adopts the Hearing Examiner's finding that expansion of the service territory is in the public interest and that service at reasonable rates will not be impaired by the expansion. The record shows that no sewer or water service is available in the proposed additional service territory and that the Company has a plan to extend service. The record also shows that the expansion will not jeopardize service. The Commission agrees that service problems have been identified in Massanutten's current service territory and directs the Division of Energy Regulation ("Division") to collect reports and monitor the progress on replacement of laterals, water loss, and customer complaints.

The Commission also adopts the Hearing Examiner's recommendation to approve (i) Great Eastern's transfer of water and sewer facilities constructed in the expanded service territory to Massanutten, at no cost, and (ii) Massanutten's acquisition of the facilities. These utility assets all are water production and distribution facilities including wells, treatment, storage tanks, mains, service lines, meters, and other appurtenances needed to serve the additional service territory. Great Eastern also will install all necessary wastewater facilities including wastewater mains, service lines, lift stations, and other appurtenances needed to serve the additional service territory, and these assets also will be transferred. Great Eastern also has committed to pay for expansion of the sewage treatment plant should the addition of customers in the expanded service territory so require. The proposed transfer by Great Eastern and the acquisition by Massanutten should not impair the provision of adequate service to the public at just and reasonable rates. In approving the transfer, the Commission will establish reporting requirements to assure proper accounting and ratemaking treatment.

Accordingly, IT IS ORDERED THAT:

(1) As provided by the Utility Facilities Act (§ 56-265.1 *et seq.* of the Code), the Company's Application to amend its certificates of public convenience and necessity to serve the additional service territory, subject to the conditions set out below, is granted.

(2) As a condition of the granting of this Application, the Company shall file with the Division quarterly reports on customer complaints and on water loss. These reports shall be in such form and provide such detail as the Division may direct and shall be filed within 30 days of the close of each calendar quarter, commencing on or before January 30, 2013, and continuing through the quarter ending one year after the Company files its next general rate application.

(3) As a condition of the granting of this Application, the Company shall file with the Division quarterly reports on lateral replacements. These reports shall be in such form and provide such detail as the Division may direct and shall be filed within 30 days of the close of each calendar quarter commencing on or before January 30, 2013, and continuing through the quarter in which the lateral replacement project is completed.

(4) Certificates of Public Convenience and Necessity Nos. W-252(a) and S-75(a) issued pursuant to *Application of Massanutten Public Service Corporation, For amendment of its certificates of public convenience and necessity pursuant to Va. Code § 56-265.3 D*, Case No. PUE-2002-00571, 2003 S.C.C. Ann. Rept. 419, Final Order (Apr. 3, 2003), are hereby canceled.

(5) The Company is granted Amended Certificate of Public Convenience and Necessity No. W-252(b) to furnish water service in its existing service territory as well as the additional territory in Rockingham County, all as shown on the map attached to the certificate.

(6) The Company is granted amended Certificate of Public Convenience and Necessity No. S-75(b) to furnish sewer service in its existing service territory as well as the additional territory in Rockingham County, all as shown on the map attached to the certificate.

(7) The Division forthwith shall provide the Company copies of the certificates issued in Ordering Paragraphs (5) and (6) with the detailed map attached.

² Report 25-26.

³ *Id.* at 26.

⁴ *Id.* Appendix A.

⁵ Massanutten Public Service Corporation's Comments on Hearing Examiner's Report at 2.

⁶ Great Eastern Resort Corporation's Comments to Report of A. Ann Berkebile, Hearing Examiner, at 1.

(8) The Company shall apply its rates, charges, terms, and conditions of service in effect as of the date of this Order unless and until revised, as provided by statute.

(9) Pursuant to the Utility Transfers Act (§ 56-88 *et seq.* of the Code), the Joint Petition of Massanutten and Great Eastern is granted.

(10) Great Eastern hereby is granted approval to dispose of the assets, as described in the Application and Joint Petition, and Massanutten hereby is granted approval to acquire the assets.

(11) Massanutten shall maintain detailed records in support of all capital assets contributed by Great Eastern. Such assets shall be recorded to the appropriate plant accounts with the offsetting entry to contributions in aid of construction in accordance with the Uniform System of Accounts for Class A Water and Wastewater Utilities.

(12) On or before January 30 of each year, Massanutten shall file with the Commission status reports providing notice of the transfers of assets that have taken place in the preceding calendar year. Such reports should specifically identify the assets transferred, the dates of the transfers, and the original cost of the assets.

(13) The approval granted herein shall have no ratemaking implications, and approval does not guarantee the recovery of any costs directly or indirectly related to the transfer.

(14) As there is nothing further to come before the Commission, this matter is dismissed from the Commission's docket and is placed in closed status in the records maintained by the Clerk of the Commission.

**CASE NO. PUE-2011-00113
OCTOBER 4, 2012**

APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY

For a certificate of public convenience and necessity in King George County: Dahlgren 230 kV Double Circuit Transmission Line and 230-34.5 kV Dahlgren Substation

FINAL ORDER

On October 26, 2011, Virginia Electric and Power Company d/b/a Dominion Virginia Power ("DVP" or "Company") filed with the State Corporation Commission ("Commission") the Application of Virginia Electric and Power Company for Approval and Certification of Electric Facilities for the Dahlgren 230 kV Double Circuit Transmission Line and 230-34.5 kV Dahlgren Substation, Application No. 254 ("Application"). The Company proposes to construct and operate in King George County a new 230 kilovolt ("kV") overhead double-circuit transmission line, which would terminate at the new 230-34.5 kV Dahlgren Substation (collectively, the "Project"). DVP seeks Commission certification of the Project pursuant to the Utility Facilities Act, § 56-265.1 *et seq.* of the Code of Virginia ("Code").

DVP proposes to tap the existing Birchwood-Northern Neck 230 kV Transmission Line and loop in and out of the proposed Dahlgren Substation.¹ The Company has identified a Proposed Route of approximately 9.43 miles and an Alternative Route of approximately 9.67 miles for the new loop transmission line. The Proposed and Alternative Routes would originate on the Birchwood-Northern Neck Line and terminate at the proposed substation, which would be located on Naval Support Facility Dahlgren ("NSF Dahlgren").²

For either the Proposed Route or the Alternate Route, new right-of-way with a width of approximately 120 feet will be required for the transmission line.³ DVP proposes to build the transmission line using single-shaft galvanized steel poles with three twin-bundled conductors supported on each side of the pole.⁴ The average height of the proposed structures would be approximately 120 feet.⁵ The Company estimates the Project will cost approximately \$36.4 million.⁶

DVP states that the Project is necessary to meet projected load in the Dahlgren area of King George County, including new commercial activity and increased military activity at NSF Dahlgren.⁷ More specifically, load projections show that the two existing distribution circuits in the Dahlgren area will overload if the proposed new facilities are not in service by May of 2014.⁸

¹ Ex. 3 (Application at 2-3).

² *Id.* (Appendix at 85-86). On January 20, 2012, the Company made two minor modifications to the Proposed Route. Ex. 11 (Supplemental Direct Testimony of John B. Bailey).

³ Ex. 3 (Application at 4) (Appendix at 29).

⁴ *Id.*

⁵ *Id.* (Appendix at 29).

⁶ *Id.* (Application at 4).

⁷ *Id.* (Application at 3).

⁸ *Id.*

On February 16, 2012, the Commission entered an Order for Notice and Hearing that, among other things, docketed the Application as Case No. PUE-2011-00113; established a procedural schedule; scheduled a public hearing; and assigned a Hearing Examiner to conduct all further proceedings and to file a final report. After notice to King George County and to the public, a public hearing on the Application was conducted on June 12, 2012. In addition to the testimony and exhibits offered by the Company and the Commission Staff ("Staff"), a number of public witnesses testified.⁹ As discussed below, a modification of the Company's Proposed Route was offered by a public witness and addressed by the Company.

On August 6, 2012, the Report of Alexander F. Skirpan, Jr., Senior Hearing Examiner, ("Hearing Examiner's Report" or "Report") was filed. The Report sets forth the procedural history of the case; summarizes the record; analyzes the evidence and issues in this proceeding; sets forth findings and recommendations; and advises the case participants of their opportunity to file responses. The Hearing Examiner recommended that the Commission grant the Application, with certain conditions. The Hearing Examiner also recommended approval of the Proposed Route identified in the Application with the modifications presented at the hearing.

On August 27, 2012, the Company filed its response to the Report.¹⁰ DVP supported the Hearing Examiner's recommendation that the Commission approve the Project, including the proposed modifications, so long as the Project is not delayed as a result. As discussed below, the Company takes exception to the Hearing Examiner's recommendation that the Commission require DVP to implement certain measures to mitigate environmental impact.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the public convenience and necessity require that the proposed Dahlgren 230 kV Double Circuit Transmission Line and 230-34.5 kV Dahlgren Substation be constructed, with the modifications and subject to the conditions identified below, and that a certificate of public convenience and necessity should be issued authorizing the Project.

Approval

The statutory scheme governing the Company's Application is found in several chapters of Title 56 of the Code. Section 56-265.2 A of the Code provides that "it shall be unlawful for any public utility to construct . . . facilities for use in public utility service, . . ., without first having obtained a certificate from the Commission that the public convenience and necessity require the exercise of such right or privilege."

Section 56-46.1 of the Code further directs the Commission to consider several factors when reviewing the Company's Application. Subsection A of the statute provides that:

Whenever the Commission is required to approve the construction of any electrical utility facility, it shall give consideration to the effect of that facility on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact In every proceeding under this subsection, the Commission shall receive and give consideration to all reports that relate to the proposed facility by state agencies concerned with environmental protection; and if requested by any county or municipality in which the facility is proposed to be built, to local comprehensive plans that have been adopted Additionally, the Commission (a) shall consider the effect of the proposed facility on economic development within the Commonwealth, . . ., and (b) shall consider any improvements in service reliability that may result from the construction of such facility.

Section 56-46.1 B of the Code further provides that: "[a]s a condition to approval the Commission shall determine that the line is needed and that the corridor or route the line is to follow will reasonably minimize adverse impact on the scenic assets, historic districts and environment of the area concerned."

The Commission also must consider existing right-of-way easements when siting transmission lines. Section 56-46.1 C of the Code provides that "[i]n any hearing the public service company shall provide adequate evidence that existing rights-of-way cannot adequately serve the needs of the company." In addition, § 56-259 C of the Code provides that "[p]rior to acquiring any easement of right-of-way, public service corporations will consider the feasibility of locating such facilities on, over, or under existing easements of rights-of-way."

Finally, for inclusion of a project in the underground pilot program established by House Bill 1319 enacted by the 2008 Session of the General Assembly, a proposed electric transmission line must satisfy the following three criteria:

- (1) An engineering analysis demonstrates that it is technically feasible to place the proposed line, in whole or in part, underground;
- (2) The estimated additional cost of placing the proposed line, in whole or in part, underground does not exceed 2.5 times the cost of placing the same line overhead, assuming accepted industry standards for undergrounding to ensure safety and reliability. If the public utility, the affected localities, and the State Corporation Commission agree, a proposed underground line whose cost exceeds 2.5 times the cost of placing the line overhead may also be accepted into the pilot program; and
- (3) The governing body of each locality in which a portion of the proposed line will be placed underground indicates, by resolution, general community support for the line to be placed underground.¹¹

⁹ Old Dominion Electric Cooperative filed a notice of participation as a respondent but did not appear at the hearing.

¹⁰ Comments of Virginia Electric and Power Company on Senior Hearing Examiner's Report (Aug. 27, 2012) ("DVP Comments").

¹¹ 2008 Va. Acts ch. 799, Enactment 1, § 4, as extended by 2011 Va. Acts. ch. 244, Enactment 1.

Need

We agree with the Hearing Examiner that the Company's load growth forecasts support the need for the Project and that the Project will act to improve reliability in the Dahlgren area of King George County.¹² As the Hearing Examiner found, expanded activities at NSF Dahlgren, development of a University of Mary Washington extension center, and commercial development will increase electric load.

While it did not oppose the Company's proposed transmission line and substation project, the Staff, as part of its investigation, identified a distribution solution that could have served the projected load at a lower cost but at a lower level of expected reliability.¹³ The Commission agrees with the Hearing Examiner that the transmission facilities and substation should be approved.

Economic Development and Service Reliability

We agree with the Hearing Examiner that the proposed facilities will address reliability problems in the Dahlgren area of King George County identified by DVP and the Staff.¹⁴ The testimony of public witnesses, including the King George County administrator and local business leaders, identified the economic and developmental benefits of the Project.¹⁵

Scenic Assets and Historic Districts

As discussed in the Report, DVP conducted a study of the Dahlgren area of King George County and identified five routes for study. Comment from the public was solicited on these five routes.¹⁶ Based upon further study and public discussion, the Company identified the Proposed and Alternative Routes.¹⁷ As analyzed in the Report, the Company presented testimony and exhibits on the environmental impact of the various routes considered and the relative advantages and disadvantages of each.¹⁸ We agree with the Hearing Examiner's finding that the Proposed Route, compared to alternatives considered by the Company in this case, reasonably minimizes adverse impact on scenic assets, historic districts, and the environment consistent with § 56-46.1 B of the Code.¹⁹

Existing Rights-of-Way and the Veazey Alteration

The Company is required, in accordance with § 56-46.1 C of the Code, to demonstrate that existing rights-of-way cannot adequately serve its needs. Likewise, § 56-259 C of the Code requires DVP to consider the feasibility of locating the proposed transmission lines on existing easements prior to acquiring new easements. As addressed by the Hearing Examiner, Company testimony and exhibits established that there are no existing suitable rights-of-way for the proposed transmission line.²⁰

During the hearing, public witness Ed Veazey ("Veazey") proposed modification of a segment of the Proposed Route ("Veazey Alteration").²¹ This alteration would deviate up to 1,150 feet from the Proposed Route to parallel U.S. Highway 301 for approximately 1.5 miles and rejoin the Proposed Route to cross the highway.²² The modification would bring the transmission line next to the highway. In this regard, the Company offered testimony that there may be opportunities to use a portion of the highway right-of-way for the transmission line.²³ Veazey testified that his route alteration would further commercial development of several contiguous or proximate properties and that affected landowners agreed to the proposed alteration of the route.²⁴

As provided by § 56-46.1 E of the Code, "[i]n the event that . . . it appears to the Commission that consideration of a route or routes *significantly different* from the route described in the notice is desirable, the Commission shall cause notice of the new route or routes to be published . . ." (*emphasis added*). The Hearing Examiner found that, in the circumstances of this case, the public notice could be found adequate for purposes of Commission

¹² Report at 23-24, 29.

¹³ *Id.* at 23.

¹⁴ *Id.* at 23-24.

¹⁵ *Id.* at 19-22.

¹⁶ *Id.* at 6, 8.

¹⁷ *Id.* at 9-10, 24.

¹⁸ *Id.* at 8-9, 24.

¹⁹ *Id.* at 24, 29.

²⁰ *Id.* at 5-6.

²¹ *Id.* at 22, 26-28.

²² DVP Comments at 4; Attachment A.

²³ Tr. at 71, 82.

²⁴ Report at 22, 28; Tr. at 59-61.

approval of the Veazey Alteration.²⁵ We agree with the determination that this particular modification of a route is not so different as to condition consideration on further notice.²⁶

In his findings and recommendations, the Hearing Examiner recommended that the Commission approve the Proposed Route with the Veazey Alteration.²⁷ The Commission adopts this recommendation on routing with the conditions discussed below.²⁸

Environmental Impact

Sections 56-46.1 A and B of the Code require the Commission to consider the proposed Project's impact on the environment and to establish such conditions as may be desirable or necessary to minimize adverse environmental impact. Section 56-46.1 A of the Code further provides that the Commission shall receive, and give consideration to, all reports that relate to the proposed Project by state agencies concerned with environmental protection. The Hearing Examiner addressed the Virginia Department of Environmental Quality's ("DEQ") coordinated review of the Application by state and local agencies and the Comments of the Department of Environmental Quality ("DEQ Comments") admitted as Exhibit 13.²⁹

The DEQ Comments included these recommendations as set out in the Hearing Examiner's Report:

Conduct an on-site delineation of all wetlands and streams within the project area with verification by the Corps [of Engineers], using accepted methods and procedures, and follow DEQ's recommendations to avoid and minimize impacts to wetlands and streams.

Reduce solid waste at the source, reuse it and recycle it to the maximum extent practicable, and follow DEQ's recommendations to manage waste, as applicable.

Coordinate with DCR [Department of Conservation and Recreation] regarding updates to the Biotics Data System database (if a significant amount of time passes before the project is implemented) and the Virginia DACS [Department of Agriculture and Consumer Services] regarding its recommendation for the protection of plant and insect habitat.

Coordinate with DGIF [Department of Game and Inland Fisheries] regarding its recommendations to protect wildlife resources.

Coordinate with DOF [Department of Forestry] regarding its recommendations for mitigation of the loss of forest lands.

Coordinate with DCR regarding its recommendations to protect recreational resources.

Coordinate with DHR [Department of Historic Resources] regarding recommended resource studies and evaluations, and associated results, to protect historic and archaeological resources.

Coordinate with the Department of Aviation regarding its recommendations to ensure safe aircraft operations.

Coordinate with the DOH [Department of Health] regarding its recommendation to protect wellheads.

Follow the principles and practices of pollution prevention to the extent practicable.

Limit the use of pesticides and herbicides to the extent practicable.³⁰

With one reservation, the Company did not object to the recommendations in the DEQ Comments, and DVP's witness stated that the recommendations would otherwise be implemented.³¹ DVP expressed opposition to DOF's recommendations for mitigation of loss of forest land resulting

²⁵ Report at 27-28.

²⁶ Prior to the hearing, the Company made two minor modifications to the Proposed Route. One modification involved changing the location of the line to accommodate planned construction by Northern Neck Electric Cooperative. The second modification resulted from the Company's contracting to purchase a property near NSF Dahlgren, which will permit moving the route to reduce impact on adjacent properties. Report at 14; Ex. 11 (Supplemental Direct Testimony of John B. Bailey). These modifications likewise do not require additional notice.

²⁷ Report at 28, 29.

²⁸ The Commission will not condition approval of the Proposed Route, as modified by the Veazey Alteration, upon DVP reaching agreement with the Virginia Department of Transportation on over-hanging the highway right-of-way. The Company expressed concerns that construction could be delayed. Such joint use is desirable here and, perhaps, in other situations. We encourage the Company to pursue joint use of the highway right-of-way, but the Commission will not condition approval on reaching agreement.

²⁹ Report at 11-14, 17, 25-26.

³⁰ *Id.* at 13-14.

³¹ *Id.* at 17; Ex. 16 (Rebuttal Testimony of John B. Bailey at 1-2).

from the Project and the cost-sharing of such an effort. The Company maintained, however, that if the Commission does condition approval of the Project on cost-sharing for mitigation of loss of forest land, a cap on costs should be set. The Staff also expressed concern about the forest loss mitigation commitments recommended by DOF and their impact on ratepayers.³²

The Hearing Examiner recommended that the Commission adopt mitigation for lost forest land as a condition of approval but that mitigation costs be capped as proposed by the Company.³³ In its response to the Report, DVP reiterated its objection to any mitigation for forested lands cleared for the Project. The Company maintained that the mitigation measures recommended by DOF are so broad as to extend beyond the impact of the Project.³⁴

Upon consideration of the record in this proceeding, the Commission will not adopt the DOF recommendations on mitigation for clearing forested lands. We conclude that such a requirement is not appropriate here.

The Hearing Examiner also adopted Staff's recommendation that the Company use weathering steel supporting structures for the transmission line rather than galvanized steel structures as originally proposed by the Company in its Application.³⁵ Using weathering steel would reduce the construction cost by approximately \$434,000 and eliminate the future cost of painting. There also was testimony that weathering steel structures are less visible in wooded areas.³⁶ The Company does not oppose the Staff's recommendation to use weathering steel.³⁷ The Commission adopts this recommendation.

HB 1319

We find that the evidence demonstrates that the Project does not meet the criteria set forth in HB 1319 for inclusion as a pilot program.³⁸

Accordingly, IT IS ORDERED THAT:

(1) The Company is authorized to construct and operate the proposed Dahlgren 230 kV Double Circuit Transmission Line on the Proposed Route as modified herein and the 230-34.5 kV Dahlgren Substation as set forth in the Company's Application.

(2) Pursuant to §§ 56-46.1, 56-265.2, and related provisions of Title 56 of the Code, the Company's Application for a certificate of public convenience and necessity to construct and operate the proposed Dahlgren 230 kV Double Circuit Transmission Line and the 230-34.5 kV Dahlgren Substation is granted, as provided for herein, and subject to the requirements set forth in this Final Order.

(3) Pursuant to the Utility Facilities Act, Chapter 10.1 (§ 56-265.1 *et seq.*) of Title 56 of the Code, the Company is issued the following certificate of public convenience and necessity:

Certificate No. ET-88g, which authorizes Virginia Electric and Power Company under the Utility Facilities Act to operate certificated transmission lines and facilities in King George County, all as shown on the map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUE-2011-00113, cancels Certificate No. ET-88f issued to Virginia Electric and Power Company on April 8, 2008, in Case No. PUE-2006-00091.

(4) The Commission's Division of Energy Regulation forthwith shall provide the Company copies of the certificate issued in Ordering Paragraph (3) with the detailed map attached.

(5) The transmission line and associated substation work approved herein must be constructed and in service by June 1, 2014; provided, however, the Company is granted leave to apply for an extension for good cause shown.

(6) As there is nothing further to come before the Commission, this matter is dismissed from the Commission's docket of active cases and shall be placed in closed status in the records maintained by the Clerk of the Commission.

³² Report at 16, 25-26.

³³ *Id.* at 26, 29.

³⁴ DVP Comments at 7-8.

³⁵ Report at 24-25.

³⁶ *Id.*

³⁷ *Id.* at 24.

³⁸ *Id.* at 15.

**CASE NO. PUE-2011-00116
JANUARY 19, 2012**

JOINT PETITION OF
AQUA VIRGINIA, INC.,
AQUA VIRGINIA WATER UTILITIES, INC.,
FOX RUN WATER CO., INC., AND
MOSELEY-NASH ENTERPRISES, INC.

For approval of a transfer of utility assets, transfer of a certificate of public convenience and necessity, an affiliate arrangement, and proposed rates

ORDER

On October 21, 2011, Aqua Virginia, Inc. ("Aqua Virginia"); Aqua Virginia Water Utilities, Inc. ("Aqua Virginia Water Utilities");¹ Fox Run Water Co., Inc. ("Fox Run"); and Moseley-Nash Enterprises, Inc., the parent company of Fox Run (collectively, "Joint Petitioners"), filed a joint petition ("Joint Petition") with the State Corporation Commission ("Commission"). The Joint Petitioners request approval, pursuant to Chapter 5² of Title 56 of the Code of Virginia ("Code"), to transfer utility assets from Fox Run and Moseley-Nash to Aqua Virginia and Aqua Virginia Water Utilities.³ In addition, the Joint Petitioners seek to transfer Fox Run's certificate of public convenience and necessity ("CPCN") to Aqua Virginia Water Utilities and to add to the certificated service territory under the CPCN certain water systems not previously included in Fox Run's CPCN. The Joint Petitioners request that the transfer of the CPCN be granted pursuant to § 56-265.3 D of the Code.⁴ The Joint Petitioners also request approval of an affiliates arrangement pursuant to § 56-77 A or, alternatively, exemption from the filing and prior approval requirements of such affiliate arrangement pursuant to § 56-77 B of the Code between Aqua Virginia and Aqua Virginia Water Utilities.

This Order addresses only the request for approval of an affiliate arrangement. Under the affiliate arrangement, Aqua Virginia employees will provide management, supervisory, construction, engineering, accounting, legal, financial, and similar services to Aqua Virginia Water Utilities. The Joint Petitioners state that there is no written contract for such arrangement but that Aqua Virginia employees will keep time records allocating their time to Aqua Virginia Water Utilities and will be subject to all Aqua Virginia employment rules and policies in performing these services.⁵ All services will be provided by Aqua Virginia or a subcontractor, when such subcontractor can provide specific services at a lower cost. Aqua Virginia may subcontract some services to Aqua Services, Inc. ("Aqua Services"). Aqua Virginia Water Utilities will not provide any services under the arrangement. The Joint Petition seeks Commission approval of the proposed affiliate arrangement on the same terms and conditions as approved between Aqua Virginia and Aqua Virginia Water Utilities, Inc., in Case No. PUE-2010-00091.⁶

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the Joint Petitioners' request for an exemption from the filing and prior approval requirements of the affiliate arrangement should be denied. However, we find the proposed affiliate arrangement between Aqua Virginia and Aqua Virginia Water Utilities to be in the public interest and should be approved, subject to the requirements set forth in this Order. The proposed transfer of assets, transfer of CPCN, and proposed rates will be dealt with in a subsequent order.

Accordingly, IT IS ORDERED THAT:

- (1) The Joint Petitioners' request for an exemption from the filing and prior approval requirement of the affiliate arrangement is hereby denied.
- (2) The affiliate arrangement between Aqua Virginia and Aqua Virginia Water Utilities is hereby approved conditioned upon the transfer of assets from Fox Run Water Co., Inc., and Moseley-Nash Enterprises, Inc., to Aqua Virginia and Aqua Virginia Water Utilities, which request is still under consideration by the Commission.
- (3) Approval of the affiliate arrangement shall be limited to two (2) years from the date of a Commission order approving the transfer of assets in this case.
- (4) Approval of the affiliate arrangement shall not include the service category of "similar" services.
- (5) For services that Aqua Virginia receives from Aqua Services to provide services to Aqua Virginia Water Utilities, such services shall be priced at the lower of cost or market. Aqua Virginia shall bear the burden of proving, in any annual informational filing or rate case proceeding, that it paid the lower of cost or market under the proposed affiliate arrangement for services received from Aqua Services.

¹ According to the Joint Petition, Aqua Virginia Water Utilities is a wholly owned subsidiary of Aqua Virginia and was organized to own the assets to be acquired in this transaction. The Joint Petition states that, after the acquisition, Aqua Virginia Water Utilities will be subject to regulation under the Small Water or Sewer Public Utility Act, Chapter 10.2:1 of Title 56 of the Code of Virginia. Joint Petition at 4.

² Va. Code § 56-88 *et seq.*

³ Joint Petition at 6-9.

⁴ *Id.* at 9-10

⁵ *Id.* at 10.

⁶ Joint Petition at 10. See also *Joint Petition of Manakin Farms, Inc.; Manakin Water and Sewerage Corporation; Aqua Virginia, Inc.; and Aqua Virginia Water Utilities, Inc., For approval of a transfer of utility assets, the transfer of a certificate of public convenience and necessity, and an affiliates arrangement*, Case No. PUE-2010-00091, Doc. Con. Cen. No. 449502, Final Order (June 30, 2011), amended, Doc. Con. Cen. No. 449724, Correcting Order (July 7, 2011).

- (6) Commission approval shall be required for any changes in the terms and conditions of the affiliate arrangement approved herein, including any successors or assigns.
- (7) The approval granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code hereafter.
- (8) The approval granted herein shall have no ratemaking implications for annual informational filings or future rate proceedings. In particular, the approval granted herein shall not guarantee recovery of any costs directly or indirectly related to the affiliate arrangement.
- (9) The Commission reserves the right to examine the books and records of any affiliate in connection with the authority granted herein, whether or not such affiliate is regulated by this Commission.
- (10) Aqua Virginia shall include the transactions associated with the affiliate arrangement approved herein in its Annual Report of Affiliate Transactions ("ARAT") submitted to the Commission's Director of Utility Accounting and Finance on or before May 1 of each year, which deadline may be extended administratively by the Commission's Director of Utility Accounting and Finance.
- (11) Aqua Virginia Water Utilities shall submit an ARAT to the Commission's Director of Utility Accounting and Finance on or before May 1 of each year, which deadline may be extended administratively by the Director of Utility Accounting and Finance, to cover services received from Aqua Virginia pursuant to the affiliate arrangement approved herein.
- (12) If annual informational and/or general rate case filings are not based on a calendar year, then Aqua Virginia and/or Aqua Virginia Water Utilities shall include the affiliate information contained in the ARAT in such filings.
- (13) This matter is continued.

**CASE NO. PUE-2011-00116
JUNE 14, 2012**

JOINT PETITION OF
AQUA VIRGINIA, INC.,
AQUA VIRGINIA WATER UTILITIES, INC.,
FOX RUN WATER CO., INC., AND
MOSELEY-NASH ENTERPRISES, INC.

For approval of a transfer of utility assets, transfer of a certificate of public convenience and necessity, an affiliate arrangement, and proposed rates

ORDER

On October 21, 2011, Aqua Virginia, Inc. ("Aqua Virginia"); Aqua Virginia Water Utilities, Inc. ("Aqua Utilities");¹ Fox Run Water Co., Inc. ("Fox Run"); and Moseley-Nash Enterprises, Inc. ("Moseley-Nash"), the parent company of Fox Run (collectively, "Joint Petitioners"), filed a joint petition ("Joint Petition") with the State Corporation Commission ("Commission").

Pursuant to an Asset Purchase Agreement ("Agreement") dated August 19, 2011, Aqua Virginia has agreed to purchase the facilities listed in the Agreement that comprise the water systems served by Fox Run.² According to the Joint Petition, after approval of the transfer by the Commission and completion of the transfer, Aqua Utilities will be assigned the assets acquired in the transaction and will serve the customers of the Fox Run systems. Following the transfer, Fox Run will no longer provide any Virginia-based water services.³

According to the Joint Petition, Fox Run currently provides water service to approximately 1,130 customers spread across 28 separate water systems located in Dinwiddie, Mecklenburg, Brunswick, Sussex, and Greensville Counties in Virginia.⁴ Fox Run is a public utility regulated by the

¹ According to the Joint Petition, Aqua Utilities is a wholly owned subsidiary of Aqua Virginia and was organized to own the assets to be acquired in this transaction. The Joint Petition states that, after the acquisition, Aqua Utilities will be subject to regulation under the Small Water or Sewer Public Utility Act, Chapter 10.2:1 of Title 56 of the Code of Virginia ("Small Water or Sewer Public Utility Act"). Joint Petition at 4.

² *Id.* at 3, Ex. A.

³ *Id.* at 5-6. Fox Run will continue to operate its water systems based in North Carolina.

⁴ *Id.* at 2. According to the Joint Petition, Fox Run serves customers on the following water systems in Dinwiddie County: Chesdin Manor/River Road Farms and Stony Springs Subdivision. Fox Run serves customers on the following water systems in Mecklenburg County: Anchor Cove Subdivision/The Anchorage, Buckhead Subdivision, Cliffs on the Roanoke, Fox Run Subdivision/Champion Forest Shores, Great Creek Landing/Tudor Estates, Hawks Nest Point, Hicks Hill Subdivision, Holly Grove Estates/Brandon Cove, Joyceville Subdivision, Long Branch Shores, Merrymount Subdivision, Tanglewood Shores (Section A – Dog House 1), Tanglewood Shores (Section L – the Rock), Tanglewood Shores (Section N – Dog House 2), Tanglewood Shores (Section U), and Timbuctu Subdivision. Fox Run serves customers on the following water systems in Brunswick County: Brunswick Estates, Kennon House/Lake Gaston Colony, Lane View, Liberty Grove, Nottoway Acres, Pleasant Grove Estates, Siouan Shores, and Sunny Brook. Fox Run also serves customers in Sussex County on the McKenney Acres water system and in Greensville County on the Rolling Acres water system. *Id.*

Commission pursuant to the Small Water or Sewer Public Utility Act and was granted Certificate of Public Convenience and Necessity ("CPCN") No. W-281(a) in 2000.⁵

The Joint Petitioners request approval, pursuant to Chapter 5 of Title 56 of the Code of Virginia ("Code"),⁶ to transfer utility assets from Fox Run and Moseley-Nash to Aqua Virginia and Aqua Utilities.⁷ In addition, the Joint Petitioners seek to transfer Fox Run's CPCN to Aqua Utilities and to add to the certificated service territory under the CPCN certain water systems not previously included in Fox Run's CPCN. The Joint Petitioners request that the transfer of the CPCN be granted pursuant to § 56-265.3 D of the Code.⁸

Finally, the Joint Petition requests approval of proposed rates for both metered and unmetered customers ("proposed rates"). According to the Joint Petition, the proposed rates will reflect the purchase price and the costs of improvements to the water systems based on a projection of the first year of operational expenses and capital investment. The Joint Petition states that the proposed rates would become effective, subject to refund, at the closing of the transaction, if approved by the Commission.⁹ The proposed rates are based on a projected revenue requirement of \$442,327.¹⁰ The Joint Petition sets forth the following proposed rates:¹¹

Flat Rate Customers: \$32.62/month
Metered Customers in Chesdin Manor:

Base Facility Charge: \$14.89/month
\$4.93/thousand gallons sold

The Joint Petition states that the Joint Petitioners' five-year capital improvement plan includes metering the unmetered systems in year two.¹² Specifically, the Joint Petitioners anticipate that

approximately \$1,358,635 in capital investment will be required for improvements in the first five years, to make substantial upgrades including uranium treatment for well 2 at Chesdin Manor, adding a well, storage tank, and filters for Holly Grove, adding well capacity for Fox Run...as well as other chlorination treatment and filter upgrades including those for Joyceville, as required by the Virginia waterworks regulations. Also included in these upgrades will be metering the systems with radio frequency ("RF") meters in each meter box, adding chlorination to all wells, replacing pressure tanks, painting and refurbishing steel tanks, repairing leaking pump station roof tops, making repairs to the pump station electrical controls, as well as other housekeeping and general maintenance improvements.¹³

On December 20, 2011, the Commission issued an Order for Notice and Comment ("Procedural Order") that docketed the matter as Case No. PUE-2011-00116 and established a procedural schedule to review the Joint Petition. We noted in the Procedural Order that because the Joint Petition seeks authorization of new rates coincident with the transfer of utility assets, the requested transfer of Fox Run's CPCN pursuant to § 56-265.3 D of the Code is not the appropriate authority to be considered for the Joint Petition. Rather, we found that the requested authorization should be considered under § 56-265.3 A of the Code for issuance of a new CPCN for Aqua Utilities.¹⁴

As provided for in the Procedural Order, approximately 117 comments were filed in this proceeding from individual customers and property or homeowners' associations. The majority of these comments objected to the level of the rate increase sought in this proceeding as well as service related issues, particularly water quality, from the current provider of water service.

⁵ *Application of Fox Run Water Company, Inc., For an amendment to Certificate of Public Convenience and Necessity No. W-281 to Include Water Service at Anchor Cove Subdivision, The Anchorage Subdivision, Joyceville Subdivision, Cliffs on the Roanoke, Waterman's Point Subdivision, Tanglewood Shores Golf & Country Club, and Rolling Acres Subdivision*, Case No. PUE-1999-00001, 2000 S.C.C. Ann. Rept. 424, Final Order (Jan. 18, 2000).

⁶ Va. Code § 56-88 *et seq.*

⁷ Joint Petition at 6-9.

⁸ *Id.* at 9-10. The Joint Petitioners also requested approval of an affiliates agreement between Aqua Virginia and Aqua Utilities, pursuant to Chapter 4, § 56-76 *et seq.*, of Title 56 of the Code. We approved the Joint Petitioners' request, subject to certain conditions, by Order dated January 19, 2012.

⁹ Joint Petition at 8-9.

¹⁰ Joint Petition at Exhibit B, Rate of Return Statement.

¹¹ *Id.* at Exhibit B, page 4.

¹² *Id.*

¹³ *Id.* at 7-8.

¹⁴ Accordingly, Ordering Paragraph (10) of the Procedural Order directed the Joint Petitioners to file, on or before March 30, 2012, with regard to Dinwiddie, Mecklenburg, Brunswick, Sussex, and Greensville Counties:

- (i) evidence that in each county no authority has been created for water or sewer service, (ii) evidence that a water company was in existence and furnishing water prior to the formation of the authority to provide water, or
- (iii) evidence that the Joint Petition has been approved by the governing body of the county.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

On March 16, 2012, the Commission's Staff ("Staff") filed its Report in which Staff recommended that the Commission approve the proposed transfer of assets from Fox Run to Aqua Utilities and issue a CPCN to Aqua Utilities to provide service to all of the systems currently served by Fox Run if the Joint Petitioners satisfy the requirements set out in the Procedural Order. Staff noted that certain proposed capital investments to upgrade the Fox Run Systems are required by the Virginia Department of Health ("VDH") and that, according to the Joint Petitioners, collaboration on the proposed upgrades with the VDH has occurred and should address water quality issues and the VDH's concerns. Staff further recommended that the Commission's approval should be subject to the following requirements:

- 1) Within thirty (30) days of completing the proposed transfer, the Petitioners should file a Report of Action ("Report") with the Commission. Included in the Report should be the date of the transfer, the actual sales price, and Aqua Utilities' accounting entries recording the transfer. Such accounting entries should be in accordance with the USOA.
- 2) Fox Run Water Co. and Moseley-Nash should be directed to provide all records related to the transferred Utility Assets at closing to Aqua Utilities, which should be directed to maintain them henceforth in accordance with the USOA.
- 3) Aqua Utilities should be allowed to implement its proposed rates on an interim basis subject to refund with interest upon the closing of the proposed transaction. Aqua Utilities should file with the Commission a balance sheet, income statement, a rate of return statement, and a federal tax return, if available, within ninety (90) days following the first full year of Aqua Utilities' ownership. Upon receiving the filing, Staff should plan and conduct an investigation of Aqua Utilities' cost of service and the reasonableness of its proposed rates and file a report summarizing its findings.
- 4) Fox Run's CPCN should be canceled upon the issuance of a CPCN to Aqua Utilities.
- 5) The Commission's Utility Transfers Act approval of the proposed transfer should have no ratemaking implications. In particular, the Commission's Utility Transfers Act approval should not guarantee recovery of any costs directly or indirectly related to the transfer.
- 6) The Commission should direct Aqua Utilities that:
 - a) The quality of service in the Fox Run service territory should not deteriorate due to a lack of maintenance or capital investment;
 - b) The quality of service in the Fox Run service territory should not deteriorate due to a reduction in the number of employees providing services; and
 - c) Aqua Utilities should continue to maintain a high degree of cooperation with the Commission Staff and should take all actions necessary to ensure Aqua Utilities' timely response to Staff inquiries with regard to its provision of service in Virginia.¹⁵

On March 30, 2012, the Joint Petitioners filed their response to the Staff Report ("Response"). In their Response, the Joint Petitioners stated that, notwithstanding their compliance with the provisions of Ordering Paragraph (10) of the Procedural Order, they "[reserve] the right to object to provisions of future orders ruling that a petition shall be considered under Subsection A [of § 56-265.3 of the Code] rather than Subsection D [of § 56-265.3 of the Code], and imposing additional evidentiary requirements."¹⁶ The Joint Petitioners requested that the Commission "adopt the recommendations contained in the Staff Report, approve the proposed transfer and rate request, and grant such further and other relief as the Commission deems appropriate."¹⁷ On April 5, 2012, the Joint Petitioners filed Exhibit A to the Affidavit filed in support of their Response, which they stated was erroneously omitted from their Response filed on March 30, 2012.

NOW THE COMMISSION, upon consideration of this matter and the applicable law, is of the opinion and finds that the proposed transfer of assets will not impair or jeopardize adequate service to the public at just and reasonable rates and, therefore, should be approved. We further find that the Joint Petitioners have satisfied the requirements of Ordering Paragraph (10) of the Procedural Order and that it is in the public interest to issue a CPCN to Aqua Utilities to provide service to all of the systems currently served by Fox Run. Finally, we find that Aqua Utilities should be allowed to implement its proposed metered and unmetered water rates as set out above on an interim basis, subject to refund with interest. Following a year of operation and the filing of data by Aqua Utilities, Staff should plan and conduct an investigation of Aqua Utilities' cost of service and the reasonableness of its proposed rates and file a report summarizing its findings.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to the Utility Transfers Act, the Joint Petitioners are hereby authorized to transfer the utility assets of Fox Run to Aqua Utilities subject to the following recommendations of the Staff:

¹⁵ Staff Report at 11-12.

¹⁶ Response at 6.

¹⁷ *Id.*

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

- a) Within thirty (30) days of completing the proposed transfer, the Joint Petitioners shall file a Report of Action ("Report") with the Commission. Included in the Report shall be the date of the transfer, the actual sales price, and Aqua Utilities' accounting entries recording the transfer. Such accounting entries should be in accordance with the USOA.
 - b) Fox Run and Moseley-Nash shall provide all records related to the transferred utility assets at closing to Aqua Utilities, and Aqua Utilities shall maintain them henceforth in accordance with the USOA.
 - c) Aqua Utilities may implement its proposed rates on an interim basis subject to refund with interest upon the closing of the proposed transaction. Aqua Utilities shall file with the Commission a balance sheet, income statement, a rate of return statement, and a federal tax return, if available, within ninety (90) days following the first full year of Aqua Utilities' ownership. Upon receiving the filing, Staff shall plan and conduct an investigation of Aqua Utilities' cost of service and the reasonableness of its proposed rates and file a report summarizing its findings.
 - d) The Commission's Utility Transfers Act approval of the proposed transfer shall have no ratemaking implications and shall not guarantee recovery of any costs directly or indirectly related to the transfer.
 - e) Aqua Utilities shall ensure that:
 - 1) The quality of service in the Fox Run service territory shall not deteriorate due to a lack of maintenance or capital investment;
 - 2) The quality of service in the Fox Run service territory shall not deteriorate due to a reduction in the number of employees providing services; and
 - 3) Aqua Utilities shall continue to maintain a high degree of cooperation with the Commission Staff and shall take all actions necessary to ensure Aqua Utilities' timely response to Staff inquiries with regard to its provision of service in Virginia.
- (2) Pursuant to § 56-265.13:6 of the Code, a hearing is hereby ordered following the conclusion of Staff's investigation and the filing of Staff's report referred to in Ordering Paragraph (1)(c) to make a final determination on whether the interim rates authorized herein are just and reasonable. The date and manner of such hearing shall be determined by further order of the Commission.
- (3) Pursuant to the Utility Facilities Act, Aqua Utilities is hereby granted CPCN W-328 to provide water utility service in the territory presently certificated to Fox Run and to provide service to all of the systems currently serviced by Fox Run. Fox Run's CPCN W-281(a) to provide water utility service shall be terminated.
- (4) Aqua Utilities, upon completing the proposed transfer, shall promptly file its proposed tariffs and terms and conditions of service, in accordance with the findings above, with the Division of Energy Regulation. Contemporaneous with the filing of Aqua Utilities' tariffs, Fox Run shall cancel all tariffs and terms and conditions of service.
- (5) This case is continued pending further order of the Commission.

**CASE NO. PUE-2011-00117
NOVEMBER 28, 2012**

APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY

For approval of a Community Solar Power Program and for certification of proposed distributed solar generation facilities pursuant to Chapter 771 of the 2011 Virginia Acts of Assembly and §§ 56-46.1 and 56-580 D of the Code of Virginia

ORDER

Pursuant to House Bill 1686, enacted as Chapter 771 of the 2011 Virginia Acts of Assembly ("Chapter 771"), §§ 56-46.1 and 56-580 D of the Code of Virginia ("Code"), and the Filing Requirements in Support of Applications for Authority to Construct and Operate an Electric Generating Facility,¹ Virginia Electric and Power Company ("Dominion" or "Company") filed a completed Application for approval of a Community Solar Power Program ("Solar Program") with the State Corporation Commission ("Commission") on February 29, 2012.

Dominion has proposed a Solar Program that consists of two separate components. The first component permits the Company to purchase up to three megawatts ("MW") of energy output from customer-owned distributed solar generation installations as an alternative to net energy metering ("Customer-owned facilities"); the Company also requests approval of a special tariff for such purpose in a separate proceeding, Case No. PUE-2012-00064.² The second component, which is at issue in the present proceeding, is a proposal to construct and operate up to 30 MW of Company-owned solar distributed generation facilities ("Solar DG Program" or "Company-owned facilities"). The Solar DG Program would be comprised of approximately thirty to fifty installations at commercial, industrial, and community customer locations dispersed throughout the Company's Virginia service territory, with each installation ranging from 500 kilowatts to 2 MW. Dominion requests a "blanket" certificate of public convenience and necessity ("CPCN") to construct and operate the 30 MW of Company-owned facilities.³

¹ See 20 VAC 5-302-10 *et seq.*

² *Petition of Virginia Electric and Power Company, For approval of a special tariff to facilitate customer-owned distributed solar generation pursuant to Chapter 771 of the 2011 Virginia Acts of Assembly*, Case No. PUE-2012-00064, Petition (May 17, 2012).

³ Application at 4, 13-14.

Dominion proposes to construct and operate the 30 MW of Company-owned facilities in two phases. In Phase I, the Company would construct and operate up to 10 MW of distributed solar generation between the date the Application is approved and December 31, 2013. In Phase II, the Company would construct and operate no more than 20 MW of distributed solar generation between January 1, 2014, and December 31, 2015.⁴

Pursuant to the Company's February 29, 2012 supplemental filing in support of its Application, the total estimated cost for the construction of the Company-owned distributed solar generation facilities is not expected to exceed \$111 million, excluding financing costs.⁵ According to the filing, the net present value of the Company-owned facilities is negative by \$60.9 million.⁶ Dominion states that it will seek to recover Phase I costs as a part of base rates in a future biennial review proceeding. The Company claims that it may, at a later time, seek to recover costs related to Phase II through a rate adjustment clause.⁷

Dominion also states that the Company-owned facilities "will produce renewable energy that qualifies for use under the Virginia [Renewable Portfolio Standard ('RPS')] [P]rogram established under Va. Code § 56-585.2, and will contribute to the Company's Commission-approved RPS [Program]."⁸

The Commission issued an Order for Notice and Hearing in this case on March 23, 2012, which, in part, ordered Dominion to provide notice of its Application to the public; provided interested parties an opportunity to comment on, or participate in, the case; set a public hearing date; and established dates for the filing of testimony. Notices of participation were filed by: the Office of the Attorney General's Division of Consumer Counsel ("Consumer Counsel"); MeadWestvaco Corporation ("MeadWestvaco"); Mr. Michel King; and the Chesapeake Climate Action Network, Appalachian Voices, and the Virginia Chapter of the Sierra Club (collectively, "Environmental Respondents"). Dominion, MeadWestvaco, and the Commission's Staff ("Staff") submitted pre-filed testimony, and the Commission received over 2,000 written and electronic comments in this case.

The Commission convened a hearing commencing on September 19, 2012, that continued on September 20 and 24, 2012. Counsel for Dominion, Consumer Counsel, MeadWestvaco, the Environmental Respondents, and Staff were present at the hearing. Mr. King also appeared at the hearing, *pro se*.

On November 7, 2012, post-hearing briefs were filed by the Company, Consumer Counsel, Environmental Respondents, MeadWestvaco, and Staff. On November 8, 2012, MeadWestvaco filed its issue matrix one day out-of-time. On November 19, 2012, Mr. King filed a post-hearing brief and a Request for Leave to File Post-Hearing Brief Out-of-Time.

NOW THE COMMISSION, having considered this matter, is of the opinion and finds as follows:

This is the first case filed pursuant to Chapter 771, which provides as follows:

§ 1. That in order to promote solar energy through distributed generation, the State Corporation Commission shall exercise its existing authority to consider for approval, after notice to all affected parties and opportunity for hearing, petitions filed by a utility to construct and operate distributed solar generation facilities and to offer special tariffs to facilitate customer-owned distributed solar generation as alternatives to net energy metering, with an aggregate amount of rated generating capacity of up to 0.20 percent of each electric utility's adjusted Virginia peak load for the calendar year 2010. Such petitions may be made during the period of July 1, 2011, through July 1, 2015, and the Commission, on its own motion, may extend this period an additional year for good cause. Each distributed solar generation installation approved pursuant to this section shall be considered to be part of a demonstration program to assess benefits to the utility's distribution system, including constrained or high load growth circuits, for a period of five years from the date each installation becomes operational. Thereafter each installation shall cease to be part of a demonstration program and, in the case of a utility-owned installation, shall continue to operate as a utility-owned generating facility, and in the case of a customer-owned installation, shall continue to provide power to the utility pursuant to the terms of the agreed upon tariff arrangement. Subject to review by the Commission, such utility-owned distributed solar generation facilities and tariffs for power generated from customer-owned distributed solar installations shall be prioritized in areas identified by the utility as areas where localized solar generation would provide benefits to the utility's distribution system, including constrained or high-growth areas. The Commission shall approve such programs or distributed generation facilities if it determines that the programs or facilities, including those targeting constrained or high load growth areas, are reasonably designed to be in furtherance of the public interest.

§ 2. A utility participating in demonstration programs pursuant to § 1 of this act shall use reasonable efforts to ensure that at least four of the distributed solar installation sites included in the demonstration projects shall be in a community setting, which shall include, but not be limited to, to the extent permitted by law, participation by local governments, schools, community associations, neighborhood associations, or nonprofit organizations. The capacity of each such community installation shall not exceed 500 kilowatts.

§ 3. When a utility proposes solar distributed generation resources as permitted in § 1 of this act comprised of multiple installations combined collectively, the Commission shall consider such projects as one small

⁴ *Id.* at 6.

⁵ Supplemental Filing in Support of Application at 3.

⁶ *Id.* at 4.

⁷ Application at 10-11.

⁸ *Id.* at 21.

non-combustible renewable power generation facility for purposes of project approval pursuant to §§ 10.1-1197.5, 10.1-1197.8, 56-265.2, 56-580 and 56-585.1 of the Code of Virginia. A "small non-combustible renewable power generation facility" is a small renewable energy project that generates electricity from sunlight and may consist of one or more installations distributed on separate structures or facilities, whether such installations are treated each as a stand-alone small renewable energy project or are combined and treated collectively as one small renewable energy project.

§ 4. The Commission shall provide annual reports on any demonstration programs approved pursuant to this act to the Governor and the chairmen of the House and Senate Committees on Commerce and Labor.

In addition, as to small renewable energy projects, § 56-580 D of the Code further directs the Commission as follows:

The Commission shall complete any proceeding under this section, or under any provision of the Utility Facilities Act (§ 56-265.1 *et seq.*), involving an application for a certificate, permit, or approval required for the construction or operation by a public utility of a small renewable energy project as defined in § 10.1-1197.5, within nine months following the utility's submission of a complete application therefore. Small renewable energy projects as defined in § 10.1-1197.5 are in the public interest and in determining whether to approve such project, the Commission shall liberally construe the provisions of this title.

This is not a typical CPCN proceeding. Chapter 771 creates new standards and policies applicable to specific solar generation that we must implement herein. In addition, as opposed to establishing the benefits of the proposed solar generation facilities up front, Chapter 771 allows the utility to create a "demonstration program" to assess the benefits thereof. Thus, it is in accordance with the unique provisions of Chapter 771 that we analyze and approve the Solar DG Program. Specifically, we find that Dominion's proposed Solar DG Program satisfies the standards of Chapter 771 and §§ 56-46.1 and 56-580 D of the Code, subject to the requirements ordered herein. We likewise find that, absent such requirements, the proposed Solar DG Program does not satisfy the statutory standards and is not approved.

First, we find that the Solar DG Program shall have a total cost cap of \$80 million (including, but not limited to, capital, financing, and operation and maintenance costs) at this time, in order to be "reasonably designed to be in furtherance of the public interest" as required by Chapter 771. Chapter 771 does not direct approval of this demonstration program regardless of the cost to ratepayers. As noted earlier, the Company's current projection is \$111 million (excluding financing costs). In addition, Dominion acknowledges that this proposal has a *negative* net present value of about \$61 million, which means that (when compared to other generation options) customers are expected to lose money as a result of this program.⁹ We find that the proposed demonstration Solar DG Program – the benefits of which are unknown at this time – at the level of cost proposed by Dominion is not in furtherance of the public interest. We conclude that the Company can gain reasonable experience and data based on the implementation of the program at the cost level approved herein, after which Dominion can file an application under Chapter 771 seeking to raise the cost cap if it believes the results at that point warrant such action. In addition, based on the actual results obtained, Dominion and other participants can evaluate whether any additional MWs available under Chapter 771 should be allocated to Customer-owned, as opposed to Company-owned, facilities.¹⁰

Second, as part of the Solar DG Program, we grant Dominion a "blanket" CPCN to construct and operate Company-owned solar distributed generation facilities located at selected large commercial and industrial customer locations dispersed throughout the Company's service territory and in community (including governmental) settings, subject to the requirements set forth in this Order. We grant such a "blanket" certificate based on the specific circumstances of this case, which include the practical realities of selecting multiple locations to install these small, dispersed facilities in accordance with the unique provisions embodied within Chapter 771.

Third, the Solar DG Program is approved as a *voluntary* program, as proposed by Dominion.¹¹ As a result, and as agreed to by the Company, Dominion shall not exercise any eminent domain authority in order to implement this voluntary program (including the "blanket" CPCN granted herein).¹²

Fourth, as agreed to by Dominion, the Company shall comply with all other applicable state and local laws, including the Department of Environmental Quality's Permit by Rule requirements and local zoning and land-use ordinances and regulations.¹³

Fifth, Dominion shall use the proceeds it receives from selling the renewable energy certificates ("RECs") obtained from the Solar DG Program to offset the costs (including financing costs) of this program. This is consistent with the program as modeled by the Company.¹⁴

Sixth, as agreed to by Dominion, the Company shall comply with the annual reporting requirements recommended by Staff.¹⁵

⁹ See Ex. 21 (Vaswani supplemental direct) at 3.

¹⁰ See, e.g., Chapter 771; Consumer Counsel's Post-hearing Brief at 25; Staff's Post-hearing Brief at 35-36.

¹¹ See, e.g., Company's Post-hearing brief at 15; Ex. 11 (Corsello direct) at 3.

¹² See, e.g., Tr. 188 (Company witness Barker); Tr. 793 (Company witness Corsello).

¹³ See, e.g., Ex. 37 (Bisha rebuttal) at 6.

¹⁴ See, e.g., Tr. 850 (Company witness Stevens); Tr. 642 (Staff witness Abbott).

¹⁵ See, e.g., Dominion's Post-hearing Brief at 23; Ex. 27 (Eichenlaub direct) at 17.

Seventh, and finally, the costs of the Solar DG Program are not being approved or incurred for the purpose of Dominion's participation in an RPS Program. Dominion does not currently need these solar facilities to meet its RPS Goals.¹⁶ Indeed, the Company expressly stated that it is not proposing these Company-owned solar facilities for the purpose of its RPS Program: "[W]e are not doing this project to meet the requirements of [the] RPS."¹⁷ Accordingly, at this time, the costs incurred under the Solar DG Program are not being incurred for the purpose of participation in an RPS Program.

As a result, the incremental cost allocation requirements of § 56-585.2 E of the RPS statute are not applicable. Specifically, § 56-585.2 E of the Code: (1) directs that a "utility participating in such [RPS] program shall have the right to recover all incremental costs incurred for the purpose of such participation in such [RPS] program"; and (2) mandates how "[a]ll incremental costs of the RPS program shall be allocated" and restricts that allocation to certain rate classes (emphasis added). Since the costs of the Solar DG Program are not being incurred "for the purpose" of participation in an RPS Program, any incremental costs thereof are not costs "of the RPS program" – and the RPS incremental cost allocation provisions of § 56-585.2 E of the Code are not applicable.¹⁸

Chapter 771 requires the Commission to "exercise its existing authority to consider for approval ... petitions filed by a utility to construct and operate distributed solar generation facilities...."¹⁹ The Commission's "existing authority" to consider CPCN applications to construct new generation includes §§ 56-46.1 and 56-580 D of the Code, but not the RPS statute (§ 56-585.2); that is, approval under the RPS statute is not needed in order to obtain a CPCN. Indeed, that is why Dominion's Application "seeks approval of a 'blanket' CPCN pursuant to Chapter 771, as well as §§ 56-46.1 and 56-580 D of the Code...", but does not request CPCN approval under § 56-585.2 of the RPS statute.²⁰ In addition, for the specific solar facilities requested herein, Chapter 771 further states that the Commission "shall consider such projects as one small non-combustible renewable power generation facility for purposes of project approval pursuant to §§ 10.1-1197.5, 10.1-1197.8, 56-265.2, 56-580 and 56-585.1 of the Code...."²¹ We have considered these enumerated statutes in this case as directed by Chapter 771. We have not considered, and Chapter 771 does not direct us to consider, § 56-585.2 of the Code in approving a CPCN for the Company-owned solar facilities requested herein.

Further, the Code does not mandate that the costs of any and all renewable generation must be deemed – as a matter of law – as incurred for the purpose of an RPS Program. For example, when Dominion sought approval for participation in an RPS Program, it recognized that subsequent Commission approval was necessary (and affirmed that it would seek such approval) for new generation costs to be part of the RPS Program.²² This is because the RPS statute stands separate and apart from the statutes that the Commission must apply in approving or rejecting a CPCN for generation, renewable or non-renewable. There is nothing in the plain language of the CPCN or RPS statutes that requires the Commission to treat all approved renewable generation

¹⁶ See, e.g., Ex. 24 (Dominion's annual report to the Commission on renewable energy); Tr. 525, 541 (Company witness Muchhala).

¹⁷ Tr. 557 (Company witness Muchhala). See also Tr. 563 ("We're not doing this for the RPS.").

¹⁸ Thus, we need not reach the question as to whether the Solar DG Program, on a net cost basis, includes any "incremental costs" as that term is used in § 56-585.2 E of the Code. See, e.g., Mr. King's Post-hearing Brief at 2-7.

¹⁹ Chapter 771, § 1.

²⁰ Application at 2. See also *id.* at 26:

WHEREFORE, Dominion Virginia Power respectfully requests that the Commission expeditiously ... [g]rant a 'blanket' certificate of public convenience and necessity and approval to construct and operate up to 30 MW of Company-owned Solar DG to be comprised of multiple facilities at selected large commercial and industrial customer locations dispersed throughout the Company's service territory under Va. Code §§ 56-580 D and 56-46. 1, and in community settings (including governmental settings) as set forth in Chapter 771....

²¹ Chapter 771, § 3.

²² Ex. 25 (Dominion's application in Case No. PUE-2009-00082) at 11:

Changes to the Plan will also be made as the Company's IRP develops over time, indicating the need for new facilities to be built. *If new renewable generation sources are constructed, the Company will request the Commission to approve modifying the RPS Plan, as necessary. Likewise, if there are other significant changes in the Company's RPS Plan, the Company will request the Commission to approve modifying the Plan.* Therefore, to meet the RPS Goals at "reasonable cost and in a prudent manner" the Company seeks a means to retain flexibility in implementing its Plan. The Company proposes that it be permitted to make changes in how it will meet the RPS Goals under the Plan and to provide administrative updates regarding material changes to the Commission Staff. In addition, the Company will file revisions to its RPS Plan periodically with the Commission. By this manner, the Company will have the flexibility to pursue the RPS Goals by taking advantage of market, legal, and policy conditions, and the Commission will have the advantage of ongoing review of the Company's RPS Plan. (Emphasis added.)

costs as incurred "for the purpose" of an RPS Program.²³ The General Assembly could have limited the Commission's discretion in this regard, but it did not.²⁴

In addition, § 56-585.2 F of the RPS statute does not modify the express incremental cost allocation requirements of § 56-585.2 E. Section 56-585.2 F addresses how a utility shall meet its RPS Goals with existing renewable resources and RECs.²⁵ These provisions, however, are not part of, and do not change, the exclusive cost allocation requirements of § 56-585.2 E, which are dependent upon the specific purpose of cost incurrence.²⁶ Indeed, the restrictive cost allocation provisions of § 56-585.2 E do not prevent the RPS Goals from being met by existing renewables and RECs as set forth in § 56-585.2 F.

Section 56-585.2 F of the Code also requires that any deficit in such RPS Goals shall only be filled "at *reasonable* cost and in a *prudent* manner to be determined by the Commission at the time of approval of any application made pursuant to subsection B" of § 56-585.2 (emphasis added). The new Company-owned solar facilities would not currently satisfy this statutory standard based on the facts in this case. This is based on the scope, high cost, and negative net present value of these facilities (especially when compared to the other methods by which Dominion is meeting its RPS Goals pursuant to the Commission's prior approval of Dominion's RPS Program),²⁷ and in conjunction with the fact that the Company does not currently need (and did not propose) these facilities for purposes of its RPS program.

Finally, we have ascertained the plain meaning of these statutes in context, which is consistent with the CPCN and RPS statutes as a whole.²⁸ These statutes, and the Commission's implementation thereof, permit Dominion to recover the just and reasonable costs of its renewable generation, regardless of whether such generation was built or obtained for the purpose of the RPS Program. Our implementation of these statutes also enables Dominion to meet fully its RPS Goals and to obtain the bonus rate of return on equity granted by the RPS statute.²⁹ In addition, Dominion may build new renewable generation even if such generation does not meet the separate requirements of the RPS statute; otherwise, even if the CPCN statutes are met, all new renewable generation could be rejected if it does not meet the separate RPS standards.³⁰ There is nothing in the plain language or operation of the CPCN and RPS statutes that would dictate such a result. Moreover, since the RPS statute is separate from the CPCN requirements, it is consistent and harmonious that the General Assembly explicitly tied the special RPS cost allocation provisions only to those incremental (or extra) costs that were incurred "for the purpose" of the RPS Program – and not necessarily to all of the costs for all new renewable generation.³¹

Accordingly, IT IS ORDERED THAT:

- (1) The Company's Solar DG Program is approved, subject to the requirements set forth in this Order.

²³ See, e.g., *Appalachian Power Co. v. State Corp. Comm'n*, 2012 Va. LEXIS 202, at *16 (Nov. 1, 2012) ("The primary objective in statutory construction is to determine and give effect to the intent of the legislature as expressed in the language of the statute. ... When a statute is unambiguous, we must apply the plain meaning of that language.") (citations omitted); *Virginia Elec. and Power Co. v. State Corp. Comm'n*, 2012 Va. LEXIS 198, at *18 (Nov. 1, 2012) ("When construing a statute, our 'primary objective ... is to ascertain and give effect to legislative intent.' ... 'When the language of a statute is unambiguous, we are bound by the plain meaning of that language.'" (citations omitted)).

²⁴ See, e.g., *Virginia Elec. and Power Co. v. State Corp. Comm'n*, 2012 Va. LEXIS 198, at *25 (Nov. 1, 2012) ("Thus, when a statute delegates such authority to the Commission, we presume that any limitation on the Commission's discretionary authority by the General Assembly will be clearly expressed in the language of the statute.").

²⁵ Section 56-585.2 F of the Code provides in part as follows: (1) a "utility participating in such [RPS] program shall apply towards meeting its RPS Goals any renewable energy from existing renewable energy sources owned by the participating utility or purchased as allowed by contract at no additional cost to customers to the extent feasible"; and (2) a "participating utility may sell renewable energy certificates produced at its own generation facilities located in the Commonwealth or, if located outside the Commonwealth, owned by such utility and in operation as of January 1, 2010, or renewable energy certificates acquired as part of a purchase power agreement, to another entity and purchase lower cost renewable energy certificates and the net difference in price between the renewable energy certificates shall be credited to customers."

²⁶ Further, if a utility sells RECs from a renewable facility, such action does not, in and of itself, automatically translate into a finding – either statutorily or factually – that the costs of such facility were incurred "for the purpose" of an RPS Program. See Consumer Counsel's Post-hearing Brief at 16-18; Staff's Post-hearing Brief at 19-20.

²⁷ See, e.g., Ex. 25 (Dominion's application in Case No. PUE-2009-00082).

²⁸ See, e.g., *Virginia Elec. and Power Co. v. State Corp. Comm'n*, 2012 Va. LEXIS 198, at *18-19 (Nov. 1, 2012) ("Moreover, in evaluating a statute in this way, we have said that 'consideration of the entire statute ... to place its terms in context to ascertain their plain meaning does not offend the rule because 'it is our duty to interpret the several parts of a statute as a consistent and harmonious whole so as to effectuate the legislative goal.'" (citations omitted)).

²⁹ See, e.g., Va. Code §§ 56-585.2 C and D.

³⁰ For example, if the Solar DG Program is also required to meet the RPS requirements, Consumer Counsel requests that the Commission reject Dominion's Application and deny the CPCN request for new renewable generation. See, e.g., Consumer Counsel's Post-hearing Brief at 22-23.

³¹ By applying the plain language limitations of Chapter 771 and § 56-585.2 of the Code, and by not inserting additional requirements in the CPCN or RPS statutes, the Commission has avoided ignoring, or adding to, the words of these statutes. See, e.g., *Appalachian Power Co. v. State Corp. Comm'n*, 2012 Va. LEXIS 202, at *17-19 (Nov. 1, 2012) ("Rules of statutory construction prohibit adding language to or deleting language from a statute. ... Adding words to a statute in this manner violates a well-established tenet of statutory construction. ... '[W]e are not free to add [to] language, nor to ignore language, contained in statutes.'" (citations omitted)).

(2) We grant Dominion a "blanket" CPCN to construct and operate Company-owned solar distributed generation facilities located at selected large commercial and industrial customer locations dispersed throughout the Company's service territory and in community (including governmental) settings, subject to the requirements set forth in this Order.

(3) The outstanding motions to strike made during the evidentiary hearing are denied.

(4) We accept MeadWestvaco's issue matrix out-of-time, and we grant Mr. King's request to file his post-hearing brief out-of-time.

(5) This matter is dismissed.

**CASE NO. PUE-2011-00119
FEBRUARY 13, 2012**

APPLICATION OF
SOUTHWESTERN VIRGINIA GAS COMPANY

For an Annual Informational Filing

ORDER DISMISSING CASE

On October 26, 2011, Southwestern Virginia Gas Company ("Southwestern" or the "Company") delivered its Annual Informational Filing ("AIF") for the twelve months ending June 30, 2011, to the State Corporation Commission ("Commission"), together with a Request for Waivers ("Request") of certain information required by the Commission's Rules Governing Utility Rate Applications and Annual Informational Filings, 20 VAC 5-201-10 through -110.

On November 16, 2011, the Commission entered its Order Granting Waiver which, among other things, granted the Request; advised the Commission Staff ("Staff") to review Southwestern's AIF for the test period ending June 30, 2011, and file a report on its findings; and encouraged the Company and the Staff to work together should the Staff require additional or supplemental information from Southwestern in the present AIF.

On January 26, 2012, the Staff filed its report ("Staff Report") on the Company's AIF, indicating that the return on common equity for Southwestern was 10.18%, which is within the Company's authorized range of return. The Staff did not recommend any action relating to the Company's rates at this time.

On February 2, 2012, the Company advised the Commission that it did not wish to make any comments or objections to the Staff Report.

NOW THE COMMISSION, upon consideration of the Staff Report, is of the opinion and finds that nothing further needs to be done in this case.

Accordingly, IT IS ORDERED THAT this case is hereby dismissed from the Commission's docket, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. PUE-2011-00120
JANUARY 20, 2012**

APPLICATION OF
COLUMBIA GAS OF VIRGINIA, INC.

For approval of a LNG Truck Loading Agreement with Columbia Gas Transmission, LLC

ORDER GRANTING APPROVAL

On October 26, 2011, Columbia Gas of Virginia, Inc. ("CGV"), filed an application ("Application") with the State Corporation Commission ("Commission") seeking approval of a LNG¹ Truck Loading Agreement dated September 27, 2011² ("Agreement") with Columbia Gas Transmission, LLC ("TCO"), pursuant to Chapter 4 of Title 56 ("Affiliates Act") of the Code of Virginia ("Code").³ CGV requests such approval without the necessity of a public hearing and also seeks further relief as may be necessary and appropriate.

CGV is a Virginia public service corporation and natural gas local distribution company, which serves approximately 240,000 residential, commercial, and industrial customers in Virginia. CGV is a wholly owned subsidiary of the Columbia Energy Group, which is a wholly owned subsidiary of NiSource, Inc. ("NiSource")

¹ The term "LNG" refers to Liquefied Natural Gas.

² The Agreement was executed on September 15, 2011, and September 27, 2011, by CGV and TCO, respectively.

³ Va. Code § 56-76 *et seq.*

TCO is an interstate natural gas pipeline company that transports approximately 3 billion cubic feet ("bcf") of natural gas per day through a nearly 12,000 mile pipeline network and operates thirty-seven (37) storage fields in four (4) states with more than 650 bcf in total capacity. TCO is a "natural gas company" as defined in Section 15 U.S.C. § 717 (a) of the Natural Gas Act and, as such, is regulated by the Federal Energy Regulatory Commission. Like CGV, TCO is a wholly owned subsidiary of NiSource.

CGV and TCO are considered affiliated interests under § 56-76 of the Code. In a 1996 Order ("1996 Order"),⁴ the Commission approved CGV's Policy for Executing Revised or New Transportation Agreements with Affiliates, which permitted CGV to enter into supply-related arrangements with TCO prior to Commission approval with the understanding that the specifics of the arrangements would be provided to the Commission after the agreements were executed. In a 2004 Order,⁵ the Commission modified its 1996 Order to require CGV to provide notice to the Commission's Division of Public Utility Accounting⁶ as soon as such a gas-supply agreement became effective and to file for Affiliates Act approval within forty-five (45) days of the agreement's execution. CGV complied with both of these provisions in the filing of this Application.

The proposed Agreement specifies the circumstances, timing, structure, conditions, and reimbursement provisions under which CGV may physically withdraw LNG from TCO's LNG storage facility located in Chesapeake, Virginia ("Chesapeake Facility"). CGV is authorized to obtain the LNG storage service from TCO pursuant to the 1996 Order, as supplemented by the Commission's Order Granting Approval in Case No. PUE-2008-00115⁷. TCO recently determined that, for operational purposes, it needed to memorialize the existing LNG withdrawal arrangement with CGV into a formal written Agreement. CGV represents that it is dependent on its Lynchburg, Virginia, LNG facility to meet its firm service obligations on extreme cold design days. Since the Lynchburg facility has no on-site ability to liquefy natural gas, the only way CGV can replenish its LNG inventory at that site is by trucking in LNG from other sources. The Chesapeake Facility is such a potential source. CGV represents that the proposed Agreement provides efficient and economical access to a fairly local in-state supply of LNG. More importantly, the proposed Agreement permits CGV to transport its own LNG supply purchased pursuant to its own best-cost purchasing strategy. CGV will reimburse TCO for labor costs and overhead associated with the LNG Loading Service. If TCO incurs costs associated with training its employees to perform the LNG Loading Service, CGV will reimburse TCO for its proportionate share of such costs. If TCO incurs costs from new or revised legislation, regulations, or operating rules affecting the Chesapeake Facility, then a portion of such costs will be passed to CGV. The initial term of the proposed Agreement extends through March 31, 2012, and then continues on a month-by-month basis thereafter.

NOW THE COMMISSION, upon consideration of this matter and having been advised by its Staff, is of the opinion and finds that the proposed Agreement is in the public interest and should be approved, subject to certain requirements necessary to protect the public interest. First, we find that since the actual level of transactions under the proposed Agreement is not as yet well-defined, we will limit the duration of our initial approval of the proposed Agreement to five years. Second, we find that the approval in this case should have no ratemaking implications. Specifically, the approval granted in this case will not guarantee the recovery of any costs directly or indirectly related to the proposed Agreement. Third, we direct CGV to develop and maintain records showing that the provision of service by TCO to CGV under the proposed Agreement is cost beneficial to Virginia customers. Specifically, for any service provided pursuant to the proposed Agreement, where a market may exist for such service, CGV should bear the affirmative burden of showing, in any annual informational filing or rate proceeding, that it paid the lower of cost or market for such service.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to § 56-77 of the Code, CGV is granted approval of the proposed Agreement as described and set forth herein and subject to the conditions discussed herein.
- (2) The approval granted herein shall be limited to five years from the date of the entry of the Order in this case. Should CGV wish to continue the Agreement beyond that date, further Commission approval shall be required.
- (3) Commission approval shall be required for any change in the terms and conditions of the Agreement, including successors or assigns.
- (4) The approval granted in this case shall have no ratemaking implications. Specifically, the approval granted herein shall not guarantee the recovery of any costs directly or indirectly related to the Agreement.
- (5) CGV shall develop and maintain records showing that the provision of service by TCO to CGV under the Agreement is cost beneficial to Virginia customers. Specifically, for any service provided pursuant to the Agreement, where a market may exist for such service, CGV shall bear the affirmative burden of showing, in any annual informational filing or rate proceeding, that it paid the lower of cost or market for such service.
- (6) The approval granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code hereafter.
- (7) The Commission reserves the right to examine the books and records of any affiliate in connection with the authority granted herein, whether or not such affiliate is regulated by the Commission.

⁴ *Application of Commonwealth Gas Services, Inc., For approval of agreements with affiliates*, Case No. PUA-1995-00025, 1996 S.C.C. Ann. Rept. 118, Order Granting Approval (July 18, 1996).

⁵ *Application of Columbia Gas of Virginia, Inc., For approval of affirm transportation service agreement pursuant to Chapter 4 of Title 56 of the Code of Virginia*, Case No. PUE-2004-00013, 2004 S.C.C. Ann. Rept. 432, Order Granting Approval (Apr. 13, 2004).

⁶ The Division of Public Utility Accounting is now known as the Division of Utility Accounting and Finance.

⁷ *Application of Columbia Gas of Virginia, Inc., For approval of various agreements, arrangements and policies between Columbia Gas of Virginia, Inc., and Columbia Gas Transmission, LLC, under Chapter 4 of Title 56 of the Code of Virginia*, Case No. PUE-2008-00115, 2009 S.C.C. Ann. Rept. 354, Order Granting Approval (Feb. 27, 2009).

(8) CGV shall include all transactions associated with the approved Agreement in its Annual Report of Affiliate Transactions ("ARAT") submitted to the Director of the Commission's Division of Utility Accounting and Finance ("UAF Director") on or before May 1 of each year, which deadline may be extended administratively by the UAF Director.

(9) In the event that CGV's annual informational filings or general or expedited rate case filings are not based on a calendar year, then CGV shall include the affiliate information contained in its ARAT in such filings.

(10) There appearing nothing further to be done, this case is dismissed from the Commission's docket of active cases, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. PUE-2011-00121
MARCH 21, 2012**

JOINT PETITION OF
AQUA VIRGINIA, INC.
and
SYDNOR HYDRODYNAMICS, INC.

For approval of a change in control and the transfer of assets pursuant to §§ 56-88.1 and 56-89 of the Utility Transfers Act and for the amendment of a certificate of public convenience and necessity pursuant to the Utility Facilities Act

ORDER GRANTING APPROVAL

On November 1, 2011, Aqua Virginia, Inc. ("Aqua Virginia"), and Sydnor Hydrodynamics, Inc. ("Sydnor") (collectively, "Joint Petitioners"), filed a Joint Petition with the State Corporation Commission ("Commission"). The Joint Petitioners sought Commission approval of a change in control and the transfer of assets, if necessary, pursuant to §§ 56-88.1 and 56-89 of the Utility Transfers Act¹ and for the amendment of a certificate of public convenience and necessity ("CPCN") pursuant to § 56-265.3 D of the Utility Facilities Act.²

The Joint Petitioners plan to merge Sydnor³ and Aqua Virginia into one corporation, with Aqua Virginia becoming the sole surviving entity. The Joint Petitioners requested an amendment of Aqua Virginia's CPCN to permit Aqua Virginia to serve the territories currently served by the Sydnor water systems. After the merger, Aqua Virginia plans to provide service to all of Sydnor's customers.⁴ The Joint Petitioners requested all necessary authority or approval from the Commission to consummate this merger, including the authority to transfer the assets of Sydnor to Aqua Virginia, if such authority is necessary.

On December 21, 2011, the Commission issued an Order for Notice and Comment that docketed the matter as Case No. PUE-2011-00121 and established a procedural schedule to review the Joint Petition. The Joint Petitioners were required to provide public notice by February 6, 2012, and proof of notice by February 23, 2012; the public was invited to provide written comments and/or request a hearing by February 24, 2012; the Commission Staff ("Staff") was instructed to review the Joint Petition and file a Staff Report summarizing its investigation by March 9, 2012; and the Joint Petitioners were allowed to respond to the Staff's Report and any public comments or requests for hearing by March 23, 2012. Thirteen comments were filed; however, three of the comments were directed at issues in another Aqua Virginia proceeding. Six of the comments were directed at Sydnor's application to increase rates in Case No. PUE-2011-00099,⁵ and four of the comments dealt with service issues.

On March 9, 2012, the Staff Report was filed in which the Staff recommended that the Commission approve the proposed merger of Sydnor into Aqua Virginia and the Joint Petitioners' request to amend Aqua Virginia's CPCN to include the service territories currently served by the Sydnor systems. The Staff further recommended that the Commission's approval should be subject to the following requirements:

- 1) Within ninety (90) days of completing the proposed merger, subject to administrative extension by the Director of Utility Accounting and Finance, the Joint Petitioners should file a Report of Action ("Report") with the Commission. Included in the Report should be the date of the transfer, the actual sales price, and the actual accounting entries on Aqua Virginia's books to reflect the transfer. Such accounting entries should be in accordance with the USOA.
- 2) Sydnor should be directed to provide all records related to the transferred assets to Aqua Virginia at closing, which should be directed to maintain them henceforth in accordance with the USOA.

¹ Va. Code § 56-88 *et seq.*

² Va. Code § 56-265.1 *et seq.*

³ Sydnor is a wholly owned subsidiary of Aqua Virginia.

⁴ Joint Petition at 3.

⁵ On September 1, 2011, Aqua Virginia and Sydnor completed the filing of a rate application, wherein Aqua Virginia will consolidate rates and tariffs for all the water and wastewater systems that will be owned by Aqua Virginia after the merger approved herein. The Commission's Order for Notice and Hearing, issued on December 21, 2011, allowed, but did not require, the proposed rates to go into effect on an interim basis for service rendered on and after March 30, 2012. We do not address any of the issues before the Commission in PUE-2011-00099 at this time. *Application of Aqua Virginia, Inc. and Sydnor Hydrodynamics, Inc., For an increase in water and sewer rates*, Case No. PUE-2011-00099, Doc. Con. Cen. No. 453965, Application (Nov. 1, 2011).

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

- 3) The Commission's Utility Transfers Act approval of the proposed merger should have no ratemaking implications. In particular, the Commission's Utility Transfers Act approval should not guarantee recovery of any costs directly or indirectly related to the merger and transfer.
- 4) The Commission should direct Aqua Virginia that:
 - a) The quality of service in Sydnor's service territory should not deteriorate due to a lack of maintenance or capital investment;
 - b) The quality of service in Sydnor's territory should not deteriorate due to a reduction in the number of employees providing services; and
 - c) Aqua Virginia should continue to maintain a high degree of cooperation with the Commission Staff and should take all actions necessary to ensure Aqua Virginia's timely response to Staff inquiries with regard to its provision of service in Virginia.⁶

On March 13, 2012, the Joint Petitioners filed their response to the Staff Report and indicated that they have no objections to the recommendations made by the Staff.

NOW THE COMMISSION, having considered the Joint Petition, the Staff's Report, the Joint Petitioners' comments, and applicable law is of the opinion and finds that the proposed transfer of assets and control will not impair or jeopardize adequate service to the public at just and reasonable rates and, therefore, should be approved.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the Utility Transfers Act, the Joint Petitioners are hereby authorized to transfer the utility assets of Sydnor to Aqua Virginia and transfer control of Sydnor to Aqua Virginia, consistent with the findings above and subject to the following recommendations of Staff:
 - (a) Within ninety (90) days of completing the proposed transfer, subject to administrative extension by the Director of Utility Accounting and Finance, the Joint Petitioners shall file a Report of Action ("Report") with the Commission. Included in the Report shall be the date of the transfer, the actual sales price, and the actual accounting entries on Aqua Virginia's books to reflect the transfer. Such accounting entries shall be in accordance with the Uniform System of Accounts ("USOA").
 - (b) Sydnor shall be directed to provide all records related to the transferred assets to Aqua Virginia at closing, which shall be directed to maintain them henceforth in accordance with the USOA.
 - (c) The Commission's Utility Transfers Act approval of the proposed merger shall have no ratemaking implications. In particular, the Commission's Utility Transfers Act approval shall not guarantee recovery of any costs directly or indirectly related to the merger and transfer.
 - (d) Aqua Virginia shall ensure that:
 - (i) The quality of service in Sydnor's service territory shall not deteriorate due to a lack of maintenance or capital investment;
 - (ii) The quality of service in Sydnor's territory shall not deteriorate due to a reduction in the number of employees providing services; and
 - (iii) A high degree of cooperation with the Commission Staff is continued and that all actions necessary to ensure Aqua Virginia's timely response to Staff inquiries with regard to its provision of service in Virginia is continued.
- (2) Aqua Virginia is hereby authorized to amend its certificate of public convenience and necessity pursuant to the Utility Facilities Act to include the Sydnor service territory as described in the Joint Petition.

(3) There being nothing further to be done herein, this case is dismissed from the Commission's docket of active proceedings and the papers filed herein shall be made a part of the Commission's file for ended causes.

⁶ Staff Report at 7.

**CASE NO. PUE-2011-00122
JANUARY 23, 2012**

APPLICATION OF
COLUMBIA GAS OF VIRGINIA, INC.

For partial waiver of PGA procedures in accordance with tariff

ORDER ON APPLICATION

On November 15, 2011, Columbia Gas of Virginia, Inc. ("CGV" or "Company"), filed with the State Corporation Commission ("Commission") an Application for Partial Waiver of PGA Procedures ("Application") wherein it requested partial waiver of the provisions of Section 17 of the General Terms and Conditions of its Commission-approved tariff governing the flow-through of supplier refunds from its natural gas suppliers to customers via its purchased gas adjustment/annual cost adjustment ("PGA/ACA") mechanism and requested authority to apply a portion of a supplier refund to energy assistance programs available to customers during the upcoming heating season. On December 12, 2011, CGV filed a Supplement to the Application ("Supplement"), and on January 10, 2012, CGV filed a Supplement and Amendment to its Application ("Amended Application").

The Company states that the supplier refund would result from a settlement in a Columbia Gulf Transmission Company ("Columbia Gulf") rate case that is currently pending before the Federal Energy Regulatory Commission. Under the terms of the settlement, CGV anticipates receiving a refund of \$406,918, of which \$386,259 would be attributable to customers qualifying for refunds through the PGA/ACA mechanism.¹

The Company states that the funds would be contributed to its HeatShare program, which is an energy assistance program available to assist customers in service emergency situations and is funded by a combination of direct contributions from CGV and amounts contributed voluntarily by CGV customers.² To qualify for HeatShare, a customer first must have either exhausted Low Income Home Energy Assistance Program ("LIHEAP") funds and still be in an emergency situation or be income-ineligible for LIHEAP.³ In its Application, the Company asserted that it anticipated that CGV's LIHEAP funding allocation would be reduced by approximately 20% to 60% from the funds available in the 2010-2011 heating season;⁴ however, in its Amended Application, the Company informed the Commission that the Virginia Department of Social Services allocated a greater proportion of LIHEAP funding to CGV's customers for the 2011-2012 heating season than it had in the 2010-2011 heating season.⁵ Consequently, in its Amended Application, the Company decreased to \$190,129 the amount of the refund requested to supplement energy assistance.⁶

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the Application should be denied. Section 17.8 (a) of CGV's General Terms and Conditions provides that "[w]hen the Company receives a refund from its suppliers which results from a reduction in supplier prices applicable to prior periods and was previously reflected in the PGA, the Company shall pass on such refunds to its Customers"⁷

The funds being refunded to CGV by Columbia Gulf as a result of the settlement were paid to CGV by its customers and should be refunded to its customers according to the Company's General Terms and Conditions. If, however, CGV would prefer to make one lump sum refund to its customers, rather than disbursing the refund over the period of time prescribed by CGV's General Terms and Conditions, we will waive CGV's General Terms and Conditions for that specific purpose.

Accordingly, IT IS ORDERED THAT:

- (1) The Company's Application is denied.
- (2) The Company shall pass on refunds received from Columbia Gulf's settlement to CGV's customers, according to its General Terms and Conditions on file with the Commission.
- (3) The Company may issue the refunds to customers in one lump sum, if it chooses to do so.
- (4) This case is dismissed.

¹ Application at 1. In its Supplement, the Company states that current projections indicate that the refund could increase by as much as 7% from the \$406,918 figure referenced in the Application . Supplement at 2.

² Application at 6.

³ *Id.* at 1, 6-7.

⁴ *Id.* at 4.

⁵ Amended Application at 1-2.

⁶ *Id.* at 4.

⁷ CGV's tariff is on file with the Commission. An unofficial copy also may be viewed at: http://www.columbiagasva.com/Libraries/PDFs/CGV_Tariff_01_01_2011_Revised_12_30_11.sflb.ashx.

**CASE NO. PUE-2011-00125
FEBRUARY 27, 2012**

APPLICATION OF
APPALACHIAN POWER COMPANY

For authority to enter into affiliate transactions under Chapter 4 of Title 56 of the Code of Virginia

ORDER

On November 30, 2011, Appalachian Power Company ("APCo") filed an application ("Application") with the State Corporation Commission ("Commission") requesting authority to enter into affiliate transactions under Chapter 4 of Title 56 ("Affiliates Act") of the Code of Virginia ("Code").¹ Specifically, APCo seeks Commission approval of two (2) affiliate service agreements between the following companies: (1) APCo and AEP Appalachian Transmission Company, Inc. ("Virginia Transco"); and (2) APCo and AEP West Virginia Transmission Company, Inc. ("West Virginia Transco"). Additional Commission approval under the Affiliates Act is requested to amend the AEP Utility Money Pool Agreement ("Money Pool Agreement") to allow Virginia Transco, West Virginia Transco, and other APCo affiliates to participate in the AEP Utility Money Pool ("Money Pool").² APCo also filed testimonies in support of the approvals requested in its Application.³

According to the Application, Virginia Transco, West Virginia Transco, and each of the Money Pool members is an "affiliated interest" of APCo within the meaning of § 56-76 of the Code. APCo is a public service corporation that provides retail electric service in Virginia and West Virginia and is subject to regulation as to rates and service by the Commission. All of APCo's common stock is owned by American Electric Power Company, Inc. ("AEP"). The Application states further that Virginia Transco is a Virginia public service corporation that proposes to plan, construct, own, operate, manage and control facilities within Virginia and Tennessee for the transmission of electricity at wholesale to its customers, including APCo. All of Virginia Transco's common stock is owned by AEP Transmission Company, LLC, a wholly-owned subsidiary of AEP Transmission Holding Company, LLC, which in turn is a wholly-owned subsidiary of AEP.⁴

According to the Application, the creation of Virginia Transco will result in certain new transmission facilities within Virginia being owned by Virginia Transco instead of by APCo.⁵ Virginia Transco's assets will be planned, constructed and managed in the same way that APCo's transmission assets are planned, constructed and managed as part of a unified, integrated transmission system.⁶ The services required by Virginia Transco will be provided primarily by AEP's centralized service company, American Electric Power Service Corporation, and by APCo.⁷ The services provided by APCo to Virginia Transco and West Virginia Transco would be provided at cost.⁸

On December 6, 2011, the Commission Staff ("Staff") filed a Motion to Dismiss alleging that the Application prematurely seeks approval to enable operations by Virginia Transco that are currently prohibited under the Utility Facilities Act,⁹ and that the Application is incomplete.¹⁰ On December 22, 2011, APCo filed a Response contesting Staff's Motion to Dismiss and asserting that the Application is complete. On January 9, 2012, Staff filed a Reply to APCo's Response.

On January 27, 2012, the Commission issued an Order Extending Time for Review, which docketed this matter as Case No. PUE-2011-00125 and which, pursuant to § 56-77 of the Code, extended, through February 28, 2012, the period of time for the review of the issues presented by the Application. The Order Extending Time for Review did not address, and was issued pending a Commission ruling on, the issues raised by Staff's Motion to Dismiss.

On February 1, 2012, the Commission issued an Order Scheduling Oral Argument, which established a hearing for the purpose of hearing argument from the participants on the legal issues raised in this proceeding and, if requested by the Commission, hearing witness testimony on the Application. On February 8, 2012, the hearing was conducted. After hearing argument and testimony, the Commission instructed APCo and Staff of the opportunity to make any additional filings in this matter on or before February 21, 2012.

¹ Va. Code § 56-76 *et seq.*

² Pursuant to Va. Code § 56-84, approximately thirty (30) affiliates of APCo also joined in the Application.

³ APCo indicates that the approvals sought in the Application were the subject of a prior application that was filed with the Commission then subsequently withdrawn by APCo. Application at 3; *Application of Appalachian Power Company and AEP Appalachian Transmission Company, Inc., For authority to enter into affiliate transactions under Chapter 4 of Title 56 of the Code of Virginia*, Case No. PUE-2010-00038, 2010 S.C.C. Ann. Rep. 499, Order Terminating Proceeding (July 1, 2010).

⁴ Application at 1-3.

⁵ *Id.* at 6.

⁶ *Id.* at 4.

⁷ *Id.* at 6.

⁸ *Id.* at 12.

⁹ Va. Code § 56-265.1 *et seq.*

¹⁰ On December 14, 2011, the Staff filed its memorandum indicating that the Application is incomplete.

On February 21, 2012, APCo and Staff each filed a legal memorandum. Also on February 21, 2012, Staff filed a Staff Report that provides its analysis of the Application and the three proposed agreements. Based on its analysis, Staff recommends approval of the proposed modifications to the Money Pool Agreement, subject to certain requirements.¹¹ Although Staff does not support the proposed service agreements, it indicates that, in the alternative, Staff would recommend approval of limited service agreements, subject to certain requirements to ensure that the service agreements are in the public interest.¹²

NOW THE COMMISSION, upon consideration of this matter, approves in part and denies in part the Application – subject to the requirements set forth herein.

APCo states that the "[a]uthority to enter into these agreements is necessary for Virginia Transco and APCo to work together to evaluate transmission projects and prepare certificate applications to this Commission as necessary for new transmission projects in Virginia, and eventually to construct and operate transmission facilities that the Commission may authorize in the future."¹³ In addition, APCo asserts that: (1) "the question regarding Virginia Transco's authorization to build and operate ordinary extensions of APCo's transmission facilities should be addressed in a future proceeding seeking a certificate under Va. Code § 56-265.2 ... (a 'facilities certificate');" (2) "Virginia Transco will apply for and secure a facilities certificate from the Commission prior to constructing or operating any public utility facilities in Virginia;" and (3) "Virginia Transco will not own, build, or operate any ordinary extensions of APCo's facilities until authorized by the Commission."¹⁴

We do not find that it is in the public interest at this time for Virginia Transco to supplant APCo in the construction or ownership of any transmission facilities, or the provision of any transmission service, in Virginia – nor do we address the legal issues that could arise under any such proposal.¹⁵ Rather, we find that it is in the public interest, and we hereby approve, limited affiliate services from APCo to Virginia Transco and West Virginia Transco for purposes of studying and evaluating potential transmission projects and for preparation of applications for future submission to the Commission.¹⁶

Approval herein is also subject to the following additional requirements, which we likewise find are necessary to be in the public interest:

- (1) The duration of the Commission's approval herein is limited to five (5) years from the date of this Order.
- (2) Should APCo wish to provide additional services to Virginia Transco or West Virginia Transco, other than those services approved above, subsequent Commission approval is required.
- (3) Separate approval is required for any changes in terms and conditions in the limited service agreements as approved herein, including changes in allocation methodologies and successors and assigns.
- (4) Approval herein has no ratemaking implications.
- (5) APCo is required to file signed and executed copies of the service agreements as approved and limited herein within thirty (30) days of this Order.
- (6) All transactions under the approved service agreements shall be included in APCo's Annual Report of Affiliate Transactions ("ARAT"). In addition to information currently provided in the ARAT, all transactions shall be reported in the ARAT as follows:
 - (a) By Case Number in which the transactions were approved;
 - (b) Description of services provided to Virginia Transco and West Virginia Transco;
 - (c) FERC account;
 - (d) Month; and
 - (e) Dollar amount paid to APCo for each type of service.

Finally, the proposed Money Pool Agreement is approved subject to the following requirements, which we find are necessary to be in the public interest:

- (a) Only those AEP Transcos that are currently authorized to provide transmission operations are eligible to join the Money Pool as a fully participating member.
- (b) At this time, Virginia Transco and West Virginia Transco may participate in the Money Pool Agreement to the extent necessary to implement the limited service agreement approval granted herein.

¹¹ See February 21, 2012 Staff Report at 25.

¹² *Id.* at 26.

¹³ APCo's February 21, 2012 Post-Hearing Memorandum at 2.

¹⁴ *Id.* at 2-3.

¹⁵ For example, additional authority would be required under the Code from the Commission for Virginia Transco to construct, own, or operate transmission facilities in the Commonwealth or for APCo to transfer any such facilities to Virginia Transco.

¹⁶ Based on our findings herein, the Motion to Dismiss is moot.

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- (c) Subsequent changes to expand the participating members or any terms and conditions of the Money Pool Agreement require separate Commission consideration and approval.
- (d) Applicants shall file a signed and executed copy of the amended Money Pool Agreement within sixty (60) days of its complete execution.

Accordingly, IT IS SO ORDERED and this case is dismissed.

**CASE NO. PUE-2011-00125
MARCH 16, 2012**

APPLICATION OF
APPALACHIAN POWER COMPANY

For authority to enter into affiliate transactions under Chapter 4 of Title 56 of the Code of Virginia

ORDER GRANTING RECONSIDERATION

On February 27, 2012, the State Corporation Commission ("Commission") issued an Order in this proceeding. On March 12, 2012, Appalachian Power Company ("APCo") filed a Petition for Reconsideration of the Order ("Petition") requesting that the Commission:

- (a) [a]mend the Order to approve the proposed service agreement between APCo and West Virginia Transco as filed with the Commission and with no limitations; and
- (b) [a]mend the Order to permit the remaining [American Electric Power Company ("AEP")] Transcos to join the [AEP utility] Money Pool as full participating members without further action by the Commission as each company is granted approval to provide transmission operations by the applicable state regulatory commission.¹

NOW THE COMMISSION, upon consideration of these matters and for the purpose of continuing the Commission's jurisdiction over these matters, will grant reconsideration to consider the Petition.

Accordingly, IT IS ORDERED THAT:

- (1) Reconsideration is granted for the purpose of continuing the Commission's jurisdiction over these matters to consider the Petition.
- (2) This case is continued.

¹ Petition at 3-4.

**CASE NO. PUE-2011-00125
MAY 3, 2012**

APPLICATION OF
APPALACHIAN POWER COMPANY

For authority to enter into affiliate transactions under Chapter 4 of Title 56 of the Code of Virginia

ORDER ON RECONSIDERATION

On November 30, 2011, Appalachian Power Company ("APCo") filed an application ("Application") with the State Corporation Commission ("Commission") requesting authority to enter into affiliate transactions under Chapter 4 of Title 56 ("Affiliates Act") of the Code of Virginia ("Code").¹ Specifically, APCo sought Commission approval of two affiliate service agreements between the following companies: (1) APCo and AEP Appalachian Transmission Company, Inc. ("Virginia Transco"); and (2) APCo and AEP West Virginia Transmission Company, Inc. ("West Virginia Transco"). Additional Commission approval under the Affiliates Act was requested to amend the AEP Utility Money Pool Agreement ("Money Pool Agreement") to allow Virginia Transco, West Virginia Transco, and five other transmission companies affiliated with APCo (collectively, "AEP Transcos") to participate in the AEP Utility Money Pool ("Money Pool").²

On February 27, 2012, the Commission issued its Final Order ("Order") in this proceeding. The Order approved in part, and denied in part, the Application and found that, for both the proposed service agreements and the proposed amendment to the Money Pool Agreement, certain requirements were necessary for the approvals granted by the Order to be in the public interest.

¹ Va. Code § 56-76 *et seq.*

² The five affiliated companies that, along with Virginia Transco and West Virginia Transco, comprise the AEP Transcos are: AEP Indiana Michigan Transmission Company, Inc.; AEP Kentucky Transmission Company, Inc.; AEP Ohio Transmission Company, Inc.; AEP Southwestern Transmission Company, Inc.; and AEP Oklahoma Transmission Company, Inc. *See* Application at 16, Exhibit A.

Upon consideration of the proposed service agreements, the Order found, among other things, that it was in the public interest to approve only limited affiliate services from APCo to Virginia Transco and West Virginia Transco for purposes of evaluating potential transmission projects and for preparation of applications for future submission to the Commission.³ These limited service agreements were approved subject to certain requirements, including a requirement that "[s]hould APCo wish to provide additional services to Virginia Transco or West Virginia Transco, other than those services approved above, subsequent Commission approval is required."⁴

The Order approved the Money Pool Agreement subject to requirements that included the following: "[o]nly those AEP Transcos that are currently authorized to provide transmission operations are eligible to join the Money Pool as a fully participating member," and "[s]ubsequent changes to expand the participating members . . . require separate Commission consideration and approval."⁵

On March 12, 2012, APCo filed a petition for reconsideration of the Order ("Petition") requesting two modifications to the Commission's Order. First, APCo requests that the Commission "amend the Order to approve the proposed service agreement between APCo and West Virginia Transco as filed with the Commission and with no limitations."⁶ In support of this request, APCo asserted, among other things, that "West Virginia Transco will operate exclusively in West Virginia" and that activities by West Virginia Transco will "be regulated by the Public Service Commission of West Virginia" ("West Virginia PSC").⁷ Second, APCo requests that the Commission "amend the Order to permit the remaining . . . AEP . . . Transcos to join the . . . Money Pool as full participating members without further action by the Commission as each company is granted approval to provide transmission operations by the applicable state regulatory commission."⁸

On March 16, 2012, the Commission granted APCo's Petition for the purpose of continuing the Commission's jurisdiction over the matters raised by the Petition.

NOW THE COMMISSION, upon consideration of APCo's Petition, is of the opinion and finds that the Petition is granted in part, and denied in part, subject to certain requirements we find are necessary.

West Virginia Transco Service Agreement

We grant, in part, APCo's request for reconsideration to amend the Order's scope of approval of the proposed service agreement between APCo and West Virginia Transco, subject to the following requirements. In this case, APCo applied for Commission approval for its proposed activities with affiliated entities operating, or that plan to operate, in several other state jurisdictions, including West Virginia.⁹ Regarding the proposed West Virginia service agreement, APCo has asked us to approve an agreement for operations in West Virginia that are not currently authorized in that state.¹⁰ At this time, we do not find that it is in the public interest to grant the broad approval requested by APCo.

We will instead continue this request generally. If the West Virginia PSC authorizes the proposed service agreement between APCo and West Virginia Transco, APCo may propose to supplement or amend its agreement to be consistent with the authority granted by our sister state. In such event, APCo will retain the burden of proof on whether all aspects of the proposed service agreement are in the public interest with regard to matters properly under Virginia law and this Commission's jurisdiction.

Accordingly, service agreement requirement (2) of the Order is modified herein to state as follows:

- (2) Subject to the findings and requirements of the Order, as modified by the Order on Reconsideration, should APCo wish to provide additional services to Virginia Transco or West Virginia Transco, other than those services approved above, subsequent Commission consideration is required.

Additionally, we find it is unnecessary to determine, at this time, whether to extend the five-year duration of our approval beyond the limited service agreements approved by the Order.¹¹ If the West Virginia PSC approves the proposed service agreement, and we conclude to alter the terms of our approval of such agreement, we will at that time consider the agreement's duration, among other things.

All other requirements of the Order regarding the proposed service agreements remain in effect, and APCo's request to amend the Order's findings and requirements regarding the proposed service agreement between APCo and West Virginia Transco is otherwise denied.

³ Order at 5. The Commission did not find that it was in the public interest at this time for Virginia Transco to supplant APCo in the construction or ownership of any transmission facilities, or the provision of any transmission service in Virginia. *Id.* at 4.

⁴ *Id.* at 5.

⁵ *Id.* at 6.

⁶ Petition at 3. In its Petition, APCo acknowledges and accepts the limitations on the service agreement between APCo and Virginia Transco. *Id.* at 2.

⁷ *Id.* at 2.

⁸ *Id.* at 3-4.

⁹ In other regulatory matters such as certification and siting of facilities outside of Virginia, those issues are normally within the exclusive jurisdiction of the states in which such facilities are located.

¹⁰ We note that during this proceeding, APCo has made several filings indicating that approvals related to the operations of West Virginia Transco are currently pending before the West Virginia PSC.

¹¹ The five-year duration is included in service agreement requirement (1) of the Order. Order at 5.

Money Pool Agreement

We grant, in part, APCo's request to amend the Order's approval for modifications of the Money Pool Agreement, subject to the following requirements. The AEP Transcos that are not currently authorized to provide transmission operations may enter into the Money Pool Agreement if any such company is granted approval by an applicable state regulatory commission to conduct transmission operations.¹²

Accordingly, Money Pool requirements (a) and (b) of the Order are modified herein to state as follows:

- (a) Only those AEP Transcos that are currently authorized to provide transmission operations, or that, subsequent to the Order, are granted approval by an applicable state regulatory commission to provide transmission operations, are eligible to join the Money Pool as a fully participating member.
- (b) At this time, Virginia Transco and West Virginia Transco may participate in the Money Pool Agreement to the extent necessary to implement the limited service agreement approval granted by the Order, as modified by the Order on Reconsideration.

However, the Commission reserves the right to revisit the above modifications to our Order, if, and to the extent that, projects by the AEP Transcos which are subsequently authorized by applicable state commissions to provide transmission operations require funding through the Money Pool.

All other requirements of the Order regarding the proposed modifications to the Money Pool Agreement remain in effect, and APCo's request to amend the Order's findings and requirements regarding the Money Pool Agreement between APCo and West Virginia Transco is otherwise denied.

Accordingly, IT IS ORDERED THAT:

- (1) APCo's petition for reconsideration is granted in part and denied in part, subject to the findings and requirements herein.
- (2) APCo's petition for reconsideration is hereby continued.

¹² Like the Money Pool Agreement modifications approved by the Order, the Money Pool Agreement modifications granted herein pertain only to the seven AEP Transcos specifically identified by the Application.

**CASE NO. PUE-2011-00127
MARCH 2, 2012**

APPLICATION OF
VIRGINIA-AMERICAN WATER COMPANY

For a general increase in rates

ORDER FOR NOTICE AND HEARING

On February 6, 2012, Virginia-American Water Company ("Virginia-American" or "Applicant") filed an application with the State Corporation Commission ("Commission") for an increase in water rates ("Application").¹ The Application was filed pursuant to Article 2 of Chapter 10 of Title 56 of the Code of Virginia ("Code")² and the Commission's Rules Governing Utility Rate Applications and Annual Informational Filings ("Rate Case Rules").³ Exhibits and the prefiled testimony of William R. Walsh, Rob Nevirauskas, Jerry L. Ware, Dr. James H. Vander Weide, Patrick L. Baryenbruch, Paul R. Herbert, Michael D. Youshock, and Gary Naumick were included with the Application.

The Applicant requests authority to increase rates for water service to produce an increase in water revenues of \$5.723 million.⁴ The proposed rate increase would constitute a 15.93% increase in the Applicant's water revenues and is based on an 11.3% return on common equity.⁵ The increase in metered water sales revenue is divided between Virginia-American's Alexandria District - \$1,660,831 (a 12.2% increase); Hopewell District - \$1,650,119 (a 12.50% increase); Prince William District - \$1,841,276 (a 24.81% increase); and Eastern District - \$570,294 (a 33.82% increase).⁶ According to the

¹ The Application was accepted as "complete" on February 13, 2012. On February 6, 2012, Virginia-American also filed a Motion to Accept Filing ("Motion") pursuant to the Commission's Rate Case Rules, requesting a one-week extension until February 6, 2012, for the filing of its Application.

² Va. Code § 56-232 *et seq.*

³ 20 VAC 5-201-10 *et seq.*

⁴ Application at 2.

⁵ *Id.*

⁶ *Id.* at 2.

Application, this is the first Virginia-American rate case that includes the Eastern District service territory, which was acquired by Virginia-American through a merger with United Water Virginia.⁷

The Application states that operating expenses have continued to increase and the Applicant has made significant system investments in the two years since the last rate case.⁸ In addition, the Application states that Virginia-American is not earning its allowed return on equity, which will continue as the Applicant's capital investment projects continue absent a rate increase.⁹ The rate schedules furnished by the Applicant in Filing Schedule 41 of the Application reflect an effective date of March 7, 2012, but the Application anticipates that the Commission will suspend the rates for 150 days from the date of filing.¹⁰

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the Applicant's Motion should be granted and the Application is accepted for filing as complete on February 13, 2012. We further find that a public hearing should be convened to receive evidence on the Application and that pursuant to Rule 5 VAC 5-20-120, *Procedure before hearing examiners*, of the Commission's Rules of Practice and Procedure, 5 VAC 5-20-10 *et seq.* ("Rules of Practice"), this matter should be assigned to a Hearing Examiner to conduct all further proceedings. We will direct the Applicant to give notice to the public of the Application, and we will give interested persons an opportunity to comment on the Application or to participate as a respondent in this proceeding. The Staff of the Commission ("Staff") shall investigate the Application and present its findings in testimony. The Applicant will be permitted to file testimony in rebuttal to the testimony filed by the respondents and the Staff. The Applicant may, but is not required to, implement its proposed rates for service rendered on and after July 12, 2012, on an interim basis, subject to refund with interest.

Accordingly, IT IS ORDERED THAT:

- (1) This case is docketed and assigned Case No. PUE-2011-00127.
- (2) Pursuant to § 12.1-31 of the Code and 5 VAC 5-20-120 of the Commission's Rules of Practice, a Hearing Examiner is appointed to conduct all further proceedings in this matter on behalf of the Commission, concluding with the issuance of a report containing the Hearing Examiner's findings and recommendations.
- (3) The proposed rates are suspended, pursuant to § 56-238 of the Code. The Applicant may, but is not obligated to, implement the proposed rates for service rendered on and after July 12, 2012, on an interim basis, subject to refund with interest.
- (4) A public hearing shall be convened on September 25, 2012, at 10 a.m., in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, to receive comments from members of the public and to receive evidence on the Application. Any person desiring to make a statement at the public hearing concerning the Application need only appear in the Commission's Courtroom at 9:45 a.m. on the day of the hearing and identify himself or herself to the Commission's Bailiff.
- (5) Copies of the Application, testimony, and schedules, as well as a copy of this Order for Notice and Hearing, may be obtained by submitting a written request to counsel for the Applicant, Richard D. Gary, Esquire, and Charlotte P. McAfee, Esquire, Hunton & Williams LLP, 951 East Byrd Street, Richmond, Virginia 23219-4074. If acceptable to the requesting party, the Applicant may provide the documents by electronic means. Copies of these documents also shall be available for interested persons to review in the Commission's Document Control Center, located on the First Floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5 p.m., Monday through Friday, excluding holidays. Interested persons also may download unofficial copies from the Commission's website: <http://www.scc.virginia.gov/case>.
- (6) On or before September 18, 2012, any interested person may file written comments on the Application with the Clerk of the Commission, Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. On or before September 18, 2012, any interested person desiring to submit comments electronically may do so by following the instructions found on the Commission's website: <http://www.scc.virginia.gov/case>. All comments shall refer to Case No. PUE-2011-00127.
- (7) Any interested person may participate as a respondent in this proceeding by filing, on or before May 11, 2012, a notice of participation. If not filed electronically, an original and fifteen (15) copies of the notice of participation shall be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (6). Anyone filing a notice of participation simultaneously shall serve a copy of the notice of participation on counsel for the Applicant at the address set out in Ordering Paragraph (5). Pursuant to Rule 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be represented by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. Interested persons shall refer in all of their filed papers to Case No. PUE-2011-00127.
- (8) Within five (5) business days of receipt of a notice of participation as a respondent, the Applicant shall serve upon each respondent a copy of this Order for Notice and Hearing, a copy of the Application, and all materials filed by the Applicant with the Commission, unless these materials already have been provided to the respondent.
- (9) On or before July 20, 2012, each respondent may file with the Clerk of the Commission and serve on the Staff, the Applicant, and all other respondents, any testimony and exhibits by which the respondent expects to establish its case. If not filed electronically, an original and fifteen (15) copies of such testimony and exhibits shall be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (6). In all filings, the

⁷ *Id.* at 1., n.1.

⁸ *Id.* at 1.

⁹ *Id.* at 3.

¹⁰ *Id.* at 4.

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respondent shall comply with the Commission's Rules of Practice, including: 5 VAC 5-20-140, *Filing and service*, 5 VAC 5-20-150, *Copies and format*, and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUE-2011-00127.

(10) The Staff shall investigate the Application. On or before August 23, 2012, the Staff shall file with the Clerk of the Commission an original and fifteen (15) copies of the Staff's testimony and exhibits and shall serve a copy on counsel to the Applicant and all respondents.

(11) On or before September 6, 2012, the Applicant shall file with the Clerk of the Commission any rebuttal testimony and exhibits that the Applicant expects to offer in rebuttal to the testimony and exhibits of the respondents and the Staff and simultaneously shall serve a copy on the Staff and all respondents. If not filed electronically, an original and fifteen (15) copies of such rebuttal testimony and exhibits shall be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (6).

(12) The Commission's Rule of Practice, 5 VAC 5-20-260, *Interrogatories or requests for production of documents and things*, shall be modified for this proceeding as follows: answers to interrogatories and requests for production of documents shall be served within seven (7) business days after receipt of the same. Except as modified above, discovery shall be in accordance with Part IV of the Commission's Rules of Practice.

(13) On or before April 13, 2012, the Applicant shall serve a copy of this Order for Notice and Hearing on the chairman of the board of supervisors and county attorney of each county and upon the mayor or manager of every city and town (or upon equivalent officials in counties, towns and cities having alternate forms of government) in which the Applicant provides service. Service shall be made by first class mail to the customary place of business or residence of the person served.

(14) On or before April 13, 2012, the Applicant shall cause a copy of the following notice to be published as display advertising (not classified) on one (1) occasion in newspapers of general circulation throughout the Applicant's Alexandria District:

NOTICE TO THE PUBLIC OF AN APPLICATION BY
VIRGINIA-AMERICAN WATER COMPANY,
FOR AN INCREASE IN RATES
FOR THE ALEXANDRIA DISTRICT
CASE NO. PUE-2011-00127

On February 13, 2012, Virginia-American Water Company ("Virginia-American" or "Applicant") completed an application with the State Corporation Commission ("Commission") for an increase in water rates ("Application"). The Application was filed pursuant to Article 2 of Chapter 10 of Title 56 of the Code of Virginia ("Code") and the Commission's Rules Governing Utility Rate Applications and Annual Informational Filings. Exhibits and the prefiled testimony of William R. Walsh, Rob Neviraukas, Jerry L. Ware, Dr. James H. Vander Weide, Patrick L. Baryenbruch, Paul R. Herbert, Michael D. Youshock, and Gary Naumick were included with the Application.

The Applicant requests authority to increase rates for water service to produce an increase in water revenues of \$5.723 million. According to the Application, the proposed rate increase would constitute a 15.93% increase in the Applicant's water revenues and is based on an 11.3% return on common equity. Of the total increase, \$1,660,831 in additional revenues would be allocated to the Alexandria District (a 12.2% increase). Additional annual revenues of \$1,650,119 would be allocated to the Hopewell District (a 12.50% increase); \$1,841,276 to the Prince William District (a 24.81% increase); and \$570,294 to the Eastern District (a 33.82% increase). According to the Application, this is the first Virginia-American rate case that includes the Eastern District service territory, which was acquired by Virginia-American through a merger with United Water Virginia.

The proposed rates for the Alexandria District are as follows:

RATE:

	Gallons Per Month	Quarter	Rate Per 1,000 Gallons (minimum charge)
For the first	2,000	6,000	
For all over	2,000	6,000	\$2.0230

MINIMUM CHARGE:

No bill will be rendered for less than the minimum charges set forth below:

Size of Meter		Per Month	Minimum Charge Per Quarter
5/8	inch	\$12.18	\$36.54
3/4	inch	\$18.31	\$54.93
1	inch	\$30.47	\$91.41
1 1/2	inch	\$60.95	\$182.85
2	inch	\$97.50	\$292.50
3	inch	\$182.89	\$548.67
4	inch	\$304.83	\$914.49
6	inch	\$609.66	\$1,828.98
8	inch	\$975.44	\$2,926.32

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The Application states that operating expenses have continued to increase and the Applicant has made significant system investments in the two years since the last rate case. In addition, the Application states that Virginia-American is not earning its allowed return on equity, which will continue as the Applicant's capital investment projects continue absent a rate increase.

Interested persons are encouraged to review the Application and supporting documents for the details of these and other proposals. While the total revenue that may be approved by the Commission is limited to the amount produced by the Company's proposed rates, TAKE NOTICE that the Commission may approve revenues and adopt rates, fees, charges, tariff revisions, and terms and conditions of service that differ from those appearing in the Application and supporting documents and may apportion revenues among customer classes and/or design rates in a manner differing from that shown in the Application and supporting documents.

The Commission has suspended Virginia-American's proposed rates pursuant to § 56-238 of the Code. The Applicant may, but is not obligated to, implement the proposed rates for service rendered on and after July 12, 2012, on an interim basis, subject to refund with interest.

The Commission entered an Order for Notice and Hearing that, among other things, has scheduled a public hearing to commence at 10 a.m. on September 25, 2012, in the Commission's Second Floor Courtroom, Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, for the purpose of receiving comments from members of the public and evidence related to the Application. Any person desiring to make a statement at the public hearing need only appear in the Commission's Second Floor Courtroom at the address set forth above prior to 9:45 a.m. on the day of the hearing and identify himself or herself to the Commission's Bailiff. Individuals with disabilities who require an accommodation to participate in the hearing should contact the Commission at least seven (7) days before the scheduled hearing at 1-800-552-7945 (voice) or 1-804-371-9206 (TTD).

Copies of the Application and the Commission's Order for Notice and Hearing may be obtained by submitting a written request to counsel for the Applicant, Richard D. Gary, Esquire, and Charlotte P. McAfee, Esquire, Hunton & Williams LLP, 951 East Byrd Street, Richmond, Virginia 23219-4074. If acceptable to the requesting party, the Applicant may provide the documents by electronic means. Copies of these documents also shall be available for interested persons to review in the Commission's Document Control Center, located on the First Floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5 p.m., Monday through Friday, excluding holidays. Interested persons also may download unofficial copies from the Commission's website: <http://www.scc.virginia.gov/case>.

Any interested person may participate as a respondent in this proceeding by filing, on or before May 11, 2012, a notice of participation. If not filed electronically, an original and fifteen (15) copies of the notice of participation shall be submitted to Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Anyone filing a notice of participation simultaneously shall serve a copy of the notice of participation on counsel to the Applicant at the address set forth above. Pursuant to Rule 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice and Procedure, 5 VAC 5-20-10 *et seq.* ("Rules of Practice"), any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Interested persons shall refer in all of their filed papers to Case No. PUE-2011-00127.

On or before July 20, 2012, each respondent may file with the Clerk of the Commission and serve on the Staff, the Applicant, and all other respondents any testimony and exhibits by which the respondent expects to establish its case. If not filed electronically, an original and fifteen (15) copies of such testimony and exhibits shall be submitted to the Clerk of the Commission at the address set forth above. In all filings, the respondent shall comply with the Commission's Rules of Practice, including 5 VAC 5-20-140, *Filing and service*, 5 VAC 5-20-150, *Copies and format*, and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUE-2011-00127.

On or before September 18, 2012, any interested person may file with the Clerk of the Commission at the address set forth above, written comments on the Application. On or before September 18, 2012, any interested person desiring to submit comments electronically may do so by following the instructions found on the Commission's website: <http://www.scc.virginia.gov/case>. All correspondence shall refer to Case No. PUE-2011-00127.

The Commission's Rules of Practice may be viewed at: <http://www.scc.virginia.gov/case>. A printed copy of the Rules of Practice may be obtained from Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118.

VIRGINIA-AMERICAN WATER COMPANY

(15) On or before April 13, 2012, the Applicant shall cause a copy of the following notice to be published as display advertising (not classified) on one (1) occasion in newspapers of general circulation throughout the Applicant's Hopewell District:

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NOTICE TO THE PUBLIC OF AN APPLICATION BY
 VIRGINIA-AMERICAN WATER COMPANY,
 FOR AN INCREASE IN RATES
 FOR THE HOPEWELL DISTRICT
CASE NO. PUE-2011-00127

On February 13, 2012, Virginia-American Water Company ("Virginia-American" or "Applicant") completed an application with the State Corporation Commission ("Commission") for an increase in water rates ("Application"). The Application was filed pursuant to Article 2 of Chapter 10 of Title 56 of the Code of Virginia ("Code") and the Commission's Rules Governing Utility Rate Applications and Annual Informational Filings. Exhibits and the prefiled testimony of William R. Walsh, Rob Nevirauskas, Jerry L. Ware, Dr. James H. Vander Weide, Patrick L. Baryenbruch, Paul R. Herbert, Michael D. Youshock, and Gary Naumick were included with the Application.

The Applicant requests authority to increase rates for water service to produce an increase in water revenues of \$5.723 million. According to the Application, the proposed rate increase would constitute a 15.93% increase in the Applicant's water revenues and is based on an 11.3% return on common equity. Of the total increase, \$1,650,119 in additional revenue would be allocated to the Hopewell District (a 12.50% increase). Additional annual revenues of \$1,660,831 would be allocated to the Alexandria District (a 12.2% increase); \$1,841,276 to the Prince William District (a 24.81% increase); and \$570,294 to the Eastern District (a 33.82% increase). According to the Application, this is the first Virginia-American rate case that includes the Eastern District service territory, which was acquired by Virginia-American through a merger with United Water Virginia.

The proposed rates for potable water in the Hopewell District are as follows:

RATE:

	<u>Month</u>	<u>Cubic Feet</u>	<u>Quarter</u>	<u>Rate Per</u> <u>100 Cubic Feet</u>
For the first		300	900	(minimum charge)
For the next		1,700	5,100	\$5.1070
For the next		298,000	894,000	\$4.2805
For the next		700,000	2,100,000	\$2.3254
For the next		5,000,000	15,000,000	\$0.7817
For all over		6,000,000	18,000,000	\$1.1748

MINIMUM CHARGE:

No bill will be rendered for less than the minimum charges set forth below:

<u>Size of Meter</u>		<u>Minimum Charge</u>	
		<u>Per Month</u>	<u>Per Quarter</u>
5/8	inch	\$17.78	\$53.34
3/4	inch	\$26.67	\$80.01
1	inch	\$44.30	\$132.90
1 1/2	inch	\$88.75	\$266.25
2	inch	\$142.09	\$426.27
3	inch	\$265.96	\$797.88
4	inch	\$443.03	\$1,329.09
6	inch	\$887.52	\$2,662.56
8	inch	\$1,419.44	\$4,258.32
10	inch	\$1,922.22	\$5,766.66
12	inch	\$3,821.12	\$11,463.36

The Application states that operating expenses have continued to increase and the Applicant has made significant system investments in the two years since the last rate case. In addition, the Application states that Virginia-American is not earning its allowed return on equity, which will continue as the Applicant's capital investment projects continue absent a rate increase.

Interested persons are encouraged to review the Application and supporting documents for the details of these and other proposals. While the total revenue that may be approved by the Commission is limited to the amount produced by the Company's proposed rates, TAKE NOTICE that the Commission may approve revenues and adopt rates, fees, charges, tariff revisions, and terms and conditions of service that differ from those appearing in the Application and supporting documents and may apportion revenues among customer classes and/or design rates in a manner differing from that shown in the Application and supporting documents.

The Commission has suspended Virginia-American's proposed rates pursuant to § 56-238 of the Code. The Applicant may, but is not obligated to, implement the proposed rates for service rendered on and after July 12, 2012, on an interim basis, subject to refund with interest.

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The Commission entered an Order for Notice and Hearing that, among other things, has scheduled a public hearing to commence at 10 a.m. on September 25, 2012, in the Commission's Second Floor Courtroom, Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, for the purpose of receiving comments from members of the public and evidence related to the Application. Any person desiring to make a statement at the public hearing need only appear in the Commission's Second Floor Courtroom at the address set forth above prior to 9:45 a.m. on the day of the hearing and identify himself or herself to the Commission's Bailiff. Individuals with disabilities who require an accommodation to participate in the hearing should contact the Commission at least seven (7) days before the scheduled hearing at 1-800-552-7945 (voice) or 1-804-371-9206 (TTD).

Copies of the Application and the Commission's Order for Notice and Hearing may be obtained by submitting a written request to counsel for the Applicant, Richard D. Gary, Esquire, and Charlotte P. McAfee, Esquire, Hunton & Williams LLP, 951 East Byrd Street, Richmond, Virginia 23219-4074. If acceptable to the requesting party, the Applicant may provide the documents by electronic means. Copies of these documents also shall be available for interested persons to review in the Commission's Document Control Center, located on the First Floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5 p.m., Monday through Friday, excluding holidays. Interested persons also may download unofficial copies from the Commission's website: <http://www.scc.virginia.gov/case>.

Any interested person may participate as a respondent in this proceeding by filing, on or before May 11, 2012, a notice of participation. If not filed electronically, an original and fifteen (15) copies of the notice of participation shall be submitted to Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Anyone filing a notice of participation simultaneously shall serve a copy of the notice of participation on counsel to the Applicant at the address set forth above. Pursuant to Rule 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice and Procedure, 5 VAC 5-20-10 *et seq.* ("Rules of Practice"), any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Interested persons shall refer in all of their filed papers to Case No. PUE-2011-00127.

On or before July 20, 2012, each respondent may file with the Clerk of the Commission and serve on the Staff, the Applicant, and all other respondents any testimony and exhibits by which the respondent expects to establish its case. If not filed electronically, an original and fifteen (15) copies of such testimony and exhibits shall be submitted to the Clerk of the Commission at the address set forth above. In all filings, the respondent shall comply with the Commission's Rules of Practice, including 5 VAC 5-20-140, *Filing and service*, 5 VAC 5-20-150, *Copies and format*, and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUE-2011-00127.

On or before September 18, 2012, any interested person may file with the Clerk of the Commission at the address set forth above, written comments on the Application. On or before September 18, 2012, any interested person desiring to submit comments electronically may do so by following the instructions found on the Commission's website: <http://www.scc.virginia.gov/case>. All correspondence shall refer to Case No. PUE-2011-00127.

The Commission's Rules of Practice may be viewed at: <http://www.scc.virginia.gov/case>. A printed copy of the Rules of Practice may be obtained from Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118.

VIRGINIA-AMERICAN WATER COMPANY

(16) On or before April 13, 2012, the Applicant shall cause a copy of the following notice to be published as display advertising (not classified) on one (1) occasion in newspapers of general circulation throughout the Applicant's Prince William District:

NOTICE TO THE PUBLIC OF AN APPLICATION BY
VIRGINIA-AMERICAN WATER COMPANY,
FOR AN INCREASE IN RATES
FOR THE PRINCE WILLIAM DISTRICT
CASE NO. PUE-2011-00127

On February 13, 2012, Virginia-American Water Company ("Virginia-American" or "Applicant") completed an application with the State Corporation Commission ("Commission") for an increase in water rates ("Application"). The Application was filed pursuant to Article 2 of Chapter 10 of Title 56 of the Code of Virginia ("Code") and the Commission's Rules Governing Utility Rate Applications and Annual Informational Filings. Exhibits and the prefiled testimony of William R. Walsh, Rob Nevirauskas, Jerry L. Ware, Dr. James H. Vander Weide, Patrick L. Baryenbruch, Paul R. Herbert, Michael D. Youshock, and Gary Naumick were included with the Application.

The Applicant requests authority to increase rates for water service to produce an increase in water revenues of \$5.723 million. According to the Application, the proposed rate increase would constitute a

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15.93% increase in the Applicant's water revenues and is based on an 11.3% return on common equity. Of the total increase, \$1,841,276 in additional revenues would be allocated to the Prince William District (a 24.81% increase). Additional annual revenues of \$1,650,119 would be allocated to the Hopewell District (a 12.50% increase); \$1,660,831 to the Alexandria District (a 12.2% increase); and \$570,294 to the Eastern District (a 33.82% increase). According to the Application, this is the first Virginia-American rate case that includes the Eastern District service territory, which was acquired by Virginia-American through a merger with United Water Virginia.

The proposed rates for the Prince William District are as follows:

RATE:

	Gallons Per		Rate Per
	<u>Month</u>	<u>Quarter</u>	<u>1,000 Gallons</u>
For the first	2,000	6,000	(minimum charge)
For all over	2,000	6,000	\$5.4478

MINIMUM CHARGE:

No bill will be rendered for less than the minimum charges set forth below:

Size of Meter	Minimum Charge	
	Per Month	Per Quarter
5/8 inch	\$12.77	\$38.31
3/4 inch	\$19.16	\$57.48
1 inch	\$31.93	\$95.79
1 1/2 inch	\$63.85	\$191.55
2 inch	\$102.17	\$306.51
3 inch	\$191.54	\$574.62
4 inch	\$319.26	\$957.78
6 inch	\$638.48	\$1,915.44
8 inch	\$1,021.59	\$3,064.77

The Application states that operating expenses have continued to increase and the Applicant has made significant system investments in the two years since the last rate case. In addition, the Application states that Virginia-American is not earning its allowed return on equity, which will continue as the Applicant's capital investment projects continue absent a rate increase.

Interested persons are encouraged to review the Application and supporting documents for the details of these and other proposals. While the total revenue that may be approved by the Commission is limited to the amount produced by the Company's proposed rates, TAKE NOTICE that the Commission may approve revenues and adopt rates, fees, charges, tariff revisions, and terms and conditions of service that differ from those appearing in the Application and supporting documents and may apportion revenues among customer classes and/or design rates in a manner differing from that shown in the Application and supporting documents.

The Commission has suspended Virginia-American's proposed rates pursuant to § 56-238 of the Code. The Applicant may, but is not obligated to, implement the proposed rates for service rendered on and after July 12, 2012, on an interim basis, subject to refund with interest.

The Commission entered an Order for Notice and Hearing that, among other things, has scheduled a public hearing to commence at 10 a.m. on September 25, 2012, in the Commission's Second Floor Courtroom, Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, for the purpose of receiving comments from members of the public and evidence related to the Application. Any person desiring to make a statement at the public hearing need only appear in the Commission's Second Floor Courtroom at the address set forth above prior to 9:45 a.m. on the day of the hearing and identify himself or herself to the Commission's Bailiff. Individuals with disabilities who require an accommodation to participate in the hearing should contact the Commission at least seven (7) days before the scheduled hearing at 1-800-552-7945 (voice) or 1-804-371-9206 (TTD).

Copies of the Application and the Commission's Order for Notice and Hearing may be obtained by submitting a written request to counsel for the Applicant, Richard D. Gary, Esquire, and Charlotte P. McAfee, Esquire, Hunton & Williams LLP, 951 East Byrd Street, Richmond, Virginia 23219-4074. If acceptable to the requesting party, the Applicant may provide the documents by electronic means. Copies of these documents also shall be available for interested persons to review in the Commission's Document Control Center, located on the First Floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5 p.m., Monday through Friday, excluding holidays. Interested persons also may download unofficial copies from the Commission's website: <http://www.scc.virginia.gov/case>.

Any interested person may participate as a respondent in this proceeding by filing, on or before May 11, 2012, a notice of participation. If not filed electronically, an original and fifteen (15) copies of the

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notice of participation shall be submitted to Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Anyone filing a notice of participation simultaneously shall serve a copy of the notice of participation on counsel to the Applicant at the address set forth above. Pursuant to Rule 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice and Procedure, 5 VAC 5-20-10 *et seq.* ("Rules of Practice"), any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Interested persons shall refer in all of their filed papers to Case No. PUE-2011-00127.

On or before July 20, 2012, each respondent may file with the Clerk of the Commission and serve on the Staff, the Applicant, and all other respondents any testimony and exhibits by which the respondent expects to establish its case. If not filed electronically, an original and fifteen (15) copies of such testimony and exhibits shall be submitted to the Clerk of the Commission at the address set forth above. In all filings, the respondent shall comply with the Commission's Rules of Practice, including 5 VAC 5-20-140, *Filing and service*, 5 VAC 5-20-150, *Copies and format*, and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUE-2011-00127.

On or before September 18, 2012, any interested person may file with the Clerk of the Commission at the address set forth above, written comments on the Application. On or before September 18, 2012, any interested person desiring to submit comments electronically may do so by following the instructions found on the Commission's website: <http://www.scc.virginia.gov/case>. All correspondence shall refer to Case No. PUE-2011-00127.

The Commission's Rules of Practice may be viewed at: <http://www.scc.virginia.gov/case>. A printed copy of the Rules of Practice may be obtained from Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118.

VIRGINIA-AMERICAN WATER COMPANY

(17) On or before April 13, 2012, the Applicant shall cause a copy of the following notice to be published as display advertising (not classified) on one (1) occasion in newspapers of general circulation throughout the Applicant's Eastern District:

NOTICE TO THE PUBLIC OF AN APPLICATION BY
 VIRGINIA-AMERICAN WATER COMPANY,
 FOR AN INCREASE IN RATES
 FOR THE EASTERN DISTRICT
CASE NO. PUE-2011-00127

On February 13, 2012, Virginia-American Water Company ("Virginia-American" or "Applicant") completed an application with the State Corporation Commission ("Commission") for an increase in water rates ("Application"). The Application was filed pursuant to Article 2 of Chapter 10 of Title 56 of the Code of Virginia ("Code") and the Commission's Rules Governing Utility Rate Applications and Annual Informational Filings. Exhibits and the prefiled testimony of William R. Walsh, Rob Nevirauskas, Jerry L. Ware, Dr. James H. Vander Weide, Patrick L. Baryenbruch, Paul R. Herbert, Michael D. Youshock, and Gary Naumick were included with the Application.

The Applicant requests authority to increase rates for water service to produce an increase in water revenues of \$5.723 million. According to the Application, the proposed rate increase would constitute a 15.93% increase in the Applicant's water revenues and is based on an 11.3% return on common equity. Of the total increase, \$570,294 in additional revenues would be allocated to the Eastern District (a 33.82% increase). Additional annual revenues of \$1,650,119 would be allocated to the Hopewell District (a 12.50% increase); \$1,841,276 to the Prince William District (a 24.81% increase); and \$1,660,831 to the Alexandria District (a 12.2% increase). According to the Application, this is the first Virginia-American rate case that includes the Eastern District service territory, which was acquired by Virginia-American through a merger with United Water Virginia.

The proposed rates for the Eastern District are as follows:

<u>RATE:</u>		Rate Per
		<u>1,000 Gallons</u>
<u>Bi-monthly</u>		\$129.52/ Minimum Charge
For the first	6,000 gallons	
For the next	9,000 gallons	\$7.7959
All over	15,000 gallons	\$11.9535
<u>Monthly</u>		
For the first	3,000 gallons	\$64.76/ Minimum Charge
For the next	4,500 gallons	\$7.759
All Over	7,5000 gallons	\$11.9535

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MINIMUM CHARGE:

No bill will be rendered for less than the minimum charges set forth below:

<u>Size of Meter</u>	<u>Bi-monthly</u>	<u>Monthly</u>
5/8 inch	\$129.52	\$64.76
3/4 inch	\$129.52	\$64.76
1 inch	\$129.52	\$64.76
1 1/2 inch	\$129.52	\$64.76
2 inch	\$129.52	\$64.76
3 inch	\$129.52	\$64.76
4 inch	\$129.52	\$64.76
6 inch	\$129.52	\$64.76
8 inch	\$129.52	\$64.76

SEASONAL BASE CHARGE:

Seasonal customers that are disconnected from the system will be billed \$20.75 every month, or \$41.50 every two months, for service availability.

The Application states that operating expenses have continued to increase and the Applicant has made significant system investments in the two years since the last rate case. In addition, the Application states that Virginia-American is not earning its allowed return on equity, which will continue as the Applicant's capital investment projects continue absent a rate increase.

Interested persons are encouraged to review the Application and supporting documents for the details of these and other proposals. While the total revenue that may be approved by the Commission is limited to the amount produced by the Company's proposed rates, TAKE NOTICE that the Commission may approve revenues and adopt rates, fees, charges, tariff revisions, and terms and conditions of service that differ from those appearing in the Application and supporting documents and may apportion revenues among customer classes and/or design rates in a manner differing from that shown in the Application and supporting documents.

The Commission has suspended Virginia-American's proposed rates pursuant to § 56-238 of the Code. The Applicant may, but is not obligated to, implement the proposed rates for service rendered on and after July 12, 2012, on an interim basis, subject to refund with interest.

The Commission entered an Order for Notice and Hearing that, among other things, has scheduled a public hearing to commence at 10 a.m. on September 25, 2012, in the Commission's Second Floor Courtroom, Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, for the purpose of receiving comments from members of the public and evidence related to the Application. Any person desiring to make a statement at the public hearing need only appear in the Commission's Second Floor Courtroom at the address set forth above prior to 9:45 a.m. on the day of the hearing and identify himself or herself to the Commission's Bailiff. Individuals with disabilities who require an accommodation to participate in the hearing should contact the Commission at least seven (7) days before the scheduled hearing at 1-800-552-7945 (voice) or 1-804-371-9206 (TTD).

Copies of the Application and the Commission's Order for Notice and Hearing may be obtained by submitting a written request to counsel for the Applicant, Richard D. Gary, Esquire, and Charlotte P. McAfee, Esquire, Hunton & Williams LLP, 951 East Byrd Street, Richmond, Virginia 23219-4074. If acceptable to the requesting party, the Applicant may provide the documents by electronic means. Copies of these documents also shall be available for interested persons to review in the Commission's Document Control Center, located on the First Floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5 p.m., Monday through Friday, excluding holidays. Interested persons also may download unofficial copies from the Commission's website: <http://www.sec.virginia.gov/case>.

Any interested person may participate as a respondent in this proceeding by filing, on or before May 11, 2012, a notice of participation. If not filed electronically, an original and fifteen (15) copies of the notice of participation shall be submitted to Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Anyone filing a notice of participation simultaneously shall serve a copy of the notice of participation on counsel to the Applicant at the address set forth above. Pursuant to Rule 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice and Procedure, 5 VAC 5-20-10 *et seq.* ("Rules of Practice"), any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Interested persons shall refer in all of their filed papers to Case No. PUE-2011-00127.

On or before July 20, 2012, each respondent may file with the Clerk of the Commission and serve on the Staff, the Applicant, and all other respondents any testimony and exhibits by which the respondent expects to establish its case. If not filed electronically, an original and fifteen (15) copies of such testimony and

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exhibits shall be submitted to the Clerk of the Commission at the address set forth above. In all filings, the respondent shall comply with the Commission's Rules of Practice, including 5 VAC 5-20-140, *Filing and service*, 5 VAC 5-20-150, *Copies and format*, and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUE-2011-00127.

On or before September 18, 2012, any interested person may file with the Clerk of the Commission at the address set forth above, written comments on the Application. On or before September 18, 2012, any interested person desiring to submit comments electronically may do so by following the instructions found on the Commission's website: <http://www.scc.virginia.gov/case>. All correspondence shall refer to Case No. PUE-2011-00127.

The Commission's Rules of Practice may be viewed at: <http://www.scc.virginia.gov/case>. A printed copy of the Rules of Practice may be obtained from Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118.

VIRGINIA-AMERICAN WATER COMPANY

(18) On or before April 13, 2012, Virginia-American shall furnish direct mail notice to its industrial customers in the Hopewell District that purchase non-potable water, advising those customers of the proposed rate increases reflected on pages 4 and 5 of Schedule 41 of the Application.

(19) On or before May 4, 2012, the Applicant shall file proof of the notice and service as ordered herein with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118.

(20) The Applicant's Motion to Accept Filing is granted as discussed herein.

(21) This matter is continued generally.

**CASE NO. PUE-2011-00127
DECEMBER 12, 2012**

APPLICATION OF
VIRGINIA-AMERICAN WATER COMPANY

For a general increase in rates

FINAL ORDER

On February 6, 2012, Virginia-American Water Company ("Virginia-American" or "Company") filed an application with the State Corporation Commission ("Commission") for an increase in water rates ("Application").¹ In its Application, the Company requests authority to increase rates for water service to produce an increase in water revenues of \$5.723 million.² The proposed increase would constitute a 15.93% increase in the Company's water revenues and is based on an 11.3% return on common equity.³ The increase in metered water sales revenue is divided between Virginia-American's Alexandria District - \$1,660,831 (a 12.2% increase); Hopewell District - \$1,650,119 (a 12.50% increase); Prince William District - \$1,841,276 (a 24.81% increase); and Eastern District \$570,294 (a 33.82% increase).⁴

By Order for Notice and Hearing entered on March 2, 2012, the Commission docketed the Application; established a procedural schedule; directed the Company to provide public notice of its Application; scheduled a public hearing on the Application for September 25, 2012; and assigned the case to a hearing examiner to conduct all further proceedings on behalf of the Commission and file a report with her findings and recommendations.

The Division of Consumer Counsel of the Office of the Attorney General ("Consumer Counsel"); the Hopewell Committee for Fair Water Rates ("Hopewell Committee"); the City of Hopewell ("Hopewell"); and Concerned Ratepayers in the Eastern District ("Eastern Ratepayers") filed Notices of Participation (collectively, "Respondents").

The public hearing was convened as scheduled on September 25, 2012. The testimony of three public witnesses, each of whom has a residence in the Company's Eastern District, offered testimony in opposition to the proposed increase. At the conclusion of the public hearing, the Company, the Staff, and the Respondents ("Stipulating Participants") advised the Chief Hearing Examiner, Deborah V. Ellenberg, that they had entered into settlement discussions, and they requested that the hearing be reconvened at 2 p.m. on October 4, 2012.

On October 4, 2012, the hearing was reconvened and the Stipulating Participants presented a stipulation ("Stipulation") for the Commission's consideration.⁵ Pursuant to the terms of the Stipulation, the Application and supporting attachments and schedules, the testimony and exhibits of the

¹ The Application was accepted as "complete" on February 13, 2012.

² Application at 2.

³ *Id.*

⁴ *Id.*

⁵ Attachment A.

Stipulating Participants' witnesses, and the Stipulation were admitted into the evidentiary record. The Stipulation, in part, provides for an additional total revenue requirement of \$2,287,107,⁶ based upon a return on equity of 9.75% within a recommended authorized range of 9.0% - 10.0%.

On October 18, 2012, the Chief Hearing Examiner issued her report ("Report"). After summarizing the evidence and the Stipulation, the Chief Hearing Examiner found the Stipulation to be fair, reasonable, and in the public interest.

The Chief Hearing Examiner recommended that the Commission enter an order that adopts the Stipulation and the findings contained in the Report; approves a total annual revenue requirement increase as recommended in the Stipulation of \$2,287,107; directs the Company to refund with interest the difference between the interim rates effective July 12, 2012, and the rates approved in the Final Order; and passes the papers herein to the file for ended causes.⁷

NOW THE COMMISSION, having considered this matter, is of the opinion and finds that the Report and the Stipulation should be adopted and that the total annual revenue requirement increase represented in the Stipulation should be approved. Further, the Company should refund with interest the difference between the interim rates effective July 12, 2012, and the rates approved herein, as directed below.

Accordingly, IT IS ORDERED THAT:

- (1) The findings and recommendations of the October 18, 2012 Report are hereby adopted.
- (2) The Stipulation is hereby adopted and made part of this Final Order.
- (3) The rates and charges approved herein are fixed and substituted for the rates and charges and terms and conditions that took effect on an interim basis on July 12, 2012. The Company shall forthwith file revised tariff sheets incorporating the findings herein on rates and charges and terms and conditions of service with the Clerk of the Commission and the Commission's Division of Energy Regulation in accordance with this Final Order. The Clerk of the Commission shall retain such filing for public inspection in person and on the Commission's website: <http://www.scc.virginia.gov/case>. Refunds of interim rates shall be made as required below.
- (4) The Company shall recalculate, using the rates and charges approved herein, each bill it rendered that used, in whole or in part, the rates and charges that took effect on an interim basis and subject to refund on and after July 12, 2012, and, where application of the new rates results in a reduced bill, refund the difference with interest as set out below within ninety (90) days of the issuance of this Final Order.
- (5) Interest upon the ordered refunds shall be computed from the date payments of monthly bills were due to the date each refund is made at the average prime rate for each calendar quarter, compounded quarterly. The average prime rate for each calendar quarter shall be the arithmetic mean, to the nearest one-hundredth of one percent, of the prime rate values published in the Federal Reserve Bulletin or in the Federal Reserve's Selected Interest Rates (Statistical Release H. 15) for the three (3) months of the preceding calendar quarter.
- (6) The refunds ordered herein may be credited to the current customers' accounts. Refunds to former customers shall be made by check mailed to the last known address of such customers when the refund amount is \$1 or more. The Company may offset the credit or refund to the extent of any undisputed outstanding balance for the current or former customer. No offset shall be permitted against any disputed portion of an outstanding balance. The Company may retain refunds to former customers when such refund is less than \$1, and such refunds shall be promptly made upon request. All unclaimed refunds shall be subject to § 55-210.6:2 of the Code.
- (7) Within sixty (60) days of completing the refunds ordered herein, the Company shall deliver to the Commission's Divisions of Energy Regulation and Utility Accounting and Finance a report showing that all refunds have been made pursuant to this Final Order and detailing the costs incurred in effecting such refunds and the accounts charged.
- (8) The Company shall bear all costs incurred in effecting the refunds ordered herein.
- (9) This matter is dismissed.

NOTE: A copy of Attachment A entitled "Stipulation" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

⁶ The revenue requirement increase is apportioned among the Company's districts as follows: Alexandria District - \$929,970; Hopewell District - \$0; Prince William District - \$1,128,710; and Eastern District - \$228,427.

⁷ Report at 29.

**CASE NO. PUE-2011-00129
DECEMBER 28, 2012**

APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY
d/b/a DOMINION VIRGINIA POWER

Application of Virginia Electric and Power Company for approval and certification of electric facilities: Waxpool 230 kV Double Circuit Transmission Line, Brambleton - BECO 230 kV Transmission Line and 230-34.5 kV Waxpool Substation

FINAL ORDER

On December 16, 2011, Virginia Electric and Power Company d/b/a Dominion Virginia Power ("Dominion Virginia Power" or "Company") filed with the State Corporation Commission ("Commission") an application for a certificate of public convenience and necessity seeking Commission approval to construct in Loudoun County two new overhead 230 kilovolt ("kV") double circuit transmission lines and an associated substation ("Application"). Prepared testimony, exhibits, copies of correspondence, and other materials were filed in support of the Company's Application.

The Company's Application proposes to build a new overhead 230 kV double-circuit transmission line extending approximately 1.5 miles (the "Waxpool Loop") to a new 230-34.5 kV Waxpool Substation to be constructed on land in Loudoun County owned by Intergate.Ashburn I, LLC (the "Customer"). The Waxpool Substation will provide service on site to the Customer's planned data center campus. The Company also proposes to construct a new overhead 230 kV transmission line approximately 11.2 miles from the Company's existing Brambleton Substation to a proposed expansion of the Company's existing BECO Substation ("Brambleton-BECO Line") (the Waxpool Loop, Waxpool Substation and Brambleton-BECO Line are referred to collectively as the "Project").¹

The Company plans to construct the Waxpool Loop on new right-of-way. By cutting the Company's existing Brambleton-Beaumeade 230 kV Line #2095, the Waxpool Loop will create two new 230 kV lines. Approximately 10.3 miles of the Brambleton-BECO Line will be constructed on existing rights-of-way between the existing Brambleton Substation and the Washington and Old Dominion Trail ("W&OD Trail") by utilizing the vacant side of the existing Line #2095 structures. At the intersection with the W&OD Trail ("Beaumeade Junction"), the new line will leave the existing structures, cross the trail, turn southeast onto the existing transmission corridor containing the Company's existing Dranesville-Beaumeade transmission line, and continue approximately 0.2 mile to BECO Junction (the "Beaumeade Junction Segment"). At BECO Junction, the new line will turn north to parallel an existing line for approximately 0.7 mile to the BECO Substation (the "BECO Junction Segment"). The Beaumeade Junction and BECO Junction Segment of the Brambleton-BECO Line will be constructed on single circuit, single-shaft galvanized steel poles adjacent to the double circuit, single-shaft steel poles carrying existing transmission lines. To accommodate the Project, the existing transmission corridor for the Beaumeade Junction Segment will need to be expanded by approximately 50 feet and the existing transmission corridor for the BECO Junction Segment will need to be expanded by approximately 30 feet.²

The Company states that the in-service date for the proposed line is November 2013. The estimated cost to construct the Project is approximately \$48.9 million, of which approximately \$27.6 million is for transmission line construction, approximately \$12.1 million is for transmission substation work, and approximately \$9.2 million is for distribution substation work.³

On April 3, 2012, the Commission issued an Order for Notice and Hearing ("Scheduling Order") that, among other things, docketed the case; assigned the case to a Hearing Examiner to conduct all further proceedings on behalf of the Commission; directed the Company to provide public notice of the Application, including the three feasible routes identified by the Company for the proposed Waxpool Loop; granted an opportunity for interested persons to comment on the Application and participate in this proceeding; scheduled local public hearings on the Application in Loudoun County; scheduled an evidentiary hearing at the Commission; and directed the Commission Staff ("Staff") to investigate the Application and file testimony thereon.⁴

As noted in the Scheduling Order, the Staff requested that the Department of Environmental Quality ("DEQ") coordinate a review of the proposed Project by state and local agencies and file a report thereon. DEQ filed its report on March 6, 2012. The Virginia Department of Transportation ("VDOT") filed its comments by letter dated December 6, 2011. Therein, VDOT stated that Routes D and E had no conflicts with any projects under VDOT's Six-Year Improvement Plan and that Routes B, C, and C West may conflict with projects that VDOT is in the process of implementing. VDOT ultimately stated its preference for Route B, assuming that it would be constructed without interfering with a planned Waxpool Road widening project. This determination was made before the Company filed its Application and before the Company revised Route D to provide for a perpendicular crossing of Loudoun County Parkway.⁵

While DEQ Office of Wetlands and Water Protection's ("OWWP") initial assessment of the potential impacts on wetlands for the various routes led it to recommend Route B, this analysis was made before the Company filed its Application. After reviewing the Company's Application, OWWP revised its recommendation and stated that it had no concerns with Route D as the recommended route.⁶ The DEQ Report offered twelve general recommendations for Commission consideration that are in addition to any requirements of federal, state, or local law:

¹ Ex. 2 at 3.

² *Id.* at 4-5.

³ *Id.* at 5.

⁴ The local hearings were rescheduled for June 4, 2012, at 4 p.m. and 7 p.m. at the Eagle Ridge Middle School Auditorium on Waxpool Road in Ashburn, Virginia. The Commission further directed the Company to give public notice of the rescheduled public hearings.

⁵ *Id.*, Attachment 2.N.1.

⁶ Ex. 21, at 8.

- Conduct an on-site delineation of all wetlands and streams within the project area with verification by the U.S. Army Corps of Engineers . . . , using accepted methods and procedures, and follow DEQ's recommendations to avoid and minimize impacts to wetlands and streams
- Reduce solid waste at the source, reuse it and recycle it to the maximum extent practicable, and follow DEQ's recommendations to manage waste, as applicable
- Coordinate with the Department of Conservation and Recreation (DCR) Division of Natural Heritage regarding its recommendations, including its recommendation pertaining to the Nannyberry, state rare plant, as well as for updates to the Biotics Data System database if a significant amount of time passes before the project is implemented
- Coordinate with the Virginia Department of Agriculture and Consumer Services regarding its recommendation to minimize impacts on farmland
- Coordinate with the Department of Game and Inland Fisheries regarding its recommendations for wildlife protection [applicable to in-stream activities]
- Coordinate with DCR's Division of Planning and Recreational Resources regarding its recommendation pertaining to the [W&OD Trail] [work and coordinate with the Northern Virginia Regional Park Authority]
- Coordinate with the Department of Forestry regarding its recommendations to mitigate the loss of forest lands
- Coordinate with the Department of Historic Resources regarding its recommendations to protect historic and archaeological resources, as applicable
- Coordinate with the [VDOT] regarding any necessary permits
- Coordinate with the Department of Aviation regarding its recommendation [to coordinate with the Metropolitan Washington Airports Authority]
- Follow the principles and practices of pollution prevention to the maximum extent practicable
- Limit the use of pesticides and herbicides to the extent practicable⁷

The Company indicated that it reviewed the DEQ Report and would implement in good faith those recommendations applicable to the Project.⁸

On June 18, 2012, Loudoun Land Bay D, LLC, and Fairway Park Lot C-1, LLC ("Respondent"), filed the Notice of Loudoun Land Bay D, LLC, and Fairway Park Lot C- 1, LLC, to Participate as Respondents (including an affidavit and testimony in support) in this proceeding.⁹ On July 26, 2012, the Respondent filed a Supplement to Prefiled Testimony of Robert M. Gordon ("Gordon") to "ratify and confirm" Gordon's affidavit and prefiled testimony and to supplement that Affidavit by (i) correcting a scrivener's error in the affidavit; and (ii) providing copies of three documents recorded among the land records of Loudoun County, Virginia, and two documents issued by Loudoun County regarding amendments to the floor area ratio at the Respondents' properties.

In its Notice of Participation and supporting Testimony, the Respondent stated that it owns two contiguous properties that are located adjacent to the Company's existing Brambleton-BECO corridor. The Respondent stated that it does not oppose the Project but that it prefers Routes B or F to Route D because Route D would bisect the Respondent's properties. The Respondent argued that the nearby Regency Subdivision ("Regency") is surrounded by commercial properties and that all of the commercial development in the surrounding area cannot be held hostage to a desire for a pleasant viewshed from that community. The Respondent also pointed out that there are no homes within 500 feet of the centerline of Route B and that Regency would be shielded by a buffer of mature trees.

The Respondent maintained that when the Company developed Route D, the "Respondent's positions were not known, recognized or considered until May of this year, and only recently has Respondent's position come to be understood."¹⁰ Moreover, the Respondent claimed that the Company, in estimating the costs to acquire rights-of-way for Route D, failed to fully appreciate the Respondent's efforts to increase the development rights and, in turn, the value of the properties. The Respondent maintains that the actual cost of obtaining right-of-way across the Respondent's property would significantly exceed the Company's estimate.¹¹

⁷ *Id.* at 6, 7.

⁸ Ex. 23 at 2.

⁹ At the August 15, 2012, hearing, counsel for the Respondent represented that although there originally were two Respondents in this proceeding, Articles of Merger recently had been filed with the Commission and only one entity, Loudoun Land Bay D, LLC, remains. Tr., Vol. III at 8; Ex. 17.

¹⁰ Respondent's Post-Hearing Brief at 8.

¹¹ *Id.* at 12.

The Commission received several public comments in support of proposed Route D for the Waxpool Loop. On June 19, 2012, the Loudoun County Board of Supervisors passed a resolution endorsing the Company's proposed Route D because it would cause the least overall impact to residents of Regency and would be in closer proximity to future data centers and commercial growth.

Delegate David L. Ramadan, representing the 87th District, urged careful consideration of the comments in support of proposed Route D filed by the Loudoun County Board of Supervisors and the residents of Regency. Delegate Ramadan stated that Route D would help facilitate future growth in the Ashburn area, which is a rapidly expanding portion of Loudoun County. In addition, Delegate Ramadan noted Route D would minimize adverse impacts on the residents of Regency.

Senator Mark R. Herring, representing the 33rd Senatorial District, filed written comments in support of his constituents in Regency reiterating the residents' strong support of the Company's proposed Route D. Senator Herring stated that after reviewing the alternatives, it was clear to him that Route D is preferable because it would limit the adverse consequences on the residents of Regency and place the transmission line in a location that would assist in the future growth and development needs of the region.

DuPont Fabros Development LLC ("DFD"), which has developed and built numerous data centers in the Ashburn area and currently is developing data centers and multiple mixed-use developments in the immediate area of the proposed routes for the Waxpool Loop, filed comments in support of Route D. DFD noted that although all of the proposed routes for the Waxpool Loop would have a negative impact on DFD's developments in the area, Route D could best accommodate development in the area, including a proposed extension of the Metro Silver Line into Loudoun County.

DFD emphasized that Loudoun County has expressed its clear preference for Route D. The county's letter of July 11, 2012, from Tim Hemstreet, Loudoun County Administrator, specifically stated that Route D was more suitable than Route B as it would have the least impact on local residents, would be in closer proximity to future growth, and would better facilitate the long-term power options of Loudoun County's business community.

The Commission convened local hearings on June 4, 2012. Two public witnesses presented testimony at the hearings. Christeen Tolle, a resident of Regency, stated that she preferred Route D because it is not located near Regency and is closer to potential data center growth.¹² Walter V. Purnell, Jr., a resident of Regency and a member of the subdivision's Homeowner's Association, testified that the Homeowner's Association supports Route D. Mr. Purnell also stated that Routes C, C West, and B each would destroy some of the berms and landscaping installed by the Homeowner's Association.¹³

On July 6, 2012, and corrected on July 19, 2012, the Staff filed its testimony and exhibits ("Staff Testimony") summarizing the results of its investigation of the Company's Application. The Staff concluded that the Company demonstrated the need for the proposed Project.¹⁴ The Staff also concluded that the proposed Project is superior to the transmission and distribution alternatives considered.¹⁵ Staff does not oppose the Company's proposed Route D but recommends that Alternative Route B be considered as a reasonable alternative for the Waxpool Loop because it is shorter and approximately \$3 million less expensive than Route D. Although Alternative Route B is closer to Regency, none of the homes are located within 500 feet of the centerline of the right-of-way.

In the Staff Testimony, the Staff further described the criteria of the underground pilot program established by Chapter 799 of the 2008 Virginia Acts of Assembly ("HB 1319")¹⁶ and the unsuitability of the Project for this program.¹⁷ The Staff recommended that the Commission approve the construction of the proposed Project and issue the requested certificate of public convenience and necessity.

On July 27, 2012, the Company filed the rebuttal testimony of Mark Gill and Courtney Fisher. Mr. Gill responded to the Respondent's contention that the Project was designed to serve only the Customer's projected load by testifying that the Project will strengthen the Company's overall transmission system, which benefits all customers, including the Respondent.¹⁸ Ms. Fisher testified that the Company had not underestimated the cost of Route D, as the cost estimate was based on the sales of comparable properties. Ms. Fisher also responded to the Respondent's claims about loss of tree cover, stating that the Company's analysis showed that Route D would impact 0.66 acres of trees, as compared to the 4.07 acres impacted by Route B.¹⁹

The Commission held an evidentiary hearing on August 15, 2012. Counsel for the Company, the Respondent, and the Commission Staff appeared at the hearing. Pursuant to the Hearing Examiner's direction, the parties submitted post-hearing briefs on October 1, 2012.

On November 9, 2012, the Hearing Examiner issued his report ("Hearing Examiner's Report") setting forth the procedural history of the case; summarizing the record; analyzing the evidence and issues in this proceeding; setting forth his findings and recommendations; and advising the case participants of their opportunity to comment on the Hearing Examiner's Report.

¹² Tr., Vol. 1 at 8-9.

¹³ Mr. Purnell also filed written comments in support of Route D.

¹⁴ Ex. 20 at 7.

¹⁵ *Id.* at 19-22.

¹⁶ During the 2011 legislative session, the General Assembly passed HB 2027, which extended the ending date for underground pilot projects to July 1, 2014. 2011 Va. Acts ch. 244.

¹⁷ Ex. 20 at 17-18.

¹⁸ Ex. 22 at 2.

¹⁹ Ex. 23 at 2, 3.

The Hearing Examiner recommended that the Commission grant the requested certificate of public convenience and necessity to construct and operate the proposed transmission facilities using alternate Route F based on the following findings:

1. The proposed Project is necessary to meet growing electrical demands, improve reliability of service, and provide adequate service to the Customer;
2. The proposed Project will maximize the use of existing rights-of-way;
3. For the reasons stated above, Route F is the overall best route for the Waxpool Loop;
4. If Route D is found to be the most appropriate route, the tie-in to existing Line #2095 should be moved approximately 200 feet south from the original Route D tie-in;
5. The proposed Project is essential to support ongoing economic development within the Ashburn area;
6. The DEQ recommendations are necessary to minimize any adverse environmental impact of the proposed Project;
7. The proposed Project is not suitable for underground construction; and
8. The proposed route with its extensive use of existing right-of-way and its tower design reasonably mitigates the line's overall impact and generally improves the aesthetics of the proposed Project as required by Section 10 of HB 1319.20

The Company, the Respondent, DFD and Loudoun County filed comments in response to the Hearing Examiner's Report. The Company supported the Hearing Examiner's findings that the Project was needed but expressed its continuing preference for proposed Route D. According to the Company, compared to Route D, Route F is more expensive by \$3 million (\$30.5 million as opposed to \$27.6 million for Route D), longer (by 0.3 miles), crosses more parcels (9 versus 6), and has more businesses within 500 feet of the centerline (20 as opposed to 12 for Route D).²¹

The Company also stated that the record evidence relied upon by the Hearing Examiner in recommending Route F is based solely on the speculative arguments made by the Respondent and would shift the impact from the Respondent, who has no specific development plans for its property, to DFD, which is actively developing a site in the area.²²

The Company also stated that if the Commission ultimately approves Route D, it supported the Hearing Examiner's recommendation that the tie-in to existing Line #2095 should be moved approximately 200 feet south from the original Route D tie-in.²³

The Respondent, on the other hand, supported the Hearing Examiner's recommended route and expressed a willingness to enter into an easement agreement with the Company for token compensation in order to narrow the cost difference between Routes D and F.²⁴ DFD and Loudoun County each filed comments supporting Route D.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the public convenience and necessity require that the Waxpool 230 kV Double Circuit Transmission Line, Brambleton-BECO 230 kV Transmission Line and 230-34.5 kV Waxpool Substation be constructed as proposed in the Company's Application and that certificates of public convenience and necessity should be issued authorizing the Project.

We will not consider the comments to the Hearing Examiner's Report filed by DFD and Loudoun County. While we encourage the participation of all interested persons and entities in Commission proceedings, we must ensure that our procedures remain fair to the applicant and to those who participate in accordance with the Commission's orders and regulations. Pursuant to our Scheduling Order in this case, adequate notice was provided and interested persons were afforded an opportunity to file written comments on the Company's application in a timely manner, to become parties to the case, or to appear as public witnesses. These procedures for participation require issues and evidence to be raised in a manner that permits the applicant and other parties an opportunity to address the same. Rule 5 VAC 5-10-80 C, *Public Witnesses*, of the Commission's Rules of Practice and Procedure, states that public witnesses are limited to

filing written comments in advance of the hearing if provided for by [C]ommission order or by attending the hearing, noting an appearance in the manner prescribed by the [C]ommission, and giving oral testimony. Public witnesses may not otherwise participate in the proceeding, be included in the service list, or be considered a party to the proceeding.

Accordingly, DFD's and Loudoun County's participation as public witnesses does not provide a basis for us to consider their comments to the Hearing Examiner's Report.

²⁰ Hearing Examiner's Report at 21.

²¹ Comments of Virginia Electric and Power Company at 5.

²² *Id.* at 14.

²³ *Id.* at 5.

²⁴ Respondent Comments at 5.

Approval

The statutory scheme governing the Company's Application is found in several chapters of Title 56 of the Code of Virginia ("Code"). Section 56-265.2 A of the Code provides that "[i]t shall be unlawful for any public utility to construct . . . facilities for use in public utility service, . . ., without first having obtained a certificate from the Commission that the public convenience and necessity require the exercise of such right or privilege."

Section 56-46.1 of the Code further directs the Commission to consider several factors when reviewing the Company's Application. Subsection A of the statute provides that:

Whenever the Commission is required to approve the construction of any electrical utility facility, it shall give consideration to the effect of that facility on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact In every proceeding under this subsection, the Commission shall receive and give consideration to all reports that relate to the proposed facility by state agencies concerned with environmental protection; and if requested by any county or municipality in which the facility is proposed to be built, to local comprehensive plans that have been adopted Additionally, the Commission (a) shall consider the effect of the proposed facility on economic development within the Commonwealth, . . ., and (b) shall consider any improvements in service reliability that may result from the construction of such facility.

Section 56-46.1 B of the Code further provides that: "[a]s a condition to approval the Commission shall determine that the line is needed and that the corridor or route the line is to follow will reasonably minimize adverse impact on the scenic assets, historic districts, and environment of the area concerned."

The Code further requires the Commission to consider existing right-of-way easements when siting transmission lines. Section 56-46.1 C of the Code provides that "[i]n any hearing the public service company shall provide adequate evidence that existing rights-of-way cannot adequately serve the needs of the company." In addition, § 56-259 C of the Code provides that "[p]rior to acquiring any easement of right-of-way, public service corporations will consider the feasibility of locating such facilities on, over, or under existing easements of rights-of-way."

Finally, for inclusion of a project in the underground pilot program established by HB 1319, the project must satisfy the following three criteria:

- (1) An engineering analysis demonstrates that it is technically feasible to place the proposed line, in whole or in part, underground;
- (2) The estimated additional cost of placing the proposed line, in whole or in part, underground does not exceed 2.5 times the cost of placing the same line overhead, assuming accepted industry standards for undergrounding to ensure safety and reliability. If the public utility, the affected localities, and the State Corporation Commission agree, a proposed underground line whose cost exceeds 2.5 times the cost of placing the line overhead may also be accepted into the pilot program; and
- (3) The governing body of each locality in which a portion of the proposed line will be placed underground indicates, by resolution, general community support for the line to be placed underground.²⁵

Need

The need for the Project is unchallenged.²⁶ We agree with the Hearing Examiner that load growth in the area requires transmission improvements, and that the Project will provide reliability benefits as described in the Application.

Route

As discussed above, the Hearing Examiner recommended alternate Route F, finding that "Route F is the only route that avoids splitting Respondent's Property, has no impact on the Regency, and locates the proposed line in the vicinity of future load growth."²⁷ The Company, DFD, Loudoun County and several other public witnesses all support Route D. The Respondent supported Routes B and F, as the proposed route bisects the Respondent's property.

We disagree with the Hearing Examiner. Route F is more expensive, longer, crosses more parcels and contains more businesses within 500 feet of the centerline than proposed Route D. In addition, as demonstrated by the Company, Route F avoids bisecting the Respondent's property, for which no development plan has been filed with the county, at the expense of the Loudoun Center project, a site under active development by DFD. Finally, we agree with the Company that Route D avoids impacts on Regency and appears to be better situated for future load growth.

Therefore, we will direct the Company to construct the Project using proposed Route D. We agree with the Hearing Examiner that the tie-in to existing Line #2095 should be moved approximately 200 feet south from the original Route D tie-in.

²⁵ 2008 Va. Acts ch. 799, Enactment Clause 1, § 4. As mentioned previously, during the 2011 legislative session, the General Assembly passed HB 2027, which extended the ending date for underground pilot projects to July 1, 2014. 2011 Va. Acts. ch. 244.

²⁶ Hearing Examiner's Report at 16.

²⁷ *Id.* at 21.

Economic Development and Service Reliability

We agree with the Hearing Examiner that "[t]he Proposed Project will have a positive impact on economic development in the area.²⁸ We find that by assuring continued reliable bulk electric power delivery, the Project benefits economic development in Loudoun County.²⁹

Scenic Assets, Historic Districts, and Existing Rights-of-Way

We agree with the Hearing Examiner that the proposed Project will maximize the use of existing rights-of-way to the greatest extent possible. The majority of the proposed Brambleton-BECO Line, approximately 10.33 miles (92%), is contained within existing variable width transmission line easements. This existing right-of-way is currently cleared and maintained for transmission operation. From the Beaumeade Junction to the BECO Junction (approximately 0.17 mile), an additional 50-foot right-of-way expansion would be required to the south of the existing 100-foot right-of-way to accommodate the installation of new structures. From BECO Junction to the BECO Substation (approximately 0.70 mile), an additional 30-foot expansion would be required to the east of the existing 100-foot right-of-way to accommodate new structures. There is no existing right-of-way available for the Waxpool Loop; therefore, the Waxpool Loop would be built entirely on new right-of-way approximately 100 feet wide.³⁰

We find that the Project will have a minimal impact on scenic assets and historic districts consistent with § 56-46.1 B of the Code. The Brambleton-BECO Junction transmission line uses existing right-of-way, and the Company has agreed to coordinate with the Department of Historic Resources to protect historic and archaeological resources in the Project area.³¹

Environmental Impact

Sections 56-46.1 A and B of the Code require the Commission to consider the proposed Project's impact on the environment and to establish such conditions as may be desirable or necessary to minimize adverse environmental impact. Section 56-46.1 A of the Code further provides that the Commission shall receive, and give consideration to, all reports that relate to the proposed Project by state agencies concerned with environmental protection.

We agree with the Hearing Examiner and find that "[t]he DEQ recommendations are necessary to minimize any adverse environmental impact of the proposed Project."³² The record supports findings that the route approved herein reasonably minimizes adverse environmental impact, provided that the Company complies with the DEQ recommendations found by the Hearing Examiner to be necessary to minimize such impact.³³

HB 1319

We find that the evidence demonstrates that the Project does not meet the criteria set forth in HB 1319 for inclusion as a pilot program.³⁴ We further agree with the Hearing Examiner that the Company's proposed tower design would reasonably mitigate the overall impact and generally improve the aesthetics of the Project as required by HB 1319.³⁵

Accordingly, IT IS ORDERED THAT:

(1) The Company is authorized to construct and operate the proposed Waxpool 230 kV Double Circuit Transmission Line, Brambleton-BECO 230 kV Transmission Line, and 230-34.5 kV Waxpool Substation on the route proposed in the Company's Application subject to the findings and conditions imposed herein.

(2) Pursuant to §§ 56-46.1, 56-265.2, and related provisions of Title 56 of the Code, the Company's Application for a certificate of public convenience and necessity to construct and operate the Project is granted, as provided for herein, and subject to the requirements set forth in this Final Order.

(3) Pursuant to the Utility Facilities Act, Chapter 10.1 (§ 56-265.1 *et seq.*) of Title 56 of the Code, the Company is issued the following certificate of public convenience and necessity:

Certificate No. ET-91u, which authorizes Virginia Electric and Power Company under the Utility Facilities Act to operate certificated transmission lines and facilities in Loudoun County, all as shown on the map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUE-2011-00129, cancels Certificate No. ET-91t, issued to Virginia Electric and Power Company on September 1, 2011 in Case No. PUE-2011-00003.

²⁸ *Id.* at 16.

²⁹ *Id.*; Ex. 20 at 22.

³⁰ Hearing Examiner's Report at 16.

³¹ Ex. 23 (Fisher Rebuttal) at 2; Ex. 21 (DEQ Report) at 19-21.

³² Hearing Examiner's Report at 21.

³³ *Id.* at 10-11.

³⁴ Ex. 20 at 17; Hearing Examiner's Report at 17-18.

³⁵ Hearing Examiner's Report at 21.

(4) The Commission's Division of Energy Regulation forthwith shall provide the Company copies of the certificates issued in Ordering Paragraph (3) with the detailed map attached.

(5) The transmission line and associated substation work approved herein must be constructed and in service by December 31, 2013; provided, however, the Company is granted leave to apply for an extension for good cause shown.

(6) As there is nothing further to come before the Commission, this matter is dismissed and the papers filed herein shall be placed in the file for ended causes.

**CASE NO. PUE-2011-00130
JANUARY 12, 2012**

APPLICATION OF
RESTON LAKE ANNE AIR CONDITIONING CORPORATION

For an increase in rates

ORDER FOR NOTICE AND HEARING

On December 15, 2011, Reston Lake Anne Air Conditioning Corporation ("RELAC" or "Company") filed with the State Corporation Commission ("Commission") its application, testimony, and exhibits for a general increase in rates for its air conditioning service ("Application").¹

The Application requests authority to increase RELAC's rates for air conditioning service to produce a total revenue increase of \$108,775.² The Company asserts that the proposed revenue increase, consisting of \$63,943 plus associated taxes and bad debt expenses of \$44,832, is necessary to permit the Company to earn a reasonable return on rate base of 7.77%.³ The Application states that:

the Company's requested total revenue requirement of \$621,344, which includes the \$108,775 proposed increase, is designed to recover, in the aggregate, (i) revenues not in excess of the aggregate actual costs incurred by the Company in serving Virginia customers and annualized adjustments for future costs plus (ii) a fair return on rate base.⁴

In the Application, as amended by letter dated December 22, 2011, RELAC requests authority to place its proposed rates into effect on an interim basis, subject to refund, no later than May 22, 2012, and no sooner than May 1, 2012.

The Company's proposed rates for non-interruptible service are as follows:

NON-INTERRUPTIBLE RATES AND CHARGES⁵

UNMETERED SERVICE:

	Charge per season per 2,000 BTUH or portion thereof		
	Fixed	Variable	Total
Residential	\$33.74	\$21.45	\$55.19
Commercial	\$43.16	\$27.45	\$70.61

METERED SERVICE:

\$13.67 per thousand gallons for the 1st 10,000 gallons or part thereof used each billing period.
\$6.83 per thousand gallons for each 1,000 gallons or part thereof used in excess of 10,000 gallons in each billing period.
The minimum charge per billing period for metered customers is \$55.34 payable regardless of usage but credited against actual usage.

MISCELLANEOUS CHARGES:

A 1.5 % per month late charge will be assessed on all past due amounts.
A charge of \$20 will be assessed for handling checks returned for insufficient funds.

¹ Pursuant to Rule 20 VAC 5-201-20 A of the Commission's Rules Governing Utility Rate Applications and Annual Informational Filings ("Rate Case Rules"), the Rate Case Rules do not apply to the Company's Application because RELAC's annual revenues are less than \$1 million. By letter dated December 22, 2011, the Company amended the Application regarding the proposed effective date for the proposed rates.

² Application at 1.

³ *Id.* at 2.

⁴ *Id.*

⁵ RELAC's proposed tariff is an exhibit to the pre-filed direct testimony of Gregory K. Odell, filed as part of the Application. The charges specifically referenced herein may be found on pages 3-4 of the proposed tariff.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

NOW THE COMMISSION, having considered the matter, is of the opinion and finds that the Company should provide public notice of the Application; that an opportunity for participation in the proceeding should be given to interested persons; that a public hearing should be scheduled for the purpose of receiving testimony and evidence on the Application; that interested persons should be allowed to file written or electronic comments on the Application; that the Commission Staff ("Staff") should be directed to investigate the Application and to file testimony and exhibits containing its findings and recommendations; and that, pursuant to Rule 5 VAC 5-20-120, *Procedure before hearing examiners*, of the Commission's Rules of Practice and Procedure, 5 VAC 5-20-10 *et seq.* ("Rules of Practice"), this matter should be assigned to a hearing examiner to conduct all further proceedings. We further find that RELAC's proposed rates and charges should be suspended for one hundred and fifty (150) days from the filing date of the Application pursuant to § 56-238 of the Code of Virginia ("Code").

Accordingly, IT IS ORDERED THAT:

- (1) This matter shall be docketed and assigned Case No. PUE-2011-00130.
- (2) Pursuant to § 12.1-31 of the Code and 5 VAC 5-20-120 of the Commission's Rules of Practice, a Hearing Examiner is appointed to conduct all further proceedings in this matter on behalf of the Commission, concluding with the issuance of a report containing the Hearing Examiner's findings and recommendations.
- (3) RELAC's proposed rates and charges are suspended for one hundred and fifty (150) days from the filing date of the Application pursuant to § 56-238 of the Code. The Company may, but is not obligated to, place its proposed rates, charges, and terms and conditions of service into effect on an interim basis, subject to refund with interest, for service rendered on or after May 13, 2012.
- (4) A public hearing shall be convened on June 5, 2012, at 10:00 a.m., in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, to receive evidence on the Application. Any person desiring to make a statement at the public hearing concerning the Application need only appear in the Commission's Courtroom at 9:45 a.m. on the day of the hearing and identify himself or herself to the Commission's Bailiff.
- (5) The Company shall make copies of the Application, as well as a copy of this Order for Notice and Hearing, available for public inspection during regular business hours at Reston Regional Library, 11925 Bowman Towne Drive, Reston, Virginia 20190. Copies also may be obtained by submitting a written request to counsel for the Company, Anthony Gambardella, Esquire, Woods Rogers PLC, Riverfront Plaza, West Tower, 901 East Byrd Street, Suite 1550, Richmond, Virginia 23219. If acceptable to the requesting party, the Company may provide the documents by electronic means. Copies of these documents also shall be available for interested persons to review in the Commission's Document Control Center, located on the First Floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5:00 p.m., Monday through Friday, excluding holidays. Interested persons may also download unofficial copies from the Commission's website: <http://www.scc.virginia.gov/case>.
- (6) On or before February 6, 2012, the Company shall cause a copy of the following notice to be sent to each of its customers by first class mail, postage prepaid (bill inserts are acceptable):

NOTICE OF AN APPLICATION OF
RESTON LAKE ANNE AIR CONDITIONING CORPORATION
FOR AN INCREASE IN RATES
CASE NO. PUE-2011-00130

On December 15, 2011, Reston Lake Anne Air Conditioning Corporation ("RELAC" or "Company") filed with the State Corporation Commission ("Commission") its application, testimony, and exhibits for a general increase in rates for its air conditioning service ("Application").

The Application requests authority to increase RELAC's rates for air conditioning service to produce a total revenue increase of \$108,775. The Company asserts that the proposed revenue increase, consisting of \$63,943 plus associated taxes and bad debt expenses of \$44,832, is necessary to permit the Company to earn a reasonable return on rate base of 7.77%. The Company states that its proposed total revenue requirement of \$621,344, which includes the \$108,775 proposed increase, is designed to recover revenues not in excess of aggregate actual costs incurred by RELAC in serving Virginia customers and annualized adjustments for future costs, plus a fair return on rate base.

In the Application, as amended by letter dated December 22, 2011, RELAC requests authority to place its proposed rates into effect on an interim basis, subject to refund, no later than May 22, 2012, and no sooner than May 1, 2012.

The Company's proposed rates for non-interruptible service are as follows:

NON-INTERRUPTIBLE RATES AND CHARGES

UNMETERED SERVICE:

	<u>Charge per season per 2,000 BTUH or portion thereof</u>		
	<u>Fixed</u>	<u>Variable</u>	<u>Total</u>
Residential	\$33.74	\$21.45	\$55.19
Commercial	\$43.16	\$27.45	\$70.61

METERED SERVICE:

\$13.67 per thousand gallons for the 1st 10,000 gallons or part thereof used each billing period.

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\$6.83 per thousand gallons for each 1,000 gallons or part thereof used in excess of 10,000 gallons in each billing period.

The minimum charge per billing period for metered customers is \$55.34 payable regardless of usage but credited against actual usage.

MISCELLANEOUS CHARGES:

A 1.5 % per month late charge will be assessed on all past due amounts.

A charge of \$20 will be assessed for handling checks returned for insufficient funds.

Interested persons are encouraged to review the Application and supporting documents for the details of these and other proposals. While the total revenue that may be approved by the Commission is limited to the amount produced by the Company's proposed rates, TAKE NOTICE that the Commission may approve revenues and adopt rates, fees, charges, tariff revisions, and terms and conditions of service that differ from those appearing in the Company's Application and supporting documents and may apportion revenues among customer classes and/or design rates in a manner differing from that shown in the Application and supporting documents.

The Commission has suspended RELAC's proposed rates and charges pursuant to § 56-238 of the Code of Virginia. The Company may, but is not obligated to, place its proposed rates, charges, and terms and conditions of service into effect on an interim basis, subject to refund with interest, for service rendered on and after May 13, 2012.

The Commission entered an Order for Notice and Hearing that, among other things, has scheduled a public hearing to commence at 10:00 a.m. on June 5, 2012, in the Commission's Second Floor Courtroom, Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, for the purpose of receiving comments from members of the public and evidence related to the Application. Any person desiring to make a statement at the public hearing need only appear in the Commission's Second Floor Courtroom in the Tyler Building at the address set forth above prior to 9:45 a.m. on the day of the hearing and identify himself or herself to the Commission's Bailiff. Individuals with disabilities who require an accommodation to participate in the hearing should contact the Commission at least seven (7) days before the scheduled hearing at 1-800-552-7945 (voice) or 1-804-371-9206 (TDD).

A copy of the Application, as well as a copy of the Commission's Order for Notice and Hearing, is available for public inspection during regular business hours at Reston Regional Library, 11925 Bowman Towne Drive, Reston, Virginia 20190. Copies also may be obtained by submitting a written request to counsel for the Company, Anthony Gambardella, Esquire, Woods Rogers PLC, Riverfront Plaza, West Tower, 901 East Byrd Street, Suite 1550, Richmond, Virginia 23219. If acceptable to the requesting party, the Company may provide the documents by electronic means. Copies of these documents also shall be available for interested persons to review in the Commission's Document Control Center, located on the First Floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5:00 p.m., Monday through Friday, excluding holidays. Interested persons may also download unofficial copies from the Commission's website: <http://www.scc.virginia.gov/case>.

Any interested person may participate as a respondent in this proceeding by filing, on or before March 8, 2012, a notice of participation. If not filed electronically, an original and fifteen (15) copies of the notice of participation shall be submitted to Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Anyone filing a notice of participation simultaneously shall serve a copy of the notice of participation on counsel to the Company at the address set forth above. Pursuant to Rule 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice and Procedure, 5 VAC 5-20-10 *et seq.* ("Rules of Practice"), any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Interested persons shall refer in all of their filed papers to Case No. PUE-2011-00130.

On or before April 6, 2012, each respondent may file with the Clerk of the Commission and serve on the Commission Staff, the Company, and all other respondents any testimony and exhibits by which the respondent expects to establish its case. If not filed electronically, an original and fifteen (15) copies of such testimony and exhibits shall be submitted to the Clerk of the Commission at the address set forth above. In all filings, the respondent shall comply with the Commission's Rules of Practice, including 5 VAC 5-20-140, *Filing and service*, 5 VAC 5-20-150, *Copies and format*, and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUE-2011-00130.

On or before May 29, 2012, any interested person may file with the Clerk of the Commission, at the address set forth above, written comments on the Application. On or before May 29, 2012, any interested person desiring to submit comments electronically may do so by following the instructions found on the Commission's website: <http://www.scc.virginia.gov/case>. All correspondence shall refer to Case No. PUE-2011-00130.

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The Commission's Rules of Practice may be viewed at: <http://www.scc.virginia.gov/case>. A printed copy of the Rules of Practice may be obtained from Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118.

RESTON LAKE ANNE AIR CONDITIONING CORPORATION

(7) On or before February 6, 2012, the Company shall serve a copy of this Order for Notice and Hearing on the chairman of the board of supervisors and county attorney of each county and upon the mayor or manager of every city and town (or upon equivalent official) in which the Company provides service. Service shall be made by first class mail to the customary place of business or residence of the person served.

(8) On or before February 23, 2012, the Company shall file proof of the notice and service as ordered herein with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118.

(9) On or before May 29, 2012, any interested person may file with the Clerk of the Commission, at the address set forth in Ordering Paragraph (8), written comments on the Application. On or before May 29, 2012, any interested person desiring to submit comments electronically may do so by following the instructions found on the Commission's website: <http://www.scc.virginia.gov/case>. All comments shall refer to Case No. PUE-2011-00130.

(10) Any interested person may participate as a respondent in this proceeding by filing, on or before March 8, 2012, a notice of participation. If not filed electronically, an original and fifteen (15) copies of the notice of participation shall be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (8). Anyone filing a notice of participation simultaneously shall serve a copy of the notice of participation on counsel for the Company at the address set out in Ordering Paragraph (5). Pursuant to Rule 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation or government body participating as a respondent must be represented by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. Interested persons shall refer in all of their filed papers to Case No. PUE-2011-00130.

(11) Within five (5) business days of receipt of a notice of participation as a respondent, the Company shall serve upon each respondent a copy of this Order for Notice and Hearing, a copy of the Application, and all materials filed by the Company with the Commission, unless these materials already have been provided to the respondent.

(12) On or before April 6, 2012, each respondent may file with the Clerk of the Commission and serve on the Staff, the Company, and all other respondents, any testimony and exhibits by which the respondent expects to establish its case. If not filed electronically, an original and fifteen (15) copies of such testimony and exhibits shall be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (8). In all filings, the respondent shall comply with the Commission's Rules of Practice, including: 5 VAC 5-20-140, *Filing and service*, 5 VAC 5-20-150, *Copies and format*, and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUE-2011-00130.

(13) The Staff shall investigate the Application. On or before May 4, 2012, the Staff shall file with the Clerk of the Commission an original and fifteen (15) copies of the Staff's testimony and exhibits and shall serve a copy on counsel to the Company and all respondents.

(14) On or before May 18, 2012, the Company shall file with the Clerk of the Commission any rebuttal testimony and exhibits that the Company expects to offer in rebuttal to the testimony and exhibits of the respondents and the Staff and simultaneously shall serve a copy on the Staff and all respondents. If not filed electronically, an original and fifteen (15) copies of such rebuttal testimony and exhibits shall be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (8).

(15) The Commission's Rule of Practice, 5 VAC 5-20-260, *Interrogatories or requests for production of documents and things*, shall be modified for this proceeding as follows: answers to interrogatories and requests for production of documents shall be served within seven (7) business days after receipt of the same. Except as modified above, discovery shall be in accordance with Part IV of the Commission's Rules of Practice, 5 VAC 5-20-240 *et seq.*

(16) This matter is continued generally.

**CASE NO. PUE-2011-00130
SEPTEMBER 12, 2012**

APPLICATION OF
RESTON LAKE ANNE AIR CONDITIONING CORPORATION

For an increase in rates

FINAL ORDER

On December 15, 2011, Reston Lake Anne Air Conditioning Corporation ("RELAC" or "Company") filed with the State Corporation Commission ("Commission") its application, testimony, and exhibits for a general increase in rates for its air conditioning service ("Application").¹

¹ Pursuant to Rule 20 VAC 5-201-20 A of the Commission's Rules Governing Utility Rate Applications and Annual Informational Filings ("Rate Case Rules"), the Rate Case Rules do not apply to the Company's Application because RELAC's annual revenues are less than \$1 million.

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RELAC requested authority to increase its rates for air conditioning service to produce a total revenue increase of \$108,775,² asserting that the proposed revenue increase, consisting of \$63,943 plus associated taxes and bad debt expenses of \$44,832, is necessary to permit the Company to earn a reasonable return on rate base of 7.77%.³ The Application stated that:

[T]he Company's requested total revenue requirement of \$621,344, which includes the \$108,775 proposed increase, is designed to recover, in the aggregate, (i) revenues not in excess of the aggregate actual costs incurred by the Company in serving Virginia customers and annualized adjustments for future costs plus (ii) a fair return on rate base.⁴

In the Application, as amended by letter dated December 22, 2011, RELAC requested authority to place its proposed rates into effect on an interim basis, subject to refund, no later than May 22, 2012, and no sooner than May 1, 2012.⁵

On January 12, 2012, the Commission entered an Order for Notice and Hearing in which it, among other things, authorized the Company to put its proposed rates, charges, and terms and conditions of service into effect, on an interim basis and subject to refund with interest, for service rendered on or after May 13, 2012; required the Company to publish notice of its Application; assigned this matter to a hearing examiner; and scheduled a public hearing on the Application for June 5, 2012.

On March 2, 2012, the Fairfax County Board of Supervisors ("Fairfax County") filed its Notice of Participation in this proceeding.

As directed by the Order for Notice and Hearing, the Commission Staff ("Staff") filed its testimony with the Commission on May 4, 2012. On May 25, 2012, the Company filed its rebuttal testimony in this proceeding.⁶

On June 5, 2012, the evidentiary hearing was convened in Richmond, Virginia, as scheduled. A stipulation was introduced at the hearing, to which the Company and Staff are signatories ("Stipulation"). Among other things, the Company and the Staff agreed to specific terms regarding the Company's additional annual revenues,⁷ rate design, authorized return on common equity ("ROE"),⁸ and other terms related to the Company's rates and accounting adjustments recommended by the Staff in its testimony filed on May 4, 2012. Paragraph 9 of the Stipulation provides in pertinent part that the Stipulation "is not intended to address any service quality issue(s) that have been or may be raised by the Company's customers or the County of Fairfax, Virginia, in this proceeding."⁹ At the hearing, Fairfax County expressed significant concerns regarding RELAC's failure to comply with the reporting/recordkeeping requirements established by the Commission's October 29, 2010 Order in Case No. PUE-2009-00129 ("2010 Order")¹⁰ and recommended certain modifications thereto.

On June 11, 2012, Hearing Examiner A. Ann Berkebile entered a Ruling authorizing the Company to place its modified, proposed rates, as set forth in the Stipulation, into effect on an interim basis, subject to refund with interest, for service rendered on or after May 13, 2012.

On July 23, 2012, the Hearing Examiner issued her Report ("Hearing Examiner's Report"), which included the following findings based upon the Stipulation and the evidence contained in the record:

- (1) The Stipulation offers a fair and reasonable disposition to this case;
- (2) A revenue requirement increase of \$78,000 (resulting in a total annual revenue requirement of \$590,569) is reasonable and should be considered by the Commission;
- (3) Rule/Regulation No. 7 of RELAC's existing tariff should be modified to: (a) eliminate the fixed and variable components of unmetered service; (b) set an unmetered service rate, per 2,000 BTUH or portion thereof, of \$52.61 for residential customers and \$67.10 for commercial customers; (c) set a billing rate for metered customers of \$13.02 per 1000 gallons for the first 10,000 gallons or part thereof used each billing period, and \$6.51 per 1000 gallons for each 1000 gallons or part thereof used in excess of 10,000 gallons in

² Application at 1.

³ *Id.* at 2.

⁴ *Id.*

⁵ On May 9, 2012, the Company filed a Notice of Implementation, Subject to Refund, of Proposed Rates effective for service rendered on or after May 13, 2012.

⁶ On June 4, 2012, the Staff filed its Motion to Accept Errata Filing seeking to submit corrected schedules in connection with the testimony of Staff witness Jason K. Fayorsey.

⁷ The Company and Staff agreed to an incremental revenue requirement of \$78,000.

⁸ The signatories to the Stipulation agreed that certain issues common to both this proceeding and the pending rate case of Aqua Virginia, Inc. (the "AV Rate Case"), including the authorized ROE, should be resolved in the AV Rate Case. See *Application of Aqua Virginia, Inc. and Sydnor Hydrodynamics, Inc., For an increase in water and sewer rates*, Case No. PUE-2011-00099, Doc. Cont. Cen. No. 111110106, Application (Nov. 1, 2011).

⁹ Stipulation at 3.

¹⁰ *Application of Reston Lake Ann Air Conditioning Corporation For an increase in rates*, Case No. PUE-2009-00129, 2010 S.C.C. Ann. Rept. 411, Final Order (Oct. 29, 2010).

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each billing period; and (d) set \$64.06 as the minimum charge per billing period for metered customers payable regardless of usage but credited against actual usage;

(4) The Commission should modify the recordkeeping requirements set forth in Paragraph (3) of the 2010 Order to require the recording of temperature and supply information at approximately the same time each day; and

(5) The Commission should direct Staff to file a report at the conclusion of RELAC's 2012 cooling season (on or before October 31, 2012) summarizing the overall status of the Company's reporting/recordkeeping and system performance and including any recommendations for improved performance or further Commission action.¹¹

The Hearing Examiner recommended that the Commission enter an order adopting the findings in the Hearing Examiner's Report, approving the Company's rates recommended therein, and retaining jurisdiction over this matter pending Staff's filing of the report recommended by the Hearing Examiner. She further invited comments to the Hearing Examiner's Report to be filed within twenty-one (21) days of the date of the Report.

On August 13, 2012, Fairfax County and RELAC filed comments to the Hearing Examiner's Report.¹² In its comments, Fairfax County requested that the Commission modify the Hearing Examiner's finding in Paragraph 4 to:

require the Company to record the temperature and supply information during the two-hour period 4 – 6 p.m., that . . . it direct the Company to provide a summary of its 2012 plant records in the format shown in Exhibit 13, that it direct the Company to improve its annual customer complaint report to eliminate duplicative reporting and other ambiguities, and that it order such additional measures to address Tariff compliance and customer service issues as may be just and reasonable.¹³

In its Comments to the Hearing Examiner's Report, RELAC urged the Commission to adopt and finalize the stipulated rates and other recommendations contained in the Hearing Examiner's Report. The Company did not object to the additional recordkeeping requirements on the Company or the Staff report recommended by the Hearing Examiner.

NOW THE COMMISSION, having considered the matter, is of the opinion and finds that the findings and recommendations of the Hearing Examiner's Report should be adopted, that the Stipulation should be adopted, and that the rates provided for in the Stipulation should be approved. We note that the comments and recommendations proposed by Fairfax County in this proceeding are reasonable based on the Company's history with service reliability, reporting and recordkeeping. However, we further note Staff's commitment to monitor periodic updates during the cooling season¹⁴ and the Company's assertions that its new reporting and recordkeeping system will better enable it to "record and respond to customer complaints as well as recording, tracking and compiling daily information regarding ambient and system temperatures and outgoing/returning pressures."¹⁵ Therefore, we decline to adopt Fairfax County's recommendations at this time. Finally, consistent with the Hearing Examiner's Report and Fairfax County's comments we find that information related to temperature and pressure should be measured at approximately the same time each day – specifically, between 4 – 6 p.m.

Accordingly, IT IS ORDERED THAT:

(1) The findings and recommendations of the July 23, 2012 Hearing Examiner's Report are hereby adopted.

(2) In accordance with the findings made herein, the Stipulation attached hereto as Attachment A is adopted, and its terms are incorporated herein.

(3) RELAC shall continue to record all information required by our October 29, 2010 Order in Case No. PUE-2009-00129 in the manner prescribed therein. In addition, all such information related to temperature and pressure shall be measured and recorded at approximately the same time each day – between 4 – 6 p.m.

(4) On or before October 31, 2012, the Staff shall file a report summarizing the overall status of the Company's reporting/recordkeeping and system performance. Such report shall include any recommendations for improved performance or further Commission action.

(5) RELAC shall, within thirty (30) days from the date of this Order, file revised tariffs and terms and conditions of service with the Commission's Division of Energy Regulation, in accordance with this Order.

(6) This matter is continued pending further order of the Commission.

NOTE: A copy of Attachment A entitled "Stipulation" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

¹¹ Hearing Examiner's Report at 18-19.

¹² On August 9, 2012, Staff filed a letter with the Clerk of the Commission stating that it did not intend to file comments to the Hearing Examiner's Report.

¹³ Comments of Fairfax County to the Hearing Examiner's Report at 6.

¹⁴ Tr. at 150-156.

¹⁵ Comments of RELAC to the Hearing Examiner's Report at 9.

**CASE NO. PUE-2011-00130
NOVEMBER 16, 2012**

APPLICATION OF
RESTON LAKE ANNE AIR CONDITIONING CORPORATION

For an increase in rates

ORDER

On December 15, 2011, Reston Lake Anne Air Conditioning Corporation ("RELAC" or "Company") filed with the State Corporation Commission ("Commission") its application, testimony, and exhibits for a general increase in rates for its air conditioning service ("Application"). Specifically, RELAC requested a revenue increase of \$108,775.

On January 12, 2012, the Commission entered an Order for Notice and Hearing in which it, among other things, authorized the Company to put its proposed rates, charges, and terms and conditions of service into effect, on an interim basis and subject to refund with interest, for service rendered on or after May 13, 2012; required the Company to publish notice of its Application; assigned the matter to a hearing examiner; directed the Commission Staff ("Staff") to investigate the Application; and scheduled a public hearing on the Application for June 5, 2012.

On March 2, 2012, the Fairfax County Board of Supervisors ("Fairfax County") filed a notice of participation in this proceeding.

On June 5, 2012, the evidentiary hearing was convened in Richmond, Virginia, as scheduled. At the hearing, Fairfax County expressed significant concerns regarding RELAC's failure to comply with the reporting/recordkeeping requirements established by the Commission's October 29, 2010 Order in Case No. PUE-2009-00129 ("2010 Order")¹ and recommended certain modifications thereto.

On July 23, 2012, the Hearing Examiner issued her Report ("Hearing Examiner's Report"), which included findings and recommendations based upon the evidence contained in the record. Among other things, the Hearing Examiner's Report contained the following findings:

4. The Commission should modify the recordkeeping requirements set forth in Paragraph (3) of the 2010 Order to require the recording of temperature and supply information at approximately the same time each day; and
5. The Commission should direct Staff to file a report at the conclusion of RELAC's 2012 cooling season (on or before October 31, 2012) summarizing the overall status of the Company's reporting/recordkeeping and system performance and including any recommendations for improved performance or further Commission action.²

The Hearing Examiner recommended that the Commission enter an order adopting the findings in the Hearing Examiner's Report, approving the Company's rates recommended therein, and retaining jurisdiction over this matter pending Staff's filing of the report recommended by the Hearing Examiner.

On September 12, 2012, the Commission entered its Final Order in this proceeding ("September 12, 2012 Order") adopting the findings and recommendations contained in the Hearing Examiner's Report. In accordance with the Hearing Examiner's finding that the Company should record temperature and supply information at approximately the same time each day, Ordering Paragraph (3) of the September 12, 2012 Order provided as follows:

RELAC shall continue to record all information required by our October 29, 2010 Order in Case No. PUE-2009-00129 in the manner prescribed therein. In addition, all such information related to temperature and pressure shall be measured and recorded at approximately the same time each day – between 4 – 6 p.m.

On October 31, 2012, Staff filed its report ("Staff Report") summarizing the status of RELAC's reporting/recordkeeping and system performance and offering any recommendations. According to the Staff Report, "[t]he Company's reporting is much improved over the 2011 cooling season."³ Staff noted that RELAC's cooling plant is not staffed during the hours of 4 – 6 p.m. on weekends during the cooling season and recommended that the September 12, 2012 Order be modified to accommodate the Company's weekend staffing schedule at its cooling plant. Staff noted that "the cooling plant is only staffed for four hours on most weekend days"⁴ and suggested that "RELAC should attempt to record the temperature and pressure readings between 4 and 6 p.m., but if the cooling plant is not staffed between these hours, RELAC should record the temperatures and pressures as close to 12 p.m. as possible."⁵

NOW THE COMMISSION, having considered the matter, is of the opinion and finds that the recommendation contained in the Staff Report is reasonable and that Ordering Paragraph (3) of the September 12, 2012 Order should be modified as provided herein.

¹ *Application of Reston Lake Anne Air Conditioning Corporation For an increase in rates*, Case No. PUE-2009-00129, 2010 S.C.C. Ann. Rept. 411, Final Order (Oct. 29, 2010).

² Hearing Examiner's Report at 19.

³ Staff Report at 2-3.

⁴ *Id.* at 3.

⁵ *Id.*

Accordingly, IT IS ORDERED THAT:

(1) Ordering Paragraph (3) of the September 12, 2012 Order shall be modified to state as follows:

RELAC shall continue to record all information required by our October 29, 2010 Order in Case No. PUE-2009-00129 in the manner prescribed therein. In addition, all such information related to temperature and pressure shall be measured and recorded at approximately the same time each day – between 4 – 6 p.m. However, to the extent that RELAC's cooling plant is not staffed between these hours on the weekends, RELAC shall record the temperatures and pressures as close to 12 p.m. as possible.

(2) All other provisions of the September 12, 2012 Order shall remain in full force and effect.

(3) There being nothing further to come before the Commission, this matter is dismissed from the Commission's active docket and the papers filed herein placed in the file for ended causes.

**CASE NO. PUE-2011-00131
SEPTEMBER 10, 2012**

APPLICATION OF
WASHINGTON GAS LIGHT COMPANY

For an annual informational filing for the Twelve Months Ended September 30, 2011

ORDER CLOSING PROCEEDING

On December 16, 2011, Washington Gas Light Company ("WGL" or "Company") filed a petition ("Petition") with the State Corporation Commission ("Commission") requesting a waiver of certain filing requirements imposed by 20 VAC 5-201-30 ("Rule 30") of the Commission's Rules Governing Utility Rate Applications and Annual Informational Filings ("Rate Case Rules").¹ Specifically, WGL's Petition sought permission to omit certain schedules required by Rule 30 of the Rate Case Rules from the Company's Annual Informational Filing for the twelve months ended September 30, 2011 ("2011 AIF").

On January 11, 2012, the Commission issued an Order Granting Partial Waiver of Requirement to File Annual Informational Filing ("Order"). In its Order, the Commission granted WGL's Petition and allowed the Company to file an abbreviated 2011 AIF which excluded Schedules 6, 7, 19, 21, 22, 24, 25, 27, 28, 29 (except for the work papers relating to the Company's earnings test) and 40(b). However, the Order further directed WGL to provide any of the omitted schedules if they became necessary during the course of the investigation of the Company's 2011 AIF.

On January 30, 2012, WGL filed its abbreviated 2011 AIF with the Commission. WGL noted, among other things, that it was operating under a performance based rate plan ("PBR Plan") which freezes the Company's base rates through September 30, 2011.² Accordingly, the primary purpose of the Company's 2011 AIF is to determine whether there are sufficient earnings available for sharing under the earnings sharing mechanism ("ESM") of the Company's PBR Plan.³ Under the PBR Plan's ESM, earnings are shared between ratepayers and shareholders beginning at a 10.50% return on common equity ("ROE"), with ratepayers being credited 75% and stockholders retaining 25% of all earnings in excess of 10.50%.⁴

The Company's 2011 AIF reported, among other things, that the Company earned an 8.60% ROE for the test year ended September 30, 2011. Since this ROE is less than 10.50%, WGL reported that no excess earnings are available for sharing with ratepayers under the ESM of the Company's PBR Plan.

On April 25, 2012, the Staff filed its report ("Staff Report" or "Report") on the Company's 2011 AIF. The Staff Report consisted of financial and accounting analyses. In the financial analysis portion of its Report, the Staff found that WGL's operating and financial performance for its 2011 AIF had declined since 2010.⁵ The Staff Report found, for example, that WGL's pretax interest coverage, cash flow coverage of dividends and construction expenses, consolidated net income, and ROE all showed declines from 2010.⁶ The Staff Report also noted that on March 18, 2011, Standard and Poor's ("S&P")

¹ 20 VAC 5-201-10 *et seq.*

² Petition at 2.

³ *Id.*

⁴ See *Application of Washington Gas Light Company, For a general increase in rates, fees, charges and revisions to the terms and conditions of service as well as approval of a performance-based rate regulation methodology under Va. Code § 56-235.6*, Case No. PUE-2006-00059, 2007 S.C.C. Ann. Rept. 315, Final Order (Sept. 19, 2007) (hereafter, "PBR case").

⁵ Staff Report at 3.

⁶ *Id.*

lowered WGL's rating one notch from AA- (with a negative outlook) to A+ (with a stable outlook).⁷ Subsequent to S&P's downgrade, all the major credit rating agencies, including S&P, Moody's Investor Service, and Fitch Ratings, reported stable outlooks for WGL.⁸

WGL's ratemaking capital structure reflects the 9.50% - 10.50% ROE range that was part of the Stipulation agreement for a PBR Plan adopted by the Commission's September 19, 2007 Final Order entered in Case No. PUE-2006-00059. Staff observed that based on the 10.00% midpoint of the Company's authorized ROE range, WGL's overall cost of capital was 8.415% as of September 30, 2011.⁹

In its accounting analysis, the Staff explained several key components of the Company's PBR Plan, including the ESM.¹⁰ Since the Company was operating under a PBR Plan during the test year, the primary focus of the Staff's accounting analysis was the Earnings Test Schedules in the Company's 2011 AIF in order to determine whether there were sufficient earnings available for sharing under the ESM of the Company's PBR Plan.

The Staff's accounting analysis discussed several accounting items relevant to the Company's earnings reported in its 2011 AIF. First, the Staff noted that under the Stipulation agreement approved by the Commission in the PBR case, WGL was authorized to amortize the Virginia costs of its Business Process Outsourcing (also known as the A&G Initiative) over the four-year term of its PBR Plan.¹¹ According to the Staff Report, WGL amortized \$1.7 million of such costs on a Virginia jurisdictional basis in its 2011 AIF and the regulatory asset established for its Business Process Outsourcing has now been fully amortized as of September 30, 2011 - the end of the term of WGL's PBR Plan.¹²

The Staff's accounting analysis next discussed the infrastructure investment required by the Company's PBR Plan.¹³ Under the PBR Plan, WGL was required to invest \$8 million annually in Virginia on a mechanical seal replacement program. The Staff noted that WGL's PBR Report for the test year showed \$8.7 million of capital expenditures in Virginia related to mechanical couplings. However, \$3.5 million of the expenditures were included in the Company's SAVE Rider recoveries, which the Staff found should not be included to determine whether WGL met its infrastructure commitment under the PBR Plan.¹⁴ Removing the \$3.5 million of expenditures recovered from the SAVE Rider leaves \$5.3 million that was expended for mechanical seal replacement during the twelve months ended September 30, 2011. The Staff Report further noted that the Company invested \$34.2 million over the four-year term of the PBR Plan for mechanical seal replacement, which averages \$8.6 million per year for mechanical seal replacement. Since the Company invested, on average, more than \$8 million annually on its mechanical seal replacement program during the four-year term of its PBR Plan, the Staff concluded that the Company was in compliance with the terms and conditions imposed by the Company's PBR Plan.¹⁵

The Staff's accounting analysis also noted that WGL injects hexane gas into its distribution system in order to mitigate the adverse effects of liquefied natural gas which, according to the Company, causes leaks in its distribution system.¹⁶ The Staff Report noted that WGL incurred \$2.2 million of Virginia jurisdictional expenses for hexane gas during the test year. Of this total amount, \$1.9 million was related to the non-Btu component of hexane gas.¹⁷ The Staff noted that under the Company's PBR Plan, the Company may file an application to recover its non-Btu hexane gas costs in excess of \$400,000 in any PBR annual period when the Company's ROE is less than 10.00%.¹⁸

The Staff Report also noted that both WGL and Staff adjusted the Company's earnings to write-off the regulatory asset established for the loss of certain Medicare Part D tax benefits.¹⁹ This treatment is consistent with the proposed treatment of the regulatory asset proposed in a Stipulation filed and approved in WGL's most recent general rate case, Case No. PUE-2010-00139.²⁰

⁷ *Id.* at 5.

⁸ *Id.*

⁹ *Id.*, Schedule 3 at 1 of 8.

¹⁰ *Id.* at 5-6.

¹¹ *Id.* at 6.

¹² *Id.*

¹³ *Id.* at 7.

¹⁴ SAVE riders are authorized by the Steps to Advance Virginia's Energy Plan (SAVE) Act ("SAVE Act"), §§ 56-603 *et seq.* of the Code of Virginia. The SAVE Act allows natural gas utilities to recover their costs in eligible infrastructure replacements in a rider until such time as the natural gas utility files an application for revised rates and the eligible infrastructure investment is incorporated into the company's rate base.

¹⁵ Staff Report at 7.

¹⁶ *Id.* at 7-8.

¹⁷ Under the Company's PBR Plan, hexane gas cost recovery is bifurcated with the Btu component of hexane gas costs recovered through the Company's purchased gas charge and the non-Btu component of hexane gas costs recovered through base rates.

¹⁸ *See, e.g., Application of Washington Gas Light Company, For approval to recover hexane costs and to revise tariffs*, Case No. PUE-2010-00063, 2010 S.C.C. Ann. Rept. 540, Final Order (Dec. 15, 2010); *Application of Washington Gas Light Company, For approval to recover hexane costs and to revise tariffs*, Case No. PUE-2012-00014, Doc. Cont. Cen. No. 120830072, Final Order (Aug. 21, 2012).

¹⁹ Staff Report at 8.

²⁰ *See Application of Washington Gas Light Company, For a general increase in rates and charges and to revise its terms and conditions for gas service*, Case No. PUE-2010-00139, Doc. Cont. Cen. No. 120710015, Order (July 2, 2012), Doc. Cont. Cen. No. 120730099, Order (July 24, 2012).

The Staff also made an adjustment increasing the Company's Virginia State Income Tax Expense by \$338,000.²¹ This adjustment is based on a three-part apportionment factor based on plant, payroll, and sales within Virginia, Maryland, and the District of Columbia ("D.C."). Since WGL filed a consolidated tax return in D.C., the Staff removed the non-WGL portion of the state income taxes from the D.C. apportionment factor.

The Staff's accounting analysis also included three accounts to WGL's balance sheet analysis for cash working capital, including Account 165105 – Accenture Savings; Account 253206 – Utility Miscellaneous; and Account 242140 – Miscellaneous Liability.²² WGL did not include these accounts in its analysis. The inclusion of these accounts reduced the Company's cash working capital by \$2,812,748.

The Staff Report also addressed WGL's reserve for uncertain tax position.²³ On the consolidated tax return for the twelve months ended September 30, 2009, WGL Holdings, Inc., applied for a change in its accounting method related to capitalization of property for income tax purposes. This enabled WGL to deduct replacement of pipe currently as repairs instead of capitalizing the costs as it had in the past. The Internal Revenue Service ("IRS") has not yet issued guidance on this new tax treatment, so WGL estimated a reserve for amounts that may be at risk should the IRS reject the new tax proposal. Both the Company and Staff removed the reserve for uncertain tax position from Accumulated Deferred Income Tax when determining the Company's test year ROE. However, WGL's adjustment mistakenly removed a credit of \$10.7 million rather than a debit of \$5.1 million. The Staff Report indicates that WGL agrees with the Staff's correction.

Based on the Staff's accounting analysis, the Staff concluded that WGL, after limited adjustments, earned an 8.87% ROE during the test year ended September 30, 2011.²⁴ Additionally, "[s]ince this [ROE] level falls below the ESM threshold of 10.50%, Staff concludes that no ESM sharing is required for fiscal year 2011."²⁵

On May 22, 2012, WGL filed a Response to the Staff Report. In its Response, WGL accepted all of the proposed adjustments in the Staff Report with the exception of the Staff's proposal to include three additional accounts in the Company's balance sheet analysis for cash working capital – Accounts 165105, 253206, and 242140.

On May 31, 2012, the Commission Staff filed a Reply to WGL's Response. In its Reply, the Staff noted that the three accounts in dispute in the balance sheet analysis for cash working capital would not materially affect WGL's earnings and, in any event, would not change the Staff's conclusion that there are no earnings available for sharing under the Company's ESM. Accordingly, the Staff recommended that this case be closed and that WGL be allowed to address these issues in a future proceeding. The Staff Reply also noted that WGL did not oppose the Staff's recommendation.

NOW THE COMMISSION, having considered the Company's 2011 AIF, the Staff Report, WGL's Response, the Staff Reply, and the applicable law, is of the opinion and finds that no earnings are available for sharing under WGL's ESM for the twelve months ended September 30, 2011, and that this case should be dismissed.

Accordingly, IT IS ORDERED THAT:

(1) No earnings are available for sharing under WGL's ESM for the test year ending September 30, 2011.

(2) There being nothing further to be done herein, this case shall be dismissed from the Commission's docket of active proceedings, and the papers filed herein shall be placed in the Commission's file for ended causes.

²¹ Staff Report at 9.

²² *Id.* 9-10.

²³ *Id.* at 10.

²⁴ *Id.* at 11.

²⁵ *Id.*

**CASE NO. PUE-2011-00132
JANUARY 17, 2012**

APPLICATION OF
NORTHERN VIRGINIA ELECTRIC COOPERATIVE

For authority to refinance long-term debt

ORDER GRANTING AUTHORITY

On December 21, 2011, Northern Virginia Electric Cooperative ("Applicant") filed an application with the Virginia State Corporation Commission ("Commission") under Chapter 3¹ of Title 56 of the Code of Virginia requesting authority to refinance long-term debt. Applicant has paid the requisite fee of \$250.

Applicant requests authority to refinance up to \$55,553,355 of its debt currently outstanding with the Rural Utilities Services, which carries a fixed interest rate of 5%. Applicant will refinance the debt with either CoBank or the National Rural Utilities Cooperative Finance Corporation. The interest rate on the new debt is projected to range from fixed rates of 2.5% to 4.15%. It is anticipated that the annual savings will be at least \$492,000 over the life of the new debt.

¹ Va. Code § 56-55 *et seq.*

NOW THE COMMISSION, upon consideration of the application and having been advised by its Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest.

Accordingly, IT IS ORDERED THAT:

- (1) Applicant is hereby authorized to refinance up to \$55,553,355 of its long-term debt, under the terms and conditions and for the purposes set forth in the application.
- (2) Within thirty (30) days of the date of the refinance of funds, Applicant shall file with the Commission's Division of Utility Accounting and Finance a Report of Action, which shall include the amount of the refinance, the term of the new debt, and the interest rates associated with the new debt.
- (3) The authority granted herein shall have no implications for ratemaking purposes.
- (4) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUE-2011-00133
JULY 18, 2012**

APPLICATION OF
APPALACHIAN NATURAL GAS DISTRIBUTION COMPANY

For an Annual Informational Filing for 2011

ORDER CLOSING PROCEEDING

On December 22, 2011, Appalachian Natural Gas Distribution Company ("ANGD" or "Company") filed a Motion for Waiver ("Motion") with the State Corporation Commission ("Commission") requesting that it be allowed to use October 1 through September 30 as the test period in the Company's Annual Informational Filings ("AIF") filed pursuant to 20 VAC 5-201-30 of the Commission's Rules Governing Utility Rate Applications and Annual Informational Filings ("Rate Case Rules").¹ On January 23, 2012, the Commission issued its Order on Motion for Waiver ("Order") which, among other things, granted the Company's Motion and allowed the Company to use October 1 through September 30 as the test period for its AIFs. The Commission's Order authorizing a change in ANGD's test period for its AIFs required the Company to file its AIF for the twelve-month period ending September 30, 2011, on or before January 28, 2012.²

Subsequent to the Commission's Order, ANGD filed a completed application for an expedited increase in rates on June 8, 2012. On July 6, 2012, the Commission entered an Order for Notice and Hearing which, among other things, docketed the Company's application;³ directed the Company to provide public notice of its application; assigned a Hearing Examiner to conduct all further proceedings in the matter and to file a report; established procedures for interested persons to file comments or participate in the case; established dates for the filing of pleadings and prefiled testimony; and scheduled a hearing on the Company's application on December 19, 2012.

NOW THE COMMISSION, having considered the Company's application for a expedited increase in rates, is of the opinion and finds that this proceeding should be closed. Pursuant to Rule 20 VAC 5-201-30 of the Commission's Rate Case Rules, public utilities filing applications for base rate increases are not required to make an Annual Informational Filing with the Commission. Since the reasonableness of ANGD's base rates will be investigated and set at a reasonable level in the Company's expedited rate case, there is no need to review the Company's rates and earnings in this AIF.

Accordingly, IT IS ORDERED THAT this proceeding be closed, and the papers herein passed to the Commission's file for ended causes.

¹ 20 VAC 5-201-10 *et seq.*

² Rule 20 VAC 5-201-30 of the Rate Case Rules requires AIFs to "be filed with the commission within 120 days after the end of the test period."

³ *Application of Appalachian Natural Gas Distribution Company, For an expedited increase in rates*, Case No. PUE-2012-00011, Doc. Con. Cen. No. 120540031, Application (May 22, 2012).

**CASE NO. PUE-2011-00134
MARCH 13, 2012**

APPLICATION OF
VIRGINIA NATURAL GAS, INC.,
and
COMPASS ENERGY SERVICES, INC.

For approval of natural gas sales under Chapter 4 of Title 56 of the Code of Virginia

ORDER GRANTING APPROVAL

On January 24, 2012, Virginia Natural Gas, Inc. ("VNG"), and Compass Energy Services, Inc. ("Compass") (collectively, "Applicants"), completed the filing of a joint application ("Application") with the State Corporation Commission ("Commission"), which seeks approval of a North

American Energy Standards Board¹ Base Contract ("Base Contract") pursuant to Chapter 4 of Title 56 ("Affiliates Act") of the Code of Virginia ("Code")² that will permit VNG to employ an affiliate, Sequent Energy Management, L.P. ("Sequent")³ to act as an agent on its behalf to sell natural gas to Compass so that Compass can market gas to commercial and industrial ("C&I") customers throughout Virginia. Since the filing contained confidential information, the Applicants filed the Application under seal pursuant to Rule 5 VAC 5-20-170 of the Commission's Rules of Practice and Procedure and contemporaneously filed a Joint Motion for the Entry of a Protective Order.

VNG is a Virginia public service corporation headquartered in Virginia Beach, Virginia, which provides natural gas local distribution service to approximately 276,012 residential, commercial, and industrial customers in southeastern Virginia. VNG is a wholly owned subsidiary of AGLR, an energy holding company headquartered in Atlanta, Georgia.

Compass, which is headquartered in Houston, Texas, provides natural gas marketing services to businesses in various regions of the United States, including Virginia. Compass is owned by AGL C&I Energy Services, Inc. ("AGL C&I"), which is a wholly owned subsidiary of AGLR.

The proposed Base Contract is a standardized master agreement that creates a contractual framework within which parties can enter into one or more individual gas supply transactions, including sales, purchases, and exchanges, by means of a "Transaction Confirmation" that generally incorporates by reference the standardized terms and conditions of the Base Contract. A Transaction Confirmation specifies the details of a particular transaction with respect to such key contract terms as quantity, price, term, delivery and receipt points, and any other special provisions in the transaction. The purpose of the Base Contract structure is to allow the parties to quickly execute market orders and to avoid costly delays caused by extensive contract negotiations over specific sales and purchases. The Base Contract does not have a specific term but continues from month to month unless terminated by either party upon giving advance notice.

The Applicants represent that the proposed Base Contract with Compass is no different than the arrangements that VNG/Sequent has with other non-affiliated C&I marketers. They also state that the proposed Base Contract should not expose VNG and its utility customers to any risk. Finally, they assert that the proposed Base Contract should benefit VNG by allowing it to optimize its natural gas assets.

The Commission approved a similar Base Contract in Case Nos. PUE-2007-00051 and PUE-2008-00120.⁴ The original parties in those cases were Sequent, acting as VNG's agent, and AGL C&I. After AGL C&I acquired Compass and Compass obtained a license to act as a competitive service provider, AGL C&I assigned the Base Contract to Compass.

The Applicants have revised the Base Contract in this case to clarify that Sequent, acting as VNG's agent, and Compass are the parties to the proposed Base Contract. The Applicants also have revised the Special Provisions attachment to the Base Contract to acknowledge compliance with other regulatory approvals (VNG-Sequent's Asset Management & Agency Agreement ("AMAA") and Gas Purchase & Sale Agreement ("GPSA") approved in Case No. PUE-2011-00089),⁵ and revised the remittance section of the Base Contract to clarify that actual payments between VNG/Sequent and Compass are made by intercompany transfers. Finally, the Applicants have requested the Commission to synchronize the term of its approval of the Base Contract with the Commission-approved term for VNG's AMAA and GPSA, which extends for four years, from April 1, 2012 through March 31, 2016.

NOW THE COMMISSION, upon consideration of this matter and having been advised by its Staff, is of the opinion and finds that the proposed Base Contract is in the public interest and should be approved subject to certain requirements. First, we will synchronize the duration of our approval of the proposed Base Contract with the term of our approval of the VNG/Sequent AMAA and GPSA. Second, we find that our approval of the proposed Base Contract should have no ratemaking implications. Finally, we will re-adopt the customer protection requirements promulgated in the prior two Base Contract orders and described in the Staff Action Brief.

Accordingly, IT IS ORDERED THAT:

(1) The Applicants' Motion for Protective Ruling is denied; however, we direct the Clerk of the Commission to retain the confidential information, to which the Motion for Protective Ruling pertains, under seal.⁶

¹ The North American Energy Standards Board is an independent industry forum for the development and promotion of standards to facilitate the goal of creating a seamless marketplace for wholesale and retail natural gas and electricity transactions.

² Va. Code § 56-76 *et seq.*

³ Sequent, which is based in Houston, Texas, provides asset optimization, transportation, storage, wholesale marketing, and producer and peaking services to AGL Resources Inc. ("AGLR"), affiliates and to commercial, industrial, and governmental customers throughout the United States. Sequent is a wholly owned subsidiary of AGLR.

⁴ *Joint Petition of Virginia Natural Gas, Inc., and AGL C&I Energy Services, Inc., For an exemption from the filing and prior approval requirements or, in the alternative, for approval of natural gas sales under Chapter 4 of Title 56 of the Code of Virginia*, Case No. PUE-2007-00051, 2007 S.C.C. Ann. Rept. 447, Order Granting Approval (Aug. 31, 2007); *Application of Virginia Natural Gas, Inc., and Sequent Energy Management, L.P., For Approval of an Asset Management Agreement under Chapter 4 of Title 56 of the Code of Virginia*, Case No. PUE-2008-00119; *Application of Virginia Natural Gas, Inc., and Compass Energy Services, Inc., For Approval of Natural Gas Sales under Chapter 4 of Title 56 of the Code of Virginia*, PUE-2008-00120, 2009 S.C.C. Ann. Rept. 362, Order Granting Approval (Mar. 20, 2009).

⁵ *Application of Virginia Natural Gas, Inc., and Sequent Energy Management, L.P., For approval of an asset management agreement under Chapter 4 of Title 56 of the Code of Virginia*, Case No. PUE-2011-00089, Order Granting Approval (Oct. 25, 2011).

⁶ The Commission held the Applicants' Motion for Protective Ruling in abeyance. We note that the Commission has received no request for leave to review the confidential information filed in this proceeding. Accordingly, we deny the Motion for Protective Ruling as moot.

(2) Pursuant to § 56-77 of the Code, VNG and Compass are hereby granted approval to enter into the proposed Base Contract, consistent with the findings set forth above and effective as of April 1, 2012. Within thirty (30) days of this Order Granting Approval, VNG and Compass shall file with the Commission's Director of the Division of Utility Accounting and Finance ("UAF Director") an executed copy of the Base Contract approved herein.

(3) The approval granted herein is limited to four years, from April 1, 2012, through March 31, 2016. Should VNG and Compass wish to continue the Base Contract beyond that date, further Commission approval shall be required.

(4) The approval granted in this case shall have no ratemaking implications.

(5) The customer protection requirements approved in the prior two Base Contract Orders are hereby re-adopted for the Base Contract approved herein.⁷

(6) Commission approval shall be required for any change in the terms and conditions of the Base Contract, including successors or assigns.

(7) The approval granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code hereafter.

(8) The Commission reserves the right to examine the books and records of any affiliate in connection with the approval granted herein, whether or not such affiliate is regulated by the Commission.

(9) VNG shall include all transactions associated with the approved Base Contract in its Annual Report of Affiliate Transactions ("ARAT") submitted to the UAF Director on or before May 1 of each year, which deadline may be extended administratively by the UAF Director.

(10) In the event that VNG's annual informational filings or general or expedited rate case filings are not based on a calendar year, then VNG shall include the affiliate information contained in its ARAT in such filings.

(11) There appearing nothing further to be done, this case is dismissed from the Commission's docket of active cases, and the papers filed herein shall be placed in the Commission's file for ended causes.

⁷ The customer protection requirements re-adopted herein shall reflect the Base Contract co-party entity change from AGL C&I to Compass.

**CASE NO. PUE-2012-00001
FEBRUARY 27, 2012**

APPLICATION OF
CENTRAL VIRGINIA ELECTRIC COOPERATIVE

For authority to guarantee the debt of American Municipal Power

ORDER GRANTING AUTHORITY

On January 3, 2012, Central Virginia Electric Cooperative ("CVEC" or "Cooperative") filed an application with the State Corporation Commission ("Commission") pursuant to Chapter 3¹ of Title 56 of the Code of Virginia (the "Code") seeking authority to guarantee up to \$25 million of a loan to American Municipal Power ("AMP"). The loan to AMP, for which CVEC wants to provide a guarantee, is related to a gas-fired combined cycle generation facility that has been constructed in Sandusky County, Ohio ("Facility"). The Facility is a 512 MW base capacity plant with an additional 163 MW of duct firing, for a total capacity of 675 MW.

On July 26, 2011, CVEC executed a purchased power contract with AMP for energy and capacity from 4.15% of the Facility for the life of the Facility. Since CVEC is not a municipal electric utility, it cannot participate directly as a member in AMP. More importantly, AMP cannot finance CVEC's 4.15% allocation using tax-exempt privately placed bonds, as it will with the remainder of the Facility. Therefore, AMP must secure alternative financing for CVEC's 4.15% portion of the Facility and is pursuing a \$25 million loan with the National Rural Utilities Cooperative Services Corporation ("NCSC"). As a condition of NCSC loaning AMP the proceeds, NCSC may require CVEC to guarantee the loan in order to obtain the most competitive interest rate.

The NCSC loan to AMP will have a 30 year maturity. The interest rate may be fixed or variable and will be determined at the time of advance by AMP. According to the Cooperative, there will be no impact on CVEC's capital structure or interest expense unless AMP defaults on the loan.

CVEC engaged GDS Associates, Inc. ("GDS") a consulting firm, to assess the feasibility of the Project. The GDS analysis compared projected costs of the Facility to market alternatives over a 30 year period and considered sensitivities associated with potential carbon emissions' related costs and market capacity prices. GDS estimated that the expected cost of power from the project will be lower than market prices over the comparison period and that the overnight installed cost of the project is less than that of a newly constructed combined cycle facility. Moreover, in its Action Brief filed contemporaneously with this Order, our Staff advised us that, in its opinion, the likelihood of AMP defaulting on the loan was remote given the manner in which AMP structures its project specific financings.

NOW THE COMMISSION, having considered the matter and having been advised by its Staff, is of the opinion and finds that approval of the loan guarantee will not be detrimental to the public interest.

¹ Va. Code § 56-55 *et seq.*

Accordingly, IT IS ORDERED THAT:

- (1) CVEC is authorized to guarantee up to \$25 million of AMP debt for the purposes and under the terms and conditions stated in the application.
- (2) Within 30 days of CVEC guaranteeing any debt of AMP, CVEC shall file a report of action with the Commission's Division of Utility Accounting and Finance to include the amount of debt guaranteed, the maturity of the debt and the interest rate on the debt.
- (3) The authority granted herein shall have no implications for ratemaking purposes.
- (4) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2012-00001
MARCH 19, 2012**

APPLICATION OF
CENTRAL VIRGINIA ELECTRIC COOPERATIVE ¹

For authority to guarantee the debt of American Municipal Power

AMENDING ORDER

On January 3, 2012, Central Virginia Electric Cooperative ("CVEC" or "Cooperative") filed an application ("Application") with the State Corporation Commission ("Commission") pursuant to Chapter 3 of Title 56 of the Code of Virginia (the "Code") seeking authority to guarantee up to \$25 million of a loan to American Municipal Power ("ANT"). The loan to ANT, for which CVEC wanted to provide a guarantee, is related to a gas-fired combined cycle generation facility that has been built in Sandusky County, Ohio ("Facility").

As was explained in the Application, CVEC executed a purchased power contract with AMP for energy and capacity from 4.15% of the Facility for the life of the Facility. Since CVEC is not a municipal electric utility, it cannot participate directly as a member in AMP. More importantly, AMP cannot finance CVEC's 4.15% allocation using tax-exempt privately placed bonds, as it will with the remainder of the Facility. Therefore, AMP must secure alternative financing for CVEC's 4.15% portion of the Facility and is pursuing a \$25 million loan with the National Rural Utilities Cooperative Services Corporation ("NCSC"). As a condition of NCSC loaning AMP the proceeds, NCSC may require CVEC to guarantee the loan in order to obtain the most competitive interest rate.

By Order Granting Authority dated February 27, 2012 ("February 27, 2012 Order"), the Commission authorized CVEC to guarantee up to \$25 million of AMP debt for the purposes and under the terms and conditions stated in the application. In the Motion of Central Virginia Electric Cooperative to modify the Order Granting Authority dated March 13, 2012 ("Motion"), CVEC, by counsel, represents that the parties finalizing the Facility's financing are considering the creation of a special purpose limited liability company to hold the debt associated with the Facility. The Motion further states that the Commission's February 27, 2012 Order authorized CVEC to guarantee the debt of AMP but does not authorize CVEC to guarantee the debt of a wholly-owned AMP subsidiary. Therefore, CVEC requests that the Commission modify Ordering Paragraph (1) of its February 27, 2012 Order to read:

- (1) CVEC is authorized to guarantee up to \$25 million of the debt of AMP or its wholly-owned subsidiary for the purposes and under the terms and conditions stated in the application.

NOW THE COMMISSION, having considered the matter and having been advised by its Staff, is of the opinion and finds that modification of our February 27, 2012 Order to allow CVEC to guarantee either the debt of ANT or the debt of an AMP special purpose subsidiary will not be detrimental to the public interest.

Accordingly, IT IS ORDERED THAT:

- (1) The first ordering paragraph of the Commission's February 27, 2012 Order shall be modified to read:
 - (1) CVEC is authorized to guarantee up to \$25 million of the debt of AMP or its wholly owned subsidiary created to finance the Fremont Energy Center for the purposes and under the terms and conditions stated in the application.
- (2) The second ordering paragraph of the Commission's February 27, 2012 Order shall be modified to read:
 - (2) Within 30 days of CVEC guaranteeing any debt of AMP or any subsidiary of AMP, CVEC shall file a report of action with the Commission's Division of Utility Accounting and Finance to include the amount of debt guaranteed, the maturity of the debt, and the interest rate on the debt.
- (3) There appearing nothing further to be done in this matter, it hereby is dismissed.

¹ Va. Code § 56-55 *et seq.*

**CASE NO. PUE-2012-00002
MARCH 5, 2012**

APPLICATION OF
PRINCE GEORGE ELECTRIC COOPERATIVE

For approval of a demand-side management program including promotional allowances

ORDER GRANTING APPROVAL

On January 11, 2012, Prince George Electric Cooperative ("PGEC" or the "Cooperative") filed an application with the State Corporation Commission ("Commission") pursuant to Title 56 of the Code of Virginia and the Commission's Rules Governing Utility Promotional Allowances, 20 VAC 5-303-10 *et seq.*, and the Rules Governing Cost/Benefit Measures Required for Demand-Side Management Programs, 20 VAC 5-304-10 ("DSM Rules"), requesting approval of a demand-side management ("DSM") program including promotional allowances, along with expedited consideration of its request. Subsequently, on February 7, 2012, PGEC submitted a letter amending the application and associated exhibits ("February 7 amendment"). The February 7 amendment clarified that the Cooperative was seeking approval of a non-pilot program pursuant to the Rules Governing Utility Promotional Allowances, the DSM Rules, and the Commission's Promotional Allowance Program Standards, and not a pilot program as indicated in the application.¹ In addition, the Cooperative requested that references in the application asserting a potential reduction in greenhouse gas emissions and power interruptions be stricken and clarified that promotional allowances to customers would be provided via a bill credit rather than a gift card.²

On February 23, 2012, the Cooperative filed a revised Exhibit A to the application, wherein it proposed amendments to the notice to be provided to its member-consumers to reflect discussions with the Staff of the Commission ("Staff").³

PGEC is a utility consumer services cooperative providing electric service to customers in its service territory in Virginia. PGEC is headquartered in Waverly, Virginia, and is subject to regulation as to rates and services by the Commission.

PGEC filed the instant application in which it is requesting to implement a DSM program using load-cycling switch devices to reduce demand created by central air conditioning systems in the homes of eligible, participating residential member-consumers. PGEC requested that the Commission approve the full implementation of the program, which initially began as a pilot program in the summer of 2011, conducted by PGEC's power supplier, Old Dominion Electric Cooperative ("ODEC"). PGEC further requested that publication of notice to its member-consumers in an upcoming edition of *Cooperative Living* magazine describing the program and the conditions pertaining to the promotional allowances be the only publication ordered in this proceeding.⁴

PGEC stated in its application that participation in the program is voluntary and that participants may end their participation at any time.⁵ In order to participate in the program, an eligible member-consumer must meet the following requirements: (i) be a targeted,⁶ residential class member-consumer (new or existing) who is not utilizing the Cooperative's Residential Time-Of-Use Tariff; (ii) be a resident in a single-family home, multi-family home, or a manufactured home; (iii) have a central HVAC system; and (iv) allow PGEC's vendor, Utility Partners of America, LLC, or any successor vendor that PGEC may select, to install PGEC's specific "demand-response unit" switches.⁷ As an incentive to participate in the program, participants will receive a one-time \$25 bill credit if the switch remains in operation through the end of the summer season, specifically through September 30 of the year in which the switch was initially installed.⁸

PGEC advised Staff that it expects the 495 participants from the 2011 pilot program to continue to participate. Additionally, PGEC intends for this to be an ongoing program, with the only limitations on PGEC's ability to fulfill member requests being the number of switches and promotional allowances available. As the program ramps up in the first year, 1,000 switches will be available for installation during the 2012 cooling season.⁹ PGEC does not have specific plans as to the number of switches that will be installed in subsequent years and plans to re-evaluate the program at the end of the 2012 cooling season before pursuing any future program expansion.

PGEC's application states that the administrative support for member participation in the program is provided by ODEC as part of a larger DSM initiative, so the direct cost impact to the Cooperative to run the DSM program would be limited to the cost of the switches, the installation of the switches,

¹ February 7 amendment at 1.

² February 7 amendment at 1-2.

³ The final sentence of the first paragraph of the revised Exhibit A states "Such initiatives also help reduce greenhouse gases and the likelihood of power interruptions." The notice thus conflicts with the February 7 amendment, which requested that this claim be stricken. The Cooperative has advised Staff that this language was left in the notice inadvertently and should be stricken from the final notice to be provided.

⁴ PGEC further requested that the notice published in *Cooperative Living* magazine contain substantially similar information to that contained in Exhibit A of its application. Application at 7.

⁵ *Id.* at 3.

⁶ According to PGEC's application, a targeted member-consumer is one that PGEC has found to be a high user of electricity during summer months based on the Cooperative's usage data. *Id.* at 2-3. PGEC later advised Staff that any residential member-consumer in its service territory who volunteers will be permitted to participate in the program subject to equipment limitations.

⁷ Application at 2.

⁸ *Id.* at 5.

⁹ *Id.* at 2.

the marketing of the program to its member-consumers, and the promotional allowances.¹⁰ PGEC expects to recover its costs by anticipated savings from reductions in wholesale power costs.¹¹ No energy savings are expected to be achieved by the individual participating member-consumers.¹²

PGEC's application provides a brief description of the cost/benefit tests used in its analysis and the Cooperative's results indicating that the proposed program passes the Participant Test, the Utility Cost Test, the Ratepayer Impact Measure Test, and the Total Resource Cost Test.¹³ Staff reproduced the Cooperative's cost/benefit analysis and concluded that the proposed program passes all four tests, including the Ratepayer Impact Measure Test and the Total Resource Cost Test for both a seven-year and fifteen-year horizon.

NOW THE COMMISSION, upon consideration of the application and representations of the Cooperative and having been advised by its Staff, finds that the air conditioner switch DSM program proposed in PGEC's application is cost-effective and in the public interest and that PGEC shall be allowed to implement the program as soon as practicable, subject to certain requirements outlined below.

First, we find that notice to be published in *Cooperative Living* magazine that contains information substantially similar to that contained in the updated Exhibit A filed by the Cooperative on February 23, 2012, is sufficient notice of the proposed DSM program for purposes of this proceeding.

Second, we find that PGEC should submit a report to the Commission by December 1 of each year the program is in effect, describing the details and results of the program during the preceding summer season to verify costs and savings of the program. The report should include, but not be limited to, information regarding the number of installed switches, the number of load control events, any attrition of installed switches, and any change to the marginal cost of demand.

Third, we find that the program should be reviewed after the 2014 summer season to consider the saturation of installed and active switches and the next target level projections to assure cost-effectiveness before extending the program.

Fourth, we find that should the review of a report submitted by the Cooperative after a cooling season indicate that the program is not cost-effective, the Cooperative or the Commission should suspend the program by not permitting any additional member-consumers to participate.

Accordingly, IT IS ORDERED THAT:

(1) PGEC's application is hereby approved subject to the following conditions.

(2) Prior to implementation of the program, PGEC shall publish notice in *Cooperative Living* magazine that contains information substantially similar to the information contained in the updated Exhibit A filed by the Cooperative on February 23, 2012. The Cooperative shall strike the final sentence of the first paragraph of the revised notice prior to publication.

(3) PGEC shall be allowed to implement the program as soon as possible.

(4) PGEC shall submit a report to the Commission by December 1 of each year that the program is in effect, describing the details and results of the program during the preceding summer season to verify the costs and savings of the program. The report shall include, but not be limited to, information regarding the number of installed switches, the number of load control events, any attrition of installed switches, and any change to the marginal cost of power demand.

(5) PGEC shall supplement its 2014 report with additional information that includes data and analysis of the saturation of installed and active switches. The report shall also include, but not be limited to, the Cooperative's plans to continue, maintain, or expand the program and a cost/benefit analysis of any future plans for expansion of the program.

(6) The authority granted herein shall have no ratemaking implications for future rate proceedings.

¹⁰ *Id.* at 6.

¹¹ Based on Staff's analysis of assumptions in PGEC's application, the annual reduction in wholesale power costs with 1,500 active switches is approximately \$112,413. The wholesale power cost savings are expected to continue for as long as the switches stay in place. Staff estimates the net plant value of the installed switches at the end of 2012 (associated with 495 pilot switches installed in 2011 and 1,000 additional switches expected to be installed in 2012) to be \$348,000. Staff estimates annual marketing, depreciation, and incentive expense during 2012 to be \$59,950.

¹² Application at 6.

¹³ *Id.* at Ex. B.

**CASE NO. PUE-2012-00003
MARCH 5, 2012**

APPLICATION OF
NORTHERN NECK ELECTRIC COOPERATIVE

For approval of a demand-side management program including promotional allowances

ORDER GRANTING APPROVAL

On January 11, 2012, Northern Neck Electric Cooperative ("NNEC" or the "Cooperative") filed an application with the State Corporation Commission ("Commission") pursuant to Title 56 of the Code of Virginia and the Commission's Rules Governing Utility Promotional Allowances,

20 VAC 5-303-10 *et seq.*, and the Rules Governing Cost/Benefit Measures Required for Demand-Side Management Programs, 20 VAC 5-304-10 ("DSM Rules"), requesting approval of a demand-side management ("DSM") program including promotional allowances, along with expedited consideration of its request. Subsequently, on February 7, 2012, NNEC submitted a letter amending the application and associated exhibits ("February 7 amendment"). The February 7 amendment clarified that the Cooperative was seeking approval of a non-pilot program pursuant to the Rules Governing Utility Promotional Allowances, the DSM Rules, and the Commission's Promotional Allowance Program Standards, and not a pilot program as indicated in the application.¹ In addition, the Cooperative requested that references in the application asserting a potential reduction in greenhouse gas emissions and power interruptions be stricken and clarified that promotional allowances to customers would be provided via a bill credit rather than a gift card.²

On February 23, 2012, the Cooperative filed a revised Exhibit A to the application, wherein it proposed amendments to the notice to be provided to its member-consumers to reflect discussions with the Staff of the Commission ("Staff").³

NNEC is a utility consumer services cooperative providing electric service to customers in its service territory in Virginia. NNEC is headquartered in Warsaw, Virginia, and is subject to regulation as to rates and services by the Commission.

NNEC filed the instant application in which it is requesting to implement a DSM program using load-cycling switch devices to reduce demand created by central air conditioning systems in the homes of eligible, participating residential member-consumers. NNEC requested that the Commission approve the full implementation of the program, which initially began as a pilot program in the summer of 2011, conducted by NNEC's power supplier, Old Dominion Electric Cooperative ("ODEC"). NNEC further requested that publication of notice to its member-consumers in an upcoming edition of *Cooperative Living* magazine describing the program and the conditions pertaining to the promotional allowances be the only publication ordered in this proceeding.⁴

NNEC stated in its application that participation in the program is voluntary and that participants may end their participation at any time.⁵ In order to participate in the program, an eligible member-consumer must meet the following requirements: (i) be a targeted,⁶ residential class member-consumer (new or existing) who is not utilizing the Cooperative's Residential Time-Of-Use Tariff; (ii) be a resident in a single-family home, multi-family home, or a manufactured home; (iii) have a central HVAC system; and (iv) allow NNEC's vendor, Utility Partners of America, LLC, or any successor vendor that NNEC may select, to install NNEC's specific "demand-response unit" switches.⁷ As an incentive to participate in the program, participants will receive a one-time \$25 bill credit if the switch remains in operation through the end of the summer season, specifically through September 30 of the year in which the switch was initially installed.⁸

NNEC advised Staff that it expects the 518 participants from the 2011 pilot program to continue to participate. Additionally, NNEC intends for this to be an ongoing program, with the only limitations on NNEC's ability to fulfill member requests being the number of switches and promotional allowances available. As the program ramps up in the first year, 500 switches will be available for installation during the 2012 cooling season.⁹ NNEC advised Staff that it expects to increase the number of participants by 500 in each cooling season of 2013 and 2014. At the end of the 2014 cooling season, the Cooperative expects to have a total of approximately 2,000 member-consumers participating in the program.

NNEC's application states that the administrative support for member participation in the program is provided by ODEC as part of a larger DSM initiative, so the direct cost impact to the Cooperative to run the DSM program would be limited to the cost of the switches, the installation of the switches, the marketing of the program to its member-consumers, and the promotional allowances.¹⁰ NNEC expects to recover its costs by anticipated savings from reductions in wholesale power costs.¹¹ No energy savings are expected to be achieved by the individual participating member-consumers.¹²

NNEC's application provides a brief description of the cost/benefit tests used in its analysis and the Cooperative's results indicating that the proposed program passes the Participant Test, the Utility Cost Test, the Ratepayer Impact Measure Test, and the Total Resource Cost Test.¹³ Staff

¹ February 7 amendment at 1.

² February 7 amendment at 1-2.

³ The final sentence of the first paragraph of the revised Exhibit A states "Such initiatives also help reduce greenhouse gases and the likelihood of power interruptions." The notice thus conflicts with the February 7 amendment, which requested that this claim be stricken. The Cooperative has advised Staff that this language was left in the notice inadvertently and should be stricken from the final notice to be provided.

⁴ NNEC further requested that the notice published in *Cooperative Living* magazine contain substantially similar information to that contained in Exhibit A of its application. Application at 7.

⁵ *Id.* at 3.

⁶ According to NNEC's application, a targeted member-consumer is one that NNEC has found to be a high user of electricity during summer months based on the Cooperative's usage data. *Id.* at 2-3. NNEC later advised Staff that any residential member-consumer in its service territory who volunteers will be permitted to participate in the program subject to equipment limitations.

⁷ Application at 2.

⁸ *Id.* at 5.

⁹ *Id.* at 2.

¹⁰ *Id.* at 6.

¹¹ Based on Staff's analysis of assumptions in NNEC's application, the annual reduction in wholesale power costs with 1,000 active switches is approximately \$103,222. The wholesale power cost savings are expected to continue for as long as the switches stay in place. Staff estimates the net plant value of the installed switches at the end of 2012 (associated with 518 pilot switches installed in 2011 and 500 additional switches expected to be installed in 2012) to be \$232,000. Staff estimates annual marketing, depreciation, and incentive expense during 2012 to be \$35,775.

¹² Application at 6.

¹³ *Id.* at Ex. B.

reproduced the Cooperative's cost/benefit analysis and concluded that the proposed program passes all four tests, including the Ratepayer Impact Measure Test and the Total Resource Cost Test for both a seven-year and fifteen-year horizon.

NOW THE COMMISSION, upon consideration of the application and representations of the Cooperative and having been advised by its Staff, finds that the air conditioner switch DSM program proposed in NNEC's application is cost-effective and in the public interest and that NNEC shall be allowed to implement the program as soon as practicable, subject to certain requirements outlined below.

First, we find that notice to be published in *Cooperative Living* magazine that contains information substantially similar to that contained in the updated Exhibit A filed by the Cooperative on February 23, 2012, is sufficient notice of the proposed DSM program for purposes of this proceeding.

Second, we find that NNEC should submit a report to the Commission by December 1 of each year the program is in effect, describing the details and results of the program during the preceding summer season to verify costs and savings of the program. The report should include, but not be limited to, information regarding the number of installed switches, the number of load control events, any attrition of installed switches, and any change to the marginal cost of demand.

Third, we find that the program should be reviewed after the 2014 summer season to consider the saturation of installed and active switches and the next target level projections to assure cost-effectiveness before extending the program.

Fourth, we find that should the review of a report submitted by the Cooperative after a cooling season indicate that the program is not cost-effective, the Cooperative or the Commission should suspend the program by not permitting any additional member-consumers to participate.

Accordingly, IT IS ORDERED THAT:

(1) NNEC's application is hereby approved subject to the following conditions.

(2) Prior to implementation of the program, NNEC shall publish notice in *Cooperative Living* magazine that contains information substantially similar to the information contained in the updated Exhibit A filed by the Cooperative on February 23, 2012. The Cooperative shall strike the final sentence of the first paragraph of the revised notice prior to publication.

(3) NNEC shall be allowed to implement the program as soon as possible.

(4) NNEC shall submit a report to the Commission by December 1 of each year that the program is in effect, describing the details and results of the program during the preceding summer season to verify the costs and savings of the program. The report shall include, but not be limited to, information regarding the number of installed switches, the number of load control events, any attrition of installed switches, and any change to the marginal cost of power demand.

(5) NNEC shall supplement its 2014 report with additional information that includes data and analysis of the saturation of installed and active switches. The report shall also include, but not be limited to, the Cooperative's plans to continue, maintain, or expand the program and a cost/benefit analysis of any future plans for expansion of the program.

(6) The authority granted herein shall have no ratemaking implications for future rate proceedings.

**CASE NO. PUE-2012-00004
MARCH 19, 2012**

APPLICATION OF
VIRGINIA-AMERICAN WATER COMPANY
and
AMERICAN WATER WORKS COMPANY, INC.

For authority to receive cash capital contributions from an affiliate

ORDER GRANTING AUTHORITY

On January 20, 2012, Virginia-American Water Company ("Virginia-American" or "Applicant") and American Water Works Company, Inc. ("AWW") (collectively "Joint Applicants"), filed an application with the State Corporation Commission ("Commission") under Chapter 4¹ of Title 56 of the Code of Virginia ("Code") requesting authority for AWW to make cash capital contributions of \$8.5 million to Virginia-American during the period May 1, 2010, to present ("Past Contributions"), and for up to \$12 million in future capital contributions ("Future Contributions") from time to time through December 31, 2014. The application was filed in accordance with Ordering Paragraph (4) of the Commission's Order Granting Authority issued on December 21, 2011, in Case No. PUE-2011-00118.²

¹ Va. Code § 56-76 *et seq.*

² *Application of Virginia-American Water Company and American Water Capital Corp., To continue participation in a financial services agreement with an affiliate*, Case No. PUE-2011-00118, Order Granting Authority (Dec. 21, 2011) (hereafter, "December 21, 2011 Order"). The December 21, 2011 Order required Virginia-American to file an application for separate authority to receive capital contributions from an affiliate under Chapters 3 and 4 of the Code within 30 days.

According to the application, Virginia-American requested from AWW two equity contributions of \$7 million and \$1.5 million, which Virginia-American received on May 31, 2010, and September 30, 2010, respectively. Virginia-American states that the proceeds of such capital contributions will be used to fund Applicant's construction program, to repay short-term debt, and for other proper corporate purposes. Virginia-American states that no costs will be allocated or charged for such capital contributions and that cash capital contributions will help provide an adequate equity component in order to maintain the Applicant's financial integrity, consistent with Virginia-American's capital structure goals.

Finally, according to the application, it is the Applicant's position that the transactions contemplated in this case do not trigger Chapter 3³ applicability, and, to the extent necessary, requests a waiver of the Commission's requirement to file for Chapter 3 authorization for the transactions contemplated in this case.

NOW THE COMMISSION, upon consideration of the application and having been advised by its Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest. We also agree with the Applicant that approval pursuant to Chapter 3 is not required, and its request for waiver of the Commission's Chapter 3 filing requirement in the December 21, 2011 Order is hereby granted.

Accordingly, IT IS ORDERED THAT:

- (1) The Company's request to be relieved from the Commission's prior requirement to institute a filing under Chapter 3 is hereby granted.
- (2) Virginia-American is hereby granted retroactive authority to receive Past Contributions from AWW, specifically for the \$7 million contribution received on May 31, 2010, and the \$1.5 million contribution received on September 30, 2010.
- (3) Virginia-American is hereby authorized to receive from AWW and at AWW's discretion, Future Contributions up to an aggregate amount of \$12 million, from time to time from the date of this Order through December 31, 2014.
- (4) Within ten (10) days after receipt of any cash capital contributions pursuant to Ordering Paragraph (3), the Applicant shall file with the Commission's Division of Utility Accounting and Finance a Report of Action to include the amount of cash capital contributions paid from AWW to Virginia-American, the date of the cash capital contribution, and the amount of cash capital contribution authority remaining under the authority granted herein.
- (5) Applicant shall file a Final Report of Action with the Clerk of the Commission on or before March 1, 2015, which shall include the information required in Ordering Paragraph (3) for the period ended December 31, 2014, a cumulative summary of transactions executed during the entire period authorized, and a consolidated Virginia-American balance sheet showing a detailed breakdown of shareholder's equity for the period ended December 31, 2014.
- (6) The authority granted herein shall not preclude the Commission from applying the provisions of § 56-78 and § 56-80 of the Code hereafter.
- (7) The Commission reserves the right, pursuant to § 56-79 of the Code, to examine the books and records of any affiliate in connection with the authority granted herein, whether or not such affiliate is regulated by this Commission.
- (8) This matter shall remain under the continued review, audit and appropriate directive of the Commission.

³ Va. Code § 56-55 *et seq.*

**CASE NO. PUE-2012-00005
JUNE 11, 2012**

PETITION OF
APPALACHIAN NATURAL GAS DISTRIBUTION COMPANY

For extension of certificates of public convenience and necessity

ORDER GRANTING CERTIFICATES

On February 22, 2012, Appalachian Natural Gas Distribution Company ("ANGD" or "Company") filed an Amended and Revised Petition ("Petition") with the State Corporation Commission ("Commission"), pursuant to Chapter 10.1 of Title 56 of the Code of Virginia, seeking certificates of public convenience and necessity ("CPCN") authorizing the Company to provide natural gas distribution service in a specified portion of Tazewell County, Virginia, and in the Town of Saltville, Virginia ("Service Territories").¹

¹ On January 24, 2012, ANGDC filed a Petition to Extend Certificates of Public Convenience and Necessity in which it sought extension of two previously issued certificates of public convenience and necessity -- Certificate No. 165a and Certificate No. 167a -- issued by the Commission in Case No. PUE-2005-00077. See *Joint Petition of AGL Resources Inc., Virginia Gas Company, and Virginia Gas Distribution Company, Requesting the issuance of certificates of public convenience and necessity pursuant to the Utility Facilities Act*, Case No. PUE-2005-00077, 2005 S.C.C. Ann. Rept. 469, Order Granting Certificates (Dec. 15, 2005). However, our Order Granting Certificates in that case directed "the Company to begin the provision of natural gas service to the certificated areas within five (5) years of the date of this Order Granting Certificates." Because ANGDC was unable to meet this condition, the authority granted in PUE-2005-00077 has lapsed.

According to the Company, "ANGD has diligently undertaken to structure service and design facilities to provide natural gas service to customers in [the] service territories."² In order to continue its development efforts and to serve customers in the Service Territories, ANGD requests that the Commission issue CPCN Nos. 165a and 167a, previously issued in Case No. PUE-2005-00077, for another five-year period.

On March 19, 2012, the Commission issued its Order for Notice and Comment in this matter, which, among other things, directed the Company to publish notice of its Petition and provided interested parties the opportunity to request a hearing or file comments. Tazewell County filed comments, but no requests for hearing were received.

NOW THE COMMISSION, having considered this matter, is of the opinion and finds that it should issue the requested certificates to ANGD and will again direct the Company to begin the provision of natural gas service to the certificated areas within five (5) years of the date of this Order Granting Certificates.

Accordingly, IT IS ORDERED THAT:

(1) ANGD shall be issued Certificate of Public Convenience and Necessity No. G-165b, authorizing it to furnish natural gas service, subject to the condition specified in the certificate to

the western portion of Tazewell County, excluding the following service territory allotted to Commonwealth Public Service Corporation. The area allotted to Commonwealth Public Service Corporation is described as that territory beginning at the point of intersection of Bland County, Virginia, Tazewell County, Virginia, and Mercer County, West Virginia, then following the Bland County and Tazewell County line southwest, south, and southwest to Crabtree Gap; then following a northwesterly line to Low Gap; then following the Tazewell County, Virginia and McDowell County, West Virginia line in a northeasterly direction to the point of intersection of Tazewell County, Virginia, McDowell County, West Virginia, and Mercer County, West Virginia; then following Mercer County, West Virginia and Tazewell County, Virginia line in a southeasterly direction to the point of beginning.

If gas service to the area designated herein to Appalachian Natural Gas Distribution Company is not furnished within five (5) years of the date of the Order Granting Certificates in Case No. PUE-2012-00005, the authority granted to furnish natural gas service shall be terminated and this certificate voided.

(2) Certificate of Public Convenience and Necessity No. G-167b shall be issued to ANGD, authorizing it to furnish natural gas service, subject to the conditions specified in the certificate, to an

area encompassing the proposed Appalachian Natural Gas Distribution Company Saltville Distribution Area located in Smyth and Washington Counties of Virginia and being a tract of land that encompasses the Town of Saltville, Virginia and its surrounding communities more particularly described as follows:

Beginning at a point approximately 1.43 miles South of Saltville Corporate Boundary along State Route 107 and .30 miles East of State Route 107 and whose scaled Virginia State plane coordinates are North 204332.2 and East 1058297.1;

Thence South 84° 54' 26" West for a distance of 17121.19' to a point;

Thence North 53° 06' 56" West for a distance of 6736.24' to a point;

Thence North 32° 17' 17" West for a distance of 7572.35' to a point;

Thence North 29° 16' 54" East for a distance of 14282.59' to a point;

Thence North 89° 43' 34" East for a distance of 17922.32' to a point;

Thence South 04° 12' 22" East for a distance of 21526.00' to the point of beginning.

Said property contains 11,338.2 acres more or less.

If gas service to the area designated herein to Appalachian Gas Distribution Company is not provided within five (5) years of the date of the Order Granting Certificates in Case No. PUE-2012-00005, the authority granted to furnish natural gas service shall be terminated and this certificated voided.

(3) ANGD shall file maps of the service territories certificated herein with the Commission's Division of Energy Regulation within sixty (60) days of the date of this Order.

(4) There being nothing further to be done herein, this matter shall be dismissed from the Commission's docket of active cases.

² Petition at 3.

**CASE NO. PUE-2012-00006
MARCH 19, 2012**

APPLICATION OF
APPALACHIAN POWER COMPANY

For approval of modifications to its Economic Development Rider

ORDER APPROVING MODIFICATIONS

On January 26, 2012, Appalachian Power Company ("APCo" or "Company") filed with the State Corporation Commission ("Commission") an Application seeking expedited approval of modifications to its Optional Rider E.D.R. ("Economic Development Rider" or "Rider").

APCo's Economic Development Rider, which was first approved by the Commission in 2010,¹ provides certain reductions in billing demands to qualifying new and existing commercial and industrial retail customers.² According to the Application, APCo continues to see interest in its Economic Development Rider even though applications for service pursuant to the Rider were due by January 1, 2012. For this reason, and to continue to incentivize investment and job creation in Southwest Virginia, the Company asks for approval of two modifications to the terms of the Rider.³

First, APCo seeks to change from January 1, 2012 to January 1, 2014, the date by which applications for service under the Rider are due. Second, the Company seeks to extend from December 31, 2015 to December 31, 2017, the termination date of the Rider.⁴

APCo indicates that it seeks expedited treatment of its proposal because the Company has at least one customer who has expressed strong interest in participating in the Rider and to begin bringing new jobs to Southwest Virginia. APCo further indicates that expedited treatment of the Application would be appropriate because the fundamental characteristics of the Rider are unaffected by the two changes requested by the Company.⁵

On February 1, 2012, the Commission issued an Order for Notice and Comment that docketed the Application, directed the Company to publish notice of the Application,⁶ allowed interested persons and the Commission's Staff ("Staff") the opportunity to comment or request a hearing on the Application, and allowed APCo the opportunity to respond to any such comments or requests.

No comments or requests for hearing were filed by interested persons.

On March 13, 2012, Staff, by counsel, filed a letter indicating that it would not file comments on the Application, which Staff does not oppose.

On March 14, 2012, APCo, by counsel, filed a letter indicating that no comments or requests for hearing were filed regarding the Application and, as such, APCo would not file any response.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that APCo's Petition should be granted.

Accordingly, IT IS ORDERED THAT:

(1) APCo's Petition for modifications to its Optional Rider E.D.R. is granted, effective as of the date of this Order.

(2) The Company shall forthwith file a revised Optional Rider E.D.R. with the Clerk of the Commission and with the Commission's Division of Energy Regulation, in accordance with this Order. The Clerk of the Commission shall retain such filing for public inspection in person and on the Commission's website: <http://www.scc.virginia.gov/case>.

(3) This matter is dismissed.

¹ *Application of Appalachian Power Company, For a statutory review of the rates, terms and conditions for the provision of generation, distribution and transmission services pursuant to § 56-585.1 A of the Code of Virginia*, Case No. PUE-2009-00030, 2010 S.C.C. Ann. Rep. 308, 320, Final Order at 34 (July 15, 2010).

² Application at 3, Exhibit 1.

³ *Id.* at 4.

⁴ *Id.*

⁵ *Id.*

⁶ On March 5, 2012, APCo filed proof of the required notice.

**CASE NO. PUE-2012-00007
DECEMBER 21, 2012**

APPLICATION OF
APPALACHIAN POWER COMPANY

For a Certificate of Public Convenience and Necessity Authorizing Operation of the Falling Branch-Merrimac 138 kV Transmission Line

ORDER

On February 9, 2012, Appalachian Power Company ("APCo" or "Company") filed with the State Corporation Commission ("Commission") an application for a certificate of public convenience and necessity seeking Commission approval to construct a new 138 kilovolt ("kV") transmission line located primarily in Montgomery County, Virginia, with a small portion located in the Town of Christiansburg, Virginia ("Application"). Prepared testimony, exhibits, copies of correspondence, and other materials were filed in support of the Company's Application.

The Company's Application requests authority to build approximately 7.5 miles of a new overhead single-circuit (6.25 miles) and double-circuit (1.25 miles) 138 kV line between its existing Merrimac and Falling Branch Substations ("Project").¹ Three substations require improvements to support the new line.² The Company plans to construct the transmission line within a 100-foot right-of-way and utilize a combination of steel monopole and H-frame structures with an average height for the monopoles of approximately 100 feet and an average height for the H-Frame structures of approximately 80 feet.³ According to the Application, the Project is needed to meet growing electrical demands and to prevent overloading facilities that serve thousands of customers in the Blacksburg-Christiansburg area.⁴ The Company estimates Project costs to be approximately \$25 million and desires to have the Project in service by June 1, 2015.⁵

On April 2, 2012, the Commission entered its Order for Notice and Hearing in this proceeding that, among other things, docketed the Application as Case No. PUE-2012-00007; established a procedural schedule; scheduled a public hearing to commence June 27, 2012; and assigned a Hearing Examiner to conduct all further proceedings in this matter on behalf of the Commission and to file a final report.

As noted in the Order for Notice and Hearing, the Commission's Staff ("Staff") requested that the Department of Environmental Quality ("DEQ") coordinate a review of the proposed Project by state and local agencies and file a report on the review. On May 1, 2012, DEQ filed its report ("DEQ Report"). The DEQ Report offers twelve general recommendations for Commission consideration that are in addition to any requirements of federal, state, or local law:

- Conduct an on-site delineation of all wetlands and streams within the [P]roject area with verification by the U.S. Army Corps of Engineers (Corps), using accepted methods and procedures, and follow DEQ's recommendations to avoid and minimize impacts to wetlands and streams.
- Reduce solid waste at the source, reuse it and recycle it to the maximum extent practicable and follow DEQ's recommendations to manage waste, as applicable, and to reduce impacts to the Montgomery Regional Solid Waste Authority [("Authority")] landfill.
- Coordinate with the Department of Conservation and Recreation (DCR) Division of Natural Heritage regarding its recommendations as well as for updates to the Biotics Data System database if a significant amount of time passes before the [P]roject is implemented.
- Coordinate with the DCR Karst Program regarding its recommendations to protect karst features.
- Coordinate with the Department of Game and Inland Fisheries [("DGIF")] regarding its recommendations for wildlife protection.
- Coordinate with the Department of Forestry [("DOF")] regarding its recommendations to mitigate the loss of forest lands.
- Coordinate with the Virginia Department of Agriculture and Consumer Services [("VDACS")] regarding its recommendation to minimize impacts on farmland.
- Coordinate with the Department of Historic Resources [("DHR")] regarding its recommendations to protect historic and archaeological resources.
- Coordinate with the Virginia Department of Transportation regarding its recommendations.

¹ Ex. 3 (Executive Summary) at vii.

² Ex. 3 (Response to Guidelines) at 25-26.

³ Ex. 3 (Executive Summary) at vii; Ex. 3 (Response to Guidelines) at 22-24.

⁴ Ex. 3 (Response to Guidelines) at 1-3.

⁵ *Id.* at 9.

- Coordinate with the Department of Aviation regarding its recommendations.
- Follow the principles and practices of pollution prevention to the maximum extent practicable.
- Limit the use of pesticides and herbicides to the extent practicable.⁶

On May 15, 2012, Knollwood Associates, LLC ("Knollwood"), filed a notice of participation in this proceeding. Knollwood did not file testimony or attend the hearing.⁷ The Commission also received several comments on the Application, including comments from the Authority and from residents of the Blake Forest Subdivision. The Authority requests that Commission approval of the Project be conditioned on the following pursuant to § 56-46.1 of the Code of Virginia ("Code"): (1) construction and maintenance of the Project will not cause any physical disturbance to the landfill's facilities, including the leachate collection system, gas extraction wells, gas probes, and groundwater monitoring wells, or require that the Authority's DEQ permit be amended; and (2) the Company stipulating that (i) it agrees to these conditions, and (ii) any easement or right-of-way agreement entered into between the Company and the Authority shall provide that the Company will indemnify and save the Authority harmless against any and all loss or damage, accidents, or injuries, to persons or property, resulting from the Company's breach of these conditions or related to future facilities that the Authority may be required to place on or near the landfill.⁸ In their comments, the residents of Blake Forest Subdivision expressed opposition to the proposed route because it would cross their subdivision and promoted the use of an alternative route instead.

On May 30, 2012, the Staff filed its testimony and exhibits ("Staff Testimony") summarizing the results of its investigation of the Company's Application. The Staff concluded that the Company demonstrated the need for the proposed Project.⁹ The Staff also concluded that the Company's preferred route is superior to the alternative routes considered.¹⁰ In the Staff Testimony, the Staff further described the criteria of the underground pilot program established by Chapter 799 of the 2008 Virginia Acts of Assembly ("HB 1319")¹¹ and the unsuitability of the Project for this program.¹² The Staff recommended that the Commission approve the construction of the proposed Project along the preferred route and issue the requested certificate of public convenience and necessity.¹³

On June 15, 2012, APCo filed the rebuttal testimony of Timothy B. Earhart, P.E., and George T. Reese, C.E.

In his rebuttal testimony, Mr. Earhart stated that "[c]onserving and protecting Virginia's natural, cultural, and visual resources are of high importance to APCo"¹⁴ and that with the exception of the items noted below, the Company concurs with the recommendations listed in the DEQ Report.¹⁵ Mr. Earhart also assured that the Company intends to comply with the recommendation of DEQ to coordinate with the Authority regarding the closed Montgomery County Landfill to ensure pole placement for the Project does not disturb the landfill cap or disrupt gas or groundwater monitoring.¹⁶ He stated that after meeting with representatives of the Authority, the Company believes it could adequately mitigate impacts to the Authority's property by adjusting the preliminary centerline of the 100-foot right-of-way within the 500-foot corridor.¹⁷ Mr. Earhart stated that the Company would continue to work with the Authority and any other affected landowners in locating the final 100-foot right-of-way.¹⁸

Regarding the recommendations contained in the DEQ Report with which the Company takes exception, Mr. Earhart's rebuttal testimony first sought to clarify DCR's recommendation in relation to vegetation control within the boundaries of a karst feature. Specifically, Mr. Earhart requested that after discussion between the Company and DCR's karst protection coordinator, the DEQ's recommendation be clarified as follows: "[i]n areas within the boundaries of a karst feature and any channelized drainageway (perennial or intermittent) draining to a karst feature, manually control vegetation or use only wetland-approved herbicides in accordance with label and manufacturer directions."¹⁹

⁶ Ex. 11 (DEQ Report) at 6-7.

⁷ The Company's counsel represented at the hearing that representatives of the Company had met with Ms. Stosser, who filed the notice of participation on behalf of Knollwood, and that he believed Ms. Stosser's concerns had been addressed or will be addressed to Ms. Stosser's satisfaction. Tr. at 17.

⁸ Comments of Montgomery Regional Solid Waste Authority concerning Application of Appalachian Power Company for a Certificate of Public Convenience and Necessity: Falling Branch - Merrimac 138 kV Transmission Line, Doc. Con. Cen. No. 120620147 (June 18, 2012).

⁹ Ex. 10 (Staff Testimony) at 16.

¹⁰ *Id.*

¹¹ During the 2011 legislative session, the General Assembly passed HB 2027, which extended the ending date for underground pilot projects to July 1, 2014. 2011 Va. Acts. ch. 244.

¹² Ex. 10 (Staff Testimony) at 12-13.

¹³ *Id.* at 16.

¹⁴ Ex. 7 (Earhart Rebuttal) at 1.

¹⁵ *Id.*

¹⁶ *Id.* at 9.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.* at 2.

Mr. Earhart also asserted the Company's opposition to DGIF's recommendation to "[m]aintain naturally vegetated buffers of at least 100 feet in width around all on-site wetlands and on both sides of all perennial and intermittent streams, where practicable"²⁰ because it may present safety and service reliability risks due to the potential for vegetation and wire contact from tall tree growth.²¹ Instead, Mr. Earhart asserted that where reasonable and practical, the Company could use selective clearing methods to retain low-growth shrubs and other compatible vegetation within: (1) 50 feet of all year-round streams and ponds or wetlands; (2) 50 feet of road crossings; (3) 100 feet of water supply wells; and (4) 25 feet of karst features and outcrops of limestone or dolomite rock.²² In support of the Company's position, Mr. Earhart stated that the Company has used these mitigation guidelines in their other transmission line projects and APCo has found them both adequate and effective in protecting streams, wetlands, wells, and karst features.²³ Mr. Earhart further asserted that maintaining a 100-foot undisturbed wooded buffer within the right-of-way would require taller and heavier structures and additional line length, resulting in an unnecessary increase in cost.²⁴

Mr. Earhart also contested DGIF's recommendation for the Company to "[c]onduct significant tree removal and ground clearing activities outside of the primary songbird nesting season of March 15 through August 15"²⁵ as this time-of-year restriction would prevent clearing for almost half of the year during the prime time months for such activities.²⁶ Mr. Earhart asserted that this restriction, except as may be necessary to accommodate endangered species, would be unduly burdensome and impractical, would adversely affect APCo's ability to complete critical infrastructure upgrades on schedule, which would decrease reliability, and would increase costs and raise worker safety concerns due to a greater likelihood of clearing occurring under adverse weather conditions during the non-summer months.²⁷ In support of the Company's position, Mr. Earhart cited APCo's application for a certificate of public convenience and necessity to rebuild a portion of a 138 kV transmission line in Washington County and the City of Bristol, Virginia, in Case No. PUE-2009-00137, as a case in which DGIF withdrew both the recommendation to maintain the 100-foot buffer around all on-site wetlands and both sides of perennial and intermittent streams as well as the time-of-year restriction after objection by APCo.²⁸

In response to DEQ's recommendation to use "the least toxic pesticides or herbicides effective in controlling the target species to the extent feasible,"²⁹ Mr. Earhart noted that the Company uses only herbicides that are registered with the U.S. Environmental Protection Agency and VDACS.³⁰ However, he stated that some herbicides with low toxicity require higher concentrations of the active ingredient to control targeted vegetation and that use of greater volumes of these herbicides could thus potentially defeat the purpose of the DEQ recommendation.³¹ Therefore, Mr. Earhart asserted that the Company intends to use appropriate herbicide applications that will use the lowest volume of herbicide required to control targeted vegetation, in strict accordance with the manufacturer's recommendations.³²

In addition, Mr. Earhart asserted the Company's opposition to DOF's recommendation of a mitigation ratio in excess of one-to-one for the proposed clearing of an additional 4.3 miles of right-of-way for the proposed transmission line, citing several reasons in support of APCo's position.³³ Based on the mitigation payments APCo has made in previous cases, Mr. Earhart estimated that the mitigation payment likely sought by DOF in this proceeding is approximately \$30,000.³⁴

Mr. Earhart also urged that the Commission reject the New River Valley Planning District Commission's recommendation that "APCo work with a consultant to develop tower locations that are sensitive to environmental and scenic concerns,"³⁵ citing that the Company has already contracted with GAI Consultants, Inc., as an environmental consultant, which considered existing and future land use plans for the area affected by the Project as well as

²⁰ Ex. 11 (DEQ Report) at 21.

²¹ Ex. 7 (Earhart Rebuttal) at 2.

²² *Id.*

²³ *Id.* at 3.

²⁴ *Id.*

²⁵ Ex. 11 (DEQ Report) at 21.

²⁶ Ex. 7 (Earhart Rebuttal) at 3.

²⁷ *Id.*

²⁸ *Id.* at 3-4; *Application of Appalachian Power Company, For a certificate of public convenience and necessity to rebuild a portion of a 138 kV transmission line in Washington County and the City of Bristol, Virginia*, Case No. PUE-2009-00137, Letter from Ellie Irons, Program Manager, Environmental Impact Review, dated April 20, 2010, to Joel H. Peck, Clerk, State Corporation Commission, Doc. Con. Cen. No. 100450008.

²⁹ Ex. 10 (DEQ Report) at 27.

³⁰ Ex. 7 (Earhart Rebuttal) at 4.

³¹ *Id.*

³² *Id.*

³³ *Id.* at 4-8.

³⁴ *Id.* at 5.

³⁵ Ex. 11 (DEQ Report) at 28.

additional factors such as the presence and proximity of natural, visual, and cultural resources including karst features, wetlands, streams, springs, forests, prime farmland soils, previously documented architectural and archeological resources, rare or endangered species, as well as recreational and aesthetic resources such as bikeways, scenic byways, trails, and parks.³⁶ Mr. Earhart asserted that the preferred route thus reasonably mitigates adverse impacts on scenic assets, historic districts, and the environment of the area concerned.³⁷ He also stated that the Company has flexibility to shift the location of the 100-foot right-of-way for the transmission line within the proposed 500-foot corridor as needed to address issues that become evident only upon undertaking final engineering, ground survey, and interviews with landowners, including environmental and scenic issues.³⁸ Mr. Earhart further asserted that hiring another consultant to develop tower locations is unnecessary and impractical, and would represent an imprudent expenditure of utility resources.³⁹

Lastly, Mr. Earhart addressed the comments submitted by residents of the Blake Forest Subdivision and specified why the alternative routes were removed from consideration.⁴⁰ In support of the preferred route, Mr. Earhart stated, among other things, that: (1) the preferred route crosses ridges in the area perpendicular to the slope, which improves constructability and limits the number of transmission line structures required; (2) the preferred route uses an existing access corridor and crosses a lot impacted by a sinkhole, so it is unlikely that this route would impact buildable lots in the subdivision; and (3) subject to the completion of detailed survey and engineering studies, the Company believes that the proposed line would span high above the subdivision road (100 feet or more) and that an adequate buffer of existing vegetation could be maintained between the cleared right-of-way and any residences in the subdivision.⁴¹

Mr. Reese addressed the DOF forest mitigation recommendation stating, among other things, that very little of the forested land crossed by the preferred route could accurately be characterized as actively managed working forest land and that clearing within the transmission line right-of-way would actually promote biodiversity.⁴²

A public hearing on the Application was convened on June 27, 2012. Two public witnesses, Mrs. Katrina Poovey and Dr. Carroll Poovey, of the Blake Forest Subdivision, testified at the hearing. Mrs. Poovey testified that the Company's environmental impact analysis was based, at least in part, on gross and misleading representations of the facts to justify the Company's preferred alternative route.⁴³ Specifically, Mrs. Poovey claimed that the analysis overstated the adverse visual impact of Alternative Route 3 to the U.S. 11 corridor.⁴⁴ Conversely, Mrs. Poovey stated that the visual impact to Blake Forest Subdivision from the preferred route is greater.⁴⁵ Mrs. Poovey stated that "[t]he principal impact to the neighborhood is not the conductors 100 feet in the air; it's the clearing of a 100-foot-wide swath of forest directly between two homes."⁴⁶ Dr. Carroll Poovey testified that the Company also ruled out Alternative Route 3 because of the possible radio frequency hazards with radio antennae. Dr. Poovey then testified that he had conducted a Google search on radio frequency interference with electric transmission lines and could find no evidence of interference with any lines of less than 500 kV.⁴⁷

On October 5, 2012, the Hearing Examiner issued his report ("Hearing Examiner's Report") setting forth the procedural history of the case; summarizing the record; analyzing the evidence and issues in this proceeding; setting forth his findings and recommendations; and advising the case participants of their opportunity to comment on the Hearing Examiner's Report.

The Hearing Examiner recommended that the Commission grant the requested certificate of public convenience and necessity to construct and operate the proposed transmission facilities based on the following findings:

1. The proposed [P]roject is necessary to meet growing electrical demands and improve reliability for customers in the Christiansburg-Blacksburg area;
2. The proposed [P]roject is essential to support ongoing economic development within the Christiansburg-Blacksburg area;
3. The proposed [P]roject will maximize the use of existing rights-of-way;
4. The DEQ recommendations are necessary to minimize any adverse environmental impact of the proposed [P]roject. However, mitigation of forest loss should not exceed a one-to-one ratio and the Company

³⁶ Ex. 7 (Earhart Rebuttal) at 8.

³⁷ *Id.*

³⁸ *Id.* at 8-9.

³⁹ *Id.* at 9.

⁴⁰ *Id.* at 9-10.

⁴¹ *Id.* at 10.

⁴² Ex. 5 (Reese Rebuttal) at 2.

⁴³ Tr. at 6.

⁴⁴ *Id.* at 6-8.

⁴⁵ *Id.* at 8.

⁴⁶ *Id.*

⁴⁷ *Id.* at 11-12.

should not be required to employ extraordinary measures as discussed [in the Hearing Examiner's Report];⁴⁸

5. The clarification reached between Company witness Earhart and Wil Orndorff, karst protection coordinator at DCR, regarding vegetation control at karst features is reasonable and should be approved;
6. The proposed [P]roject is not suitable to be constructed underground; and
7. The proposed route and tower design reasonably mitigate the overall impact and generally improve the aesthetics of the proposed [P]roject as required by HB 1319.⁴⁹

The Company and the Authority filed comments on the Hearing Examiner's Report. In its comments, APCo states that it generally agrees with the findings and recommendations of the Hearing Examiner, but re-asserts that the Company continues to oppose the DOF recommendations in their entirety because, among other things, they are "not legally required and will result in the imprudent and unnecessary expenditure of utility resources."⁵⁰ In its comments, APCo also restated its position, asserted at the hearing, that except to the extent of damages caused by the Company's negligent acts or omissions and not by the negligence of the Authority, the Company opposes the Authority's request for indemnity.⁵¹

In its comments, the Authority asserted that the Commission should require, as a condition of granting the Company's Application, that: (1) APCo comply with the DEQ recommendation that placement of the Company's transmission line poles not disturb the landfill cap or disrupt the Authority's required gas or groundwater monitoring activities; (2) APCo reimburse and save the Authority harmless from any and all costs, loss, or damages resulting from its failure to do so; and (3) APCo repair any damage to roads, fences, or other improvements on the Authority's property caused by the Company's actions in installing and maintaining these transmission lines.⁵²

On November 2, 2012, APCo filed a Motion to Strike ("Motion") seeking to strike the Authority's comments on the Hearing Examiner's Report. In support of its Motion, APCo stated that the Authority has not filed a notice of participation in this proceeding and is thus not a respondent, but rather a public witness.⁵³ Specifically, APCo cites Rule 5 VAC 5-20-80 C, *Public witnesses*, of the Commission's Rules of Practice and Procedure, which states that public witnesses may make known their position in any regulatory proceeding by "filing written comments in advance of the hearing if provided for by [C]ommission order or by attending the hearing, noting an appearance in the manner prescribed by the [C]ommission, and giving oral testimony. Public witnesses may not otherwise participate in the proceeding, be included in the service list, or be considered a party to the proceeding." APCo asserts that the Authority filed written comments in advance of the hearing, attended and noted an appearance at the hearing, but chose not to present oral testimony.⁵⁴ The Company asserts that under the plain language of Rule 5 VAC 5-20-80 C of the Commission's Rules of Practice and Procedure, the Authority had full opportunity to exercise its rights to participate in this proceeding and may not now file comments to become part of the record to be considered by the Commission in making a decision in this proceeding.⁵⁵

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the public convenience and necessity require that the Falling Branch-Merrimac 138 kV Transmission Line and associated work at the Company's existing Falling Branch, Merrimac, and Edgemont Substations be constructed as proposed in the Company's Application and that a certificate of public convenience and necessity should be issued authorizing the Project.

We grant APCo's Motion to Strike. While we encourage the participation of the Authority, and all interested persons or entities, in Commission proceedings, we must ensure that our procedures remain fair to the applicant and to those who participate in accordance with the Commission's orders and regulations. Pursuant to our Order for Notice and Hearing in this case, adequate notice was provided and interested persons were afforded an opportunity to file written comments on the Company's application in a timely manner, to become parties to the case, or to appear as public witnesses. These procedures for participation require issues and evidence to be raised in a manner that permits the applicant and other parties an opportunity to address the same. Pursuant to these procedures, the Authority chose to participate as a public witness, not a party.⁵⁶ As noted in the Company's Motion, Rule 5 VAC 5-20-80 C of the Commission's Rules of Practice and Procedure states that public witnesses are limited to "filing written comments in advance of the

⁴⁸ The extraordinary measures cited in the Hearing Examiner's Report are the following: (1) maintain naturally vegetated buffers of at least 100 feet around all wetland sites; (2) prohibit tree removal and ground clearing activities during primary songbird nesting season (March 15-August 15); (3) use only least toxic herbicides and pesticides; and (4) hire an additional consultant to determine tower locations. Hearing Examiner's Report at 17.

⁴⁹ *Id.* at 18.

⁵⁰ Appalachian Power Company's Comments on Report of Howard P. Anderson, Jr., Hearing Examiner at 1-2.

⁵¹ *Id.* at 3.

⁵² Comments of Montgomery Regional Solid Waste Authority on Hearing Examiner's Report concerning Appalachian Power Company for a Certificate of Public Convenience and Necessity at 2.

⁵³ Motion at 1.

⁵⁴ *Id.* at 2.

⁵⁵ *Id.*

⁵⁶ A person desiring to become a party to this case simply had to file a notice of participation as a respondent in accordance with Rule 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice and Procedure, on or before May 15, 2012. A notice of participation needs to contain: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action.

hearing if provided for by [C]ommission order or by attending the hearing, noting an appearance in the manner prescribed by the [C]ommission, and giving oral testimony. Public witnesses may not otherwise participate in the proceeding, be included in the service list, or be considered a party to the proceeding." Accordingly, the Authority's participation as a public witness does not provide a basis for us to consider its comments to the Hearing Examiner's Report.

Approval

The statutory scheme governing the Company's Application is found in several chapters of Title 56 of the Code. Section 56-265.2 A of the Code provides that "[i]t shall be unlawful for any public utility to construct . . . facilities for use in public utility service, . . . , without first having obtained a certificate from the Commission that the public convenience and necessity require the exercise of such right or privilege."

Section 56-46.1 of the Code further directs the Commission to consider several factors when reviewing the Company's Application. Subsection A of the statute provides that:

Whenever the Commission is required to approve the construction of any electrical utility facility, it shall give consideration to the effect of that facility on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact In every proceeding under this subsection, the Commission shall receive and give consideration to all reports that relate to the proposed facility by state agencies concerned with environmental protection; and if requested by any county or municipality in which the facility is proposed to be built, to local comprehensive plans that have been adopted Additionally, the Commission (a) shall consider the effect of the proposed facility on economic development within the Commonwealth, . . . , and (b) shall consider any improvements in service reliability that may result from the construction of such facility.

Section 56-46.1 B of the Code further provides that: "[a]s a condition to approval the Commission shall determine that the line is needed and that the corridor or route the line is to follow will reasonably minimize adverse impact on the scenic assets, historic districts, and environment of the area concerned."

The Code further requires the Commission to consider existing right-of-way easements when siting transmission lines. Section 56-46.1 C of the Code provides that "[i]n any hearing the public service company shall provide adequate evidence that existing rights-of-way cannot adequately serve the needs of the company." In addition, § 56-259 C of the Code provides that "[p]rior to acquiring any easement of right-of-way, public service corporations will consider the feasibility of locating such facilities on, over, or under existing easements of rights-of-way."

Finally, for inclusion of a project in the underground pilot program established by HB 1319, the project must satisfy the following three criteria:

- (1) An engineering analysis demonstrates that it is technically feasible to place the proposed line, in whole or in part, underground;
- (2) The estimated additional cost of placing the proposed line, in whole or in part, underground does not exceed 2.5 times the cost of placing the same line overhead, assuming accepted industry standards for undergrounding to ensure safety and reliability. If the public utility, the affected localities, and the State Corporation Commission agree, a proposed underground line whose cost exceeds 2.5 times the cost of placing the line overhead may also be accepted into the pilot program; and
- (3) The governing body of each locality in which a portion of the proposed line will be placed underground indicates, by resolution, general community support for the line to be placed underground.⁵⁷

Need

The need for the Project is unchallenged.⁵⁸ We agree with the Hearing Examiner that the Company's load growth forecasts support the need for the Project and that the Project improves reliability for customers in the Christiansburg-Blacksburg area.⁵⁹

We also find that the proposed Project is preferable to the other electrical alternatives considered by the Company in this case. The Project solves current overload issues while also addressing future load growth and minimizing future disturbance to urban growth.⁶⁰

Economic Development and Service Reliability

We agree with the Hearing Examiner that "[t]he proposed [P]roject is essential to support ongoing economic development within the Christiansburg-Blacksburg area."⁶¹ Without the Project, the Company established that customers would have a significant and growing risk of experiencing

⁵⁷ 2008 Va. Acts ch. 799, Enactment Clause 1, § 4. As mentioned previously, during the 2011 legislative session, the General Assembly passed HB 2027, which extended the ending date for underground pilot projects to July 1, 2014. 2011 Va. Acts ch. 244.

⁵⁸ Hearing Examiner's Report at 13.

⁵⁹ *Id.* at 13-14, 18.

⁶⁰ Ex. 3 (Response to Guidelines) at 8.

⁶¹ Hearing Examiner's Report at 15, 18.

diminished or interrupted electric power supply.⁶² Based on this improved reliability, we find that the Project will have a positive impact on economic development in the area.⁶³

Scenic Assets, Historic Districts, and Existing Rights-of-Way

We agree with the Hearing Examiner that "[t]he proposed Project will maximize the use of existing rights-of-way."⁶⁴ The proposed route uses existing right-of-way for forty-five percent of its length and traverses a potential load growth area, thereby allowing future distribution substations to be integrated into the system cost effectively.⁶⁵ We agree with the Hearing Examiner that "[t]he preferred route would allow the Company to efficiently and effectively acquire [right-of-way], engineer, build, operate, and maintain the proposed [P]roject with minimal overall environmental impact."⁶⁶

With respect to the concerns of the residents of Blake Drive, we agree with the Hearing Examiner that the Company has reasonably mitigated the impact of the proposed Project on Blake Drive through its proposed design of the line.⁶⁷ The preferred route crosses Blake Drive over two vacant, heavily wooded lots, one of which has a sink hole and is probably unsuitable for building. Further, because of the favorable ridge structure in the area, fewer transmission line structures would be required. There also would be no pole structures visible to the Blake Drive residents and the conductors would cross the road at a height of 100 to 110 feet, requiring removal of only a few trees and preserving all of the understory growth.⁶⁸

We find that the Project will have a minimal impact on scenic assets and historic districts consistent with § 56-46.1 B of the Code. The proposed route of the Falling Branch-Merrimac Transmission Line uses existing right-of-way and the Company concurs with the DHR's recommendations to coordinate with the agency to protect historic and archaeological resources in the Project area.⁶⁹

Environmental Impact

Sections 56-46.1 A and B of the Code require the Commission to consider the proposed Project's impact on the environment and to establish such conditions as may be desirable or necessary to minimize adverse environmental impact. Section 56-46.1 A of the Code further provides that the Commission shall receive, and give consideration to, all reports that relate to the proposed Project by state agencies concerned with environmental protection.

The record, which includes the DEQ Report filed by DEQ and the Environmental Impact Analysis and Alternative Route Development prepared by the Company as part of the Application, supports finding that the Company's proposed route reasonably minimizes adverse environmental impact, provided that the Company complies with certain of the DEQ recommendations found by the Hearing Examiner to be necessary to minimize such impact.⁷⁰ We agree with the Hearing Examiner that the Company should not be required to: (1) maintain naturally vegetated buffers of at least 100 feet around all wetland sites; (2) prohibit tree removal and ground clearing activities during primary songbird nesting season (March 15-August 15); (3) use only least toxic herbicides and pesticides; and (4) hire an additional consultant to determine tower locations.⁷¹ We agree with the Hearing Examiner that the clarification reached between Company witness Earhart and the karst protection coordinator at DCR, regarding vegetation control at karst features, is reasonable.⁷² Additionally, under the circumstances in this case, we reject the Hearing Examiner's finding that mitigation should be required for tree removal in the right-of-way.⁷³

HB 1319

We find that the evidence demonstrates that the Project does not meet the criteria set forth in HB 1319 for inclusion as a pilot program.⁷⁴ We further agree with the Hearing Examiner that "[t]he proposed route and tower design reasonably mitigate the overall impact and generally improve the aesthetics of the proposed [P]roject as required by HB 1319."⁷⁵

⁶² Ex. 8 (Ahmed) at 5; Hearing Examiner's Report at 15.

⁶³ Hearing Examiner's Report at 15.

⁶⁴ *Id.* at 18.

⁶⁵ *Id.* at 16.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ Ex. 7 (Earhart Rebuttal) at 1; Ex. 11 (DEQ Report) at 7, 23-24.

⁷⁰ *Id.* at 17, 18.

⁷¹ *Id.* at 17.

⁷² *Id.* at 18.

⁷³ *Id.* at 17, 18.

⁷⁴ Ex. 6 (Earhart Direct) at 8-9; Ex. 10 (Staff Testimony) at 12-13; Hearing Examiner's Report at 14-15, 18.

⁷⁵ Hearing Examiner's Report at 18.

Accordingly, IT IS ORDERED THAT:

(1) The Company is authorized to construct and operate the proposed approximately 7.5 mile Falling Branch-Merrimac 138 kV Transmission Line on the route proposed in the Company's Application subject to the findings and conditions imposed herein. The Company is also authorized to perform necessary construction at the Falling Branch, Merrimac, and Edgemont Substations as set forth in the Company's Application.

(2) Pursuant to §§ 56-46.1, 56-265.2, and related provisions of Title 56 of the Code, the Company's Application for a certificate of public convenience and necessity to construct and operate the proposed Falling Branch-Merrimac Transmission Line and to perform necessary work at the Falling Branch, Merrimac, and Edgemont Substations is granted, as provided for herein, and subject to the requirements set forth in this Order.

(3) Pursuant to the Utility Facilities Act, Chapter 10.1 (§ 56-265.1 *et seq.*) of Title 56 of the Code, the Company is issued the following certificate of public convenience and necessity:

Certificate No. ET- 39i, which authorizes Appalachian Power Company under the Utility Facilities Act to operate presently constructed transmission lines and facilities in Montgomery County and Town of Christiansburg, all as shown on the detailed map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUE-2012-00007; Certificate No. ET- 39i will cancel Certificate No. ET-39h issued to Appalachian Power Company on February 4, 2008, in Case No. PUE-2007-00087.

(4) The Commission's Division of Energy Regulation forthwith shall provide the Company a copy of the certificate issued in Ordering Paragraph (3) with the detailed map attached.

(5) The transmission line and associated substation work approved herein must be constructed and in service within 36 months of the date of this Order, provided, however, that the Company is granted leave to apply for an extension for good cause shown.

(6) As there is nothing further to come before the Commission, this matter is dismissed and the papers filed herein shall be placed in the file for ended causes.

**CASE NO. PUE-2012-00009
APRIL 23, 2012**

APPLICATION OF
COLUMBIA GAS OF VIRGINIA, INC.

For approval of an Anchor Shipper Precedent Agreement and a Credit Agreement with Columbia Gas Transmission, LLC, pursuant to Chapter 4 of Title 56 of the Code of Virginia.

ORDER GRANTING APPROVAL

On January 27, 2012, Columbia Gas of Virginia, Inc. ("CGV"), filed an application ("Application") with the State Corporation Commission ("Commission") requesting approval of a Line VM-109 Expansion Project Anchor Shipper Precedent Agreement dated December 20, 2011 ("Precedent Agreement"), and an associated Credit Agreement dated December 20, 2011 ("Credit Agreement"), with Columbia Gas Transmission, LLC ("TCO"), pursuant to Chapter 4 of Title 56 of the Code of Virginia ("Code").¹ CGV requests such approval without the necessity of a public hearing and also seeks further relief as may be necessary and appropriate.

CGV, a Virginia public service corporation and natural gas local distribution company, and TCO, an interstate natural gas pipeline company,² are wholly owned subsidiaries of Columbia Energy Group, which is a wholly owned subsidiary of NiSource Inc. Accordingly, CGV and TCO are considered affiliated interests under § 56-76 of the Code. In a 1996 Order ("1996 Order"),³ the Commission approved CGV's Policy for Executing Revised or New Transportation Agreements with Affiliates, which permitted CGV to enter into supply-related arrangements with TCO prior to Commission approval with the understanding that the specifics of the arrangements would be provided to the Commission after the agreements were executed. In a 2004 Order,⁴ the Commission modified its 1996 Order to require CGV to provide notice to the Commission's Division of Public Utility Accounting⁵ as soon as such a gas-supply agreement became effective and to file for Affiliates Act approval within forty-five (45) days of the agreement's execution. CGV complied with both of these provisions in the filing of this Application.

¹ Va. Code § 56-76 *et seq.* (the "Affiliates Act")

² TCO is a "natural gas company" as defined in Section 15 U.S.C. § 717a of the Natural Gas Act and, as such, is regulated by the Federal Energy Regulatory Commission ("FERC").

³ *Application of Commonwealth Gas Services, Inc., For approval of agreements with affiliates*, Case No. PUA-1995-00025, 1996 S.C.C. Ann. Rept. 118, Order Granting Approval (July 18, 1996).

⁴ *Application of Columbia Gas of Virginia, Inc., For approval of a firm transportation service agreement pursuant to Chapter 4 of Title 56 of the Code of Virginia*, Case No. PUE-2004-00013, 2004 S.C.C. Ann. Rept. 432, Order Granting Approval (Apr. 13, 2004).

⁵ The Division of Public Utility Accounting is now known as the Division of Utility Accounting and Finance.

The Application states that TCO has determined that it can expand certain of its interstate natural gas transportation facilities in order to provide additional firm transportation services from TCO's Line No. VM-109 ("Line VM-109 Expansion Project") to multiple points of delivery as set forth in the Precedent Agreement.

The Precedent Agreement provides that CGV will enter into Service Agreements with TCO for up to 15,000 Dekatherms ("Dth") of service per day under TCO Rate Schedule Firm Transportation Service ("FTS") and Rate Schedule No Notice Transportation Service ("NTS"), which CGV will use to serve existing and projected firm customer requirements.⁶ Service under Rate Schedule FTS will be available in the winter, while service under Rate Schedule NTS will be available in the summer. During the winter months, the receipt point under Rate Schedule FTS will be the Boswell Tavern interconnection between TCO and Transcontinental Gas Pipe Line Company, LLC ("Transco"), and during the summer months, the receipt point under Rate Schedule NTS will be Leach, Kentucky. The Precedent Agreement provides for fifteen (15)-year fixed terms under both the FTS and NTS Service Agreements, commencing on November 1, 2012, or as soon thereafter as the facilities necessary to provide the FTS and NTS services are completed. CGV states that the fifteen (15)-year term enables TCO to provide the incremental capacity at existing FTS and NTS FERC approved rates, enables CGV to satisfy an existing firm delivery entitlement deficiency in TCO's Market Area 33,⁷ and provides CGV with Right of First Refusal rights at the end of the initial fifteen (15)-year term. CGV will pay applicable FERC jurisdictional reservation rates, demand surcharges, commodity rates and surcharges, and retainage rates as set forth in the Precedent Agreement.⁸

The associated Credit Agreement sets forth certain financial terms, conditions and agreements necessary to ensure the creditworthiness of CGV, which are necessary for CGV to take service under TCO Rate Schedules FTS and NTS. The term of the Credit Agreement runs concurrently with the terms of the FTS and NTS Service Agreements provided for in the Precedent Agreement. CGV represents that the Credit Agreement is the requirement of TCO for all shippers when acquiring new firm capacity.

CGV represents that the incremental capacity it will be able to acquire from TCO under the Precedent Agreement will provide service to existing supply points from TCO, and provides the ability to add new points in the future to meet future demand growth. CGV further represents that this capacity is the lowest cost option available to meet firm customer demand in this portion of its distribution system. No other capacity options exist, and the development of competing options would require such development to be priced incrementally, resulting in higher rates than CGV will pay for the capacity under the proposed Precedent Agreement.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the above-described Precedent Agreement and the associated Credit Agreement are in the public interest and should, therefore, be approved subject to the requirements recommended in the Commission Staff's Action Brief filed contemporaneously with this Order and noted below.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to § 56-77 of the Code, CGV is hereby granted approval of the Precedent Agreement and the associated Credit Agreement, as described herein, provided that the requirements as set forth herein are met.

(2) The duration of the approval granted herein for the Precedent Agreement and the Credit Agreement shall match the fifteen (15)-year initial terms of the FTS and NTS Service Agreements as set forth in the Precedent Agreement. Should CGV wish to continue the Precedent Agreement or the Credit Agreement after the fifteen (15)-year period of authorization, subsequent Commission approval shall be required.

(3) CGV shall provide notice to the Commission of the effective dates of the FTS and NTS Service Agreements, upon which the initial fifteen (15)-year terms of the Service Agreements will commence, within thirty (30) days of the Service Agreements becoming effective.

(4) Separate Commission approval shall be required for any changes in the terms and conditions of the Precedent Agreement or the Credit Agreement, including successors or assigns.

(5) The approval granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code hereafter.

(6) The Commission reserves the right to examine the books and records of any affiliate in connection with the approval granted herein, whether or not such affiliate is regulated by this Commission.

(7) The approval granted herein shall have no ratemaking implications. Specifically, it will not guarantee the recovery of any costs directly or indirectly related to the Precedent Agreement or the Credit Agreement.

⁶ CGV recently obtained Commission approval to enter into an August 4, 2011 Reimbursement Agreement ("Reimbursement Agreement") with TCO, which specified the circumstances, timing and conditions under which CGV may reimburse TCO for the costs associated with engineering, survey, and right-of-way activities necessary to evaluate the provision of the incremental service that is the subject of this Application. See *Application of Columbia Gas of Virginia, Inc., For approval of a Reimbursement Agreement with Columbia Gas Transmission, LLC, pursuant to Chapter 4 of Title 56 of the Code of Virginia*, Case No. PUE-2011-00104, 2011 S.C.C. Ann. Rept. 543, Order Granting Approval (Nov. 10, 2011). CGV advised, however, that the Reimbursement Agreement terminated pursuant to its own terms upon the execution of the Precedent Agreement on December 20, 2011 (See Paragraph (9) of the Reimbursement Agreement). As such, CGV represents that, consistent with the provisions of the Reimbursement Agreement, the rates provided for in the Precedent Agreement will reflect the actual engineering, surveying, and right-of-way costs necessary to evaluate the Line VM-109 Expansion Project. Accordingly, CGV will not be required to separately reimburse TCO for such engineering, surveying, and right-of-way costs under the Reimbursement Agreement.

⁷ CGV currently has a forecast deficiency in firm delivery entitlements to points of delivery in TCO's Market Area 33 for the winter of 2012-2013 of 9,987 Dth.

⁸ CGV represents that, based on the rates set forth in TCO's FERC-approved tariff, the estimated annual demand cost of the incremental capacity associated with the Precedent Agreement is \$1,130,031.

(8) CGV shall include all transactions associated with the Precedent Agreement and the Credit Agreement approved herein in its Annual Report of Affiliate Transactions ("ARAT") submitted to the Commission's Director of Utility Accounting and Finance ("UAF Director") on or before May 1 of each year, which deadline may be extended administratively by the Commission's UAF Director.

(9) If CGV's annual informational and/or general rate case filings are not based on a calendar year, then CGV shall include the affiliate information contained in its ARAT in such filings.

(10) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUE-2012-00010
OCTOBER 1, 2012**

APPLICATION OF
ATMOS ENERGY CORPORATION

For an Annual Informational Filing

ORDER CLOSING PROCEEDING

On January 27, 2012, Atmos Energy Corporation ("Atmos" or "Company") filed its application for an Annual Informational Filing ("AIF") for the twelve months ending September 30, 2011, with the Clerk of the State Corporation Commission ("Commission"). The Company's AIF consisted of financial and operating data for the twelve months ended September 30, 2011. On July 6, 2012, the Staff of the Commission ("Staff") filed its Report on Atmos's AIF. That Report included both financial and accounting analyses.

In its financial analysis, the Staff noted that the fiscal year operating and financial performance for the Company's Virginia operations declined compared to its 2010 fiscal period performance. With regard to capital structure, the Staff Report indicated that the Company issued \$400 million of debt at a coupon rate of 5.50%, and retired \$350 million of senior notes that carried a coupon rate of 7.375%. The Staff Report also noted that the Company's credit ratings were upgraded by Moody's Investors Service to "Baa1" and by Fitch Ratings to "A-" and that Standard and Poor's reaffirmed its rating at "BBB."

Additionally, the Staff Report pointed out that the Company received \$27.8 million in March 2011 related to the unwinding of two Treasury locks; however, the Company omitted this gain in its calculation of the cost of debt. The Staff included the gain in the "Hedging Activities" section of Staff's Exhibit 4.¹ The Staff noted that because the gain was not associated with debt that was actually issued, there is no life over which to amortize the gain. Therefore, the Staff proposed to amortize the non-recurring gain over a three-year period to minimize materiality of the gain, and stated that it believes the three-year amortization period to be appropriate for Atmos's operating division in Virginia.²

The Staff's financial analysis also discussed the Company's treatment of losses on reacquired debt. The Staff indicated that Atmos has incurred losses in three transactions where it reacquired debt, two of which were without refunding. Further, the Staff noted that the Company included the losses incurred on all reacquired debt, both with and without refunding, in its determination of cost of debt. In its Report, the Staff discussed the Commission's Final Order in Case No. PUE-1997-00328, where the Commission held, among other things, that it was important to determine if losses on reacquired debt without refunding "are in fact different from other regulatory assets" and, therefore, subject to write-off in an earnings test. Because the Commission found that losses on reacquired debt with refunding are not subject to the earnings test, and the Commission further held that whether losses on reacquired debt without refunding should be written-off in the year they are incurred would be determined on a case-by-case basis, the Staff Report stated that this issue is appropriate for consideration in this case because Atmos earned above its authorized return on equity during the 2011 fiscal year. The Staff Report recommended that the Company's losses on reacquired debt without refunding should not be subject to the earnings test and should continue to be amortized over the life of the retired debt.

In its AIF, the Company filed jurisdictional rate of return statements showing a per books jurisdictional return on common equity of 10.54% and a fully-adjusted jurisdictional return on equity of 9.69%. The Staff's accounting review of the Company's AIF showed Atmos earning a fully adjusted return on common equity of 10.77%, which is above the Company's authorized return on equity range of 9.50% to 10.50% established by the Commission in the Company's most recent rate case.³ The difference between Staff's and the Company's adjustments are attributable to differences between projected account balances and actual account balances related to rate base, depreciation expense, and property tax expense, as well as differences in the calculation of customer growth, liability insurance premium expense, and depreciation related to shared services assets.

The Staff recommended no adjustment to the Company's base rates at this time. Additionally, the Staff recommended that: (i) "the Company be directed to file all schedules required in a general rate case with its next AIF if it finds itself in an overearnings position during the test year ended September 30, 2012," and (ii) Atmos be "allowed to continue to amortize the losses on reacquired debt without refunding over the life of the retired debt. However, if the Commission finds that the losses should be subject to the earnings test and therefore written off and excluded from the capital structure," the Staff Report noted that the Company's "fully adjusted return on common equity is 10.86%, nine basis points higher than with those losses included."⁴

¹ Staff Report at 4, Exhibit 4.

² *Id.*

³ *Application of Atmos Energy Corporation, For an Expedited Increase in Rates and to Revise Tariffs*, Case No. PUE-2009-00004, 2009 S.C.C. Ann. Rep. 378, Final Order (Nov. 23, 2009).

⁴ Staff Report at 12.

In its earnings test analysis, the Staff found that Atmos earned a return on common equity of 11.80%, which falls above the authorized range of 9.50% to 10.50%. The Staff recommended that if the Commission "determines that losses without refunding qualify as regulatory assets subject to write off in an earnings test, a full write-down of the balance of losses without refunding would be required."⁵

In summary, the Staff made the following recommendations in its Report:

- that the hedge gains realized during the test year should be amortized over a period of three years;
- that Atmos continue to amortize the losses on reacquired debt without refunding over the life of the retired debt;
- that Atmos be directed to file all schedules required in a general rate case with its next AIF if it is in an overearnings position during the test year ended September 30, 2012;
- that Atmos report to Staff the results of the Shared Services depreciation rate review for the Mid-Tex division, when complete; and
- that Atmos be required to report on the implementation date of its Shared Services depreciation rates, when known.⁶

On July 18, 2012, the Company, by counsel, filed a letter advising that Atmos concurred with Staff that no adjustment in base rates is necessary at this time; however, Atmos noted that it may take issue with some of Staff's adjustments as they may be applied to future AIFs or rate change proceedings. Further, the Company added that "[i]f the Commission does not accept the Staff's recommendation - and Atmos's concurrence - that no rate change is appropriate, Atmos would require an opportunity to respond fully to any proposed Commission action to change the current rates."

NOW UPON CONSIDERATION of the matter, the Commission is of the opinion and finds that the Staff's recommendations and revisions (as summarized above) to the Company's cost of service, included in the Staff's July 6, 2012 Report, are reasonable and should be adopted and that no action on the Company's rates should be taken at this time. We note that we are making no findings at this time regarding the application of Staff's adjustments in other AIFs or rate change proceedings.

Accordingly, IT IS ORDERED THAT:

(1) Consistent with the findings made herein, the Staff's recommendations in its July 6, 2012 Report, including the Staff's accounting and earnings adjustments, are hereby adopted.

(2) No action shall be taken on the Company's rates at this time.

(3) There being nothing further to be done herein, this case shall be dismissed from the Commission's docket of active proceedings, and the papers filed herein shall be placed in the Commission's files for ended causes.

⁵ *Id.*

⁶ Staff Report at 13.

**CASE NO. PUE-2012-00011
JULY 6, 2012**

APPLICATION OF
APPALACHIAN NATURAL GAS DISTRIBUTION COMPANY

For an expedited increase in rates

ORDER FOR NOTICE AND HEARING

On June 8, 2012, Appalachian Natural Gas Distribution Company ("ANGD" or "Company") filed a completed application with the State Corporation Commission ("Commission") for an expedited increase in rates ("Application") and direct testimony, exhibits, and schedules as prescribed by the Commission's Rules Governing Utility Rate Applications and Annual Informational Filings, 20 VAC 5-201-10 *et seq.* ("Rate Case Rules"). ANGD seeks to increase its annual revenues by \$181,539 or approximately 5.27%.¹ As provided by 20 VAC 5-201-20 D of the Rate Case Rules, ANGD proposes that its increase in rates take effect, on an expedited basis and subject to refund, for service rendered on and after July 1, 2012.²

The Commission last granted the Company an increase in rates in May 2010.³ In support of its current Application, ANGD states that its operations have not materially changed since its last rate case, but operating costs have increased and that a portion of that increase is attributable to the

¹ Application at 1.

² Application at 2.

³ *Application of Appalachian Natural Gas Distribution Company, For an increase in rates*, Case No. PUE-2009-00026, 2010 S.C.C. Ann. Rept. 304, Final Order (May 4, 2010).

retention of qualified safety and overall system integrity personnel. Additionally, the Company is engaged in the development of line extensions and expansion projects that require not only more, but highly qualified, personnel.⁴ The proposed increase in rates is based on a return on equity of 11.5%.⁵

On June 29, 2012, the Commission Staff ("Staff") filed an interim report on its preliminary review of the Application and supporting testimony, exhibits, and schedules as required by the Commission's Rate Case Rules. The Staff concluded that the proposed adjustments are consistent with those approved in the previous rate case for ANGD. The Staff stated that it believes it is appropriate for the Company's rate request to be put into effect on an interim basis for service rendered on and after July 8, 2012, subject to refund.⁶

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the Company filed a completed Application on June 8, 2012. The Commission further finds that public notice and an opportunity for participation in this proceeding should be given; that a hearing should be scheduled on the Application; and that a Hearing Examiner should be assigned to conduct all further proceedings on behalf of the Commission, concluding with the filing of a final report containing the Hearing Examiner's findings and recommendations.

The Company advises the Commission that it has not experienced a substantial change in its operations.⁷ In this proceeding, ANGD proposes to use a return on equity of 11.5%, as approved by the Commission in the Company's last rate proceeding.⁸ In its Interim Report, the Staff made a preliminary determination that the proposed adjustments in this proceeding are consistent with those approved in the previous rate proceeding for ANGD.⁹ Therefore, the Commission finds that ANGD has satisfied the specific requirements of 20 VAC 5-201-20 D of the Rate Case Rules for putting its proposed rates into effect, subject to refund, as provided by 20 VAC 5-201-20 E of the Rate Case Rules.

Accordingly, IT IS ORDERED THAT:

- (1) The Company's Application for an expedited increase in rates is docketed and assigned Case No. PUE-2012-00011.
- (2) ANGD may put its proposed rates into effect on an interim basis, subject to modification and refund with interest, for service provided on and after July 8, 2012.
- (3) As provided by § 12.1-31 of the Code of Virginia and 5 VAC 5-20-120, *Procedure before hearing examiners*, of the Commission's Rules of Practice and Procedure, 5 VAC 5-20-10 *et seq.* ("Rules of Practice"), a Hearing Examiner hereby is appointed to conduct all further proceedings in this matter on behalf of the Commission and to file a final report herein.
- (4) A public hearing on the Application shall be held at 10 a.m. on December 19, 2012, in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, to receive into the record the testimony of public witnesses and the evidence of ANGD, any respondents, and the Staff. Public witnesses desiring to testify at the hearing concerning this Application need only appear in the Commission's Second Floor Courtroom in the Tyler Building at the address set forth above prior to 9:45 a.m. on the day of the hearing and contact the Commission's Bailiff.
- (5) ANGD shall forthwith make a copy of its Application; a copy of the public versions of all testimony, exhibits, and schedules filed with the Application; and a copy of this Order for Notice and Hearing available for public inspection during regular business hours at its business office at 220 West Valley Street, Suite 200, Abingdon, Virginia 24210. The Company shall also provide, at no charge, a copy of the Application and the public versions of all testimony, exhibits, and schedules filed with the Application upon written request to counsel for ANGD, Brian R. Greene, Esquire, The Greene Firm, PLC, 707 East Main Street, Suite 1025, Richmond, Virginia 23219. If acceptable to the requesting individual, the Company may provide the Application, with or without attachments, by electronic means. In addition, interested persons may review copies of the Application and related documents in the Commission's Document Control Center, located on the First Floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5 p.m. on regular business days, or download unofficial copies from the Commission's website at: <http://www.scc.virginia.gov/case>.
- (6) On or before August 10, 2012, the Company shall publish once as display advertising (not classified) the following notice in newspapers of general circulation throughout its Virginia service territory:

⁴ Direct Testimony of John W. Ebert at 2-3.

⁵ Application at 1.

⁶ Staff Interim Report ("Interim Report") at 2-3. The Company initially filed its Application seeking expedited rate relief on May 22, 2012. In that Application, the Company requested that its proposed rates be made effective for service rendered on and after July 1, 2012. However, the Application was incomplete as filed. Following the filing of a revised Schedule 36 on June 8, 2012, the Staff deemed the Company's Application complete as of that date. We therefore find, in accordance with the Rate Case Rules and consistent with the Staff's recommendation in its Interim Report, that the Company's proposed rates may be put into effect on an interim basis subject to refund for service rendered on and after July 8, 2012.

⁷ Direct Testimony of John W. Ebert at 2.

⁸ Application at 1.

⁹ Interim Report at 2.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

NOTICE TO THE PUBLIC OF AN
APPLICATION BY APPALACHIAN NATURAL
GAS DISTRIBUTION COMPANY
FOR AN EXPEDITED INCREASE IN RATES
CASE NO. PUE-2012-00011

On June 8, 2012, Appalachian Natural Gas Distribution Company ("ANGD" or "Company") filed with the State Corporation Commission ("Commission") an application for an expedited increase in rates ("Application"). ANGD seeks to increase its annual revenues by \$181,539 or approximately 5.27%. ANGD's increase in rates will take effect, on an expedited basis and subject to refund, for service rendered on and after July 8, 2012.

Interested persons are encouraged to review the Application and supporting documents for the details of these and other proposals. While the total revenue that may be approved by the Commission is limited to the amount produced by the Company's proposed rates, TAKE NOTICE that the Commission may approve revenues and adopt rates, fees, charges, tariff revisions, and terms and conditions of service that differ from those appearing in the Company's Application and supporting documents and may apportion revenues among customer classes and/or design rates in a manner differing from that shown in the Company's Application and supporting documents.

The Commission last granted the Company an increase in rates in May 2010. ANGD states that its operations have not materially changed since its last rate case, but operating costs have increased and part of that increase is attributable to the retention of qualified safety and overall system integrity personnel. Additionally, the Company is engaged in the development of line extensions and expansion projects that require not only more, but highly qualified, personnel. The proposed increase in rates is based on a return on equity of 11.5%.

The Commission has entered an Order for Notice and Hearing that, among other things, schedules a hearing on the Company's Application, assigns a Hearing Examiner to this proceeding, and permits ANGD to implement its proposed rate increase on an interim basis, subject to modification and refund, effective for service provided on and after July 8, 2012.

A public hearing on the Company's Application shall be held at 10 a.m. on December 19, 2012, in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, to receive into the record the testimony of public witnesses and the evidence of ANGD, any respondents, and the Commission Staff. Any person desiring to testify as a public witness should appear at the hearing location fifteen (15) minutes before the starting time on the day of the hearing and contact the Commission's Bailiff. Individuals with disabilities who require an accommodation to participate in the hearing should contact the Commission at least seven (7) days before the scheduled hearing date at 1-800-552-7945 (voice) or 1-804-371-9206 (TDD).

A copy of the Application; a copy of all testimony, exhibits, and schedules filed with the Application; and a copy of the Order for Notice and Hearing is available for public inspection during regular business hours at the Company's business office, 220 West Valley Street, Suite 200, Abingdon, Virginia 24210. A copy of the Application may be obtained at no cost through written request to counsel for ANGD, Brian R. Greene, Esquire, The Greene Firm, PLC, 707 East Main Street, Suite 1025, Richmond, Virginia 23219. In addition, interested persons may review the Application and related documents in the Commission's Document Control Center, Office of the Clerk of the Commission, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5 p.m. on regular business days, or download unofficial copies from the Commission's website at: <http://www.scc.virginia.gov/case>.

Any interested person may participate as a respondent in this proceeding by filing, on or before November 7, 2012, a notice of participation. If not filed electronically, an original and fifteen (15) copies of the notice of participation shall be submitted to the Clerk of the Commission at the address set forth below. Interested parties should obtain a copy of the Commission's Order for Notice and Hearing for further details on participation as a respondent. All filings shall refer to Case No. PUE-2012-00011.

On or before December 12, 2012, any interested person may file written comments on the Application with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Interested persons desiring to submit comments electronically may do so on or before December 12, 2012, by following the instructions found on the Commission's website at: <http://www.scc.virginia.gov/case>. All comments shall refer to Case No. PUE-2012-00011.

APPALACHIAN NATURAL GAS DISTRIBUTION COMPANY

(7) On or before August 10, 2012, ANGD shall serve a copy of this Order for Notice and Hearing on the chairman of the board of supervisors and county attorney of each county and upon the mayor or manager (or equivalent official) of every city and town in which the Company provides service in the Commonwealth of Virginia. Service shall be made by first class mail to the customary place of business or residence of the person served.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

(8) On or before August 31, 2012, ANGD shall file proof of publication of the notice prescribed in Ordering Paragraph (6) above and proof of service of copies of this Order for Notice and Hearing as prescribed by Ordering Paragraph (7) above, including the name, title, and address of each official served.

(9) On or before December 12, 2012, any interested person may file written comments on the Application with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Any interested person desiring to submit comments electronically may do so on or before December 12, 2012, by following the instructions found on the Commission's website at: <http://www.scc.virginia.gov/case>. Interested persons shall refer in their comments to Case No. PUE-2012-00011.

(10) Any interested person may participate as a respondent in this proceeding by filing, on or before November 7, 2012, a notice of participation. If not filed electronically, an original and fifteen (15) copies of the notice of participation shall be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (9). A copy of the notice of participation simultaneously shall be served on counsel to the Company, Brian R. Greene, Esquire, The Greene Firm, PLC, 707 East Main Street, Suite 1025, Richmond, Virginia 23219. Pursuant to 5 VAC 5-20-80 B, *Participation as a respondent*, of the Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be represented by counsel as required by Rule 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUE-2012-00011.

(11) Within five (5) business days of receipt of a notice of participation as a respondent as required by Ordering Paragraph (10), the Company shall serve upon the respondent a copy of this Order for Notice and Hearing, a copy of the Application, and all materials filed with the Commission unless these materials have already been provided to the respondent.

(12) On or before November 7, 2012, each respondent may file with the Clerk of the Commission and serve on the Staff, the Company, and all other respondents any testimony and exhibits by which the respondent expects to establish its case. If not filed electronically, an original and fifteen (15) copies of such testimony and exhibits shall be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (9). The respondent shall comply with the Commission's Rules of Practice, including 5 VAC 5-20-140, *Filing and service*; 5 VAC 5-20-150, *Copies and format*; and 5 VAC 5-20-240, *Prepared testimony and exhibits*.

(13) On or before November 20, 2012, the Staff shall investigate the Company's Application for an expedited increase in rates and shall file with the Clerk of the Commission an original and fifteen (15) copies of testimony and exhibits regarding its investigation of the Application.

(14) On or before December 5, 2012, the Company may file with the Clerk of the Commission any rebuttal testimony and exhibits that it expects to offer and simultaneously shall serve a copy on the Staff and all respondents. If not filed electronically, an original and fifteen (15) copies of such rebuttal testimony and exhibits shall be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (9).

(15) The Company shall respond to interrogatories and requests for data within seven (7) calendar days after the receipt of same. Except as so modified, discovery shall be in accordance with Part IV of the Rules of Practice, 5 VAC 5-20-240 *et seq.*

(16) This matter is continued generally.

**CASE NO. PUE-2012-00012
JUNE 25, 2012**

APPLICATION OF
VIRGINIA NATURAL GAS, INC.

For approval of a SAVE plan and rider as provided by Virginia Code § 56-604

ORDER APPROVING SAVE PLAN AND RIDER

On January 31, 2012, Virginia Natural Gas, Inc. ("VNG" or "Company"), filed with the State Corporation Commission ("Commission") its application ("Application") for approval to implement a plan and rider pursuant to Chapter 26 of Title 56 of the Code of Virginia ("Code"), §§ 56-603 *et seq.* - Steps to Advance Virginia's Energy Plan ("SAVE") Act.¹ Accompanying the Application were the Direct Testimony and Exhibits of Robert S. Duvall and John M. Cogburn. The Company proposes to recover costs associated with the replacement of up to \$105 million of infrastructure during the five-year term (2012-2016) of its plan ("SAVE Plan").² The Company intends to spend up to \$25 million annually with the total investment over the five-year term of the SAVE Plan capped at \$105 million.³ Recovery would be through a rider ("Rider E" or "SAVE Rider") on customers' bills authorized by the SAVE Act.

As VNG discusses in its Application, the SAVE Act provides for the recovery of the costs of replacing gas utility infrastructure to enhance system safety and reliability and reduce or have the potential to reduce greenhouse gas emissions. The Company represents that the replacement of the SAVE eligible infrastructure will not increase revenues by directly connecting such infrastructure replacements to new customers and that the replacements are limited to replacements commenced after January 1, 2010.⁴ The Company further states that the eligible infrastructure replacements are not included in

¹ As provided by § 56-604 B of the Code, the Commission shall approve or deny the Company's Application within 180 days.

² Application at 1, 5; Direct Testimony of Robert S. Duvall at 5-6.

³ *Id.*

⁴ Application at 4-5.

VNG's rate base as of its most recent rate case.⁵ The projects proposed in the Company's Application are the replacement of first generation plastic mains, cast and wrought iron mains, bare and ineffectively coated steel mains, and service lines installed prior to 1971.⁶

According to the Company, the total revenue requirement for the first year of Rider E is \$2,889,000, and the first year rate for residential customers will be a fixed monthly charge of \$0.70 per month.⁷ The monthly Rider E would take effect with the first billing cycle in August 2012 and be effective for the billing months of August 2012 through July 2013.⁸

The Company states that Rider E would consist of two components: (1) the annual SAVE Factor ("ASF"); and (2) the SAVE Actual Cost Adjustment ("SACA").⁹ The Company explains that:

While the ASF is developed based on the Company's projected investment in SAVE Act-eligible infrastructure replacement projects, the SACA will include any over- or under-recovered revenue from the prior year's ASF and will be adjusted for the carrying cost on the over- or under-recovered position. The SACA will also include a crediting mechanism that will ensure that SAVE Plan-eligible costs are separate from and in addition to all other costs VNG is permitted to recover, including those costs recovered in customer rates established in the Company's 2011 Rate Case.¹⁰

The SACA is the Company's annual true-up of its SAVE Plan costs.¹¹ The Company states that by May 1 of each year from 2013 through 2016, it "will file the calculation of the ASF and SACA for the 12-month period for the new Rider E rate to be approved by the Commission for implementation on August 1 of the same year."¹²

On February 27, 2012, the Commission issued an Order for Notice and Hearing that, among other things: (1) docketed this proceeding; (2) required public notice of the Application; (3) established procedures for participation in this matter; (4) scheduled a public hearing on the Application; and (5) appointed a Hearing Examiner to conduct all further proceedings in this matter on behalf of the Commission and to file a final report. The Commission did not receive any notices of participation in this matter.

On May 21, 2012, VNG and Staff ("Stipulating Parties") filed a Joint Motion for Leave to Present Proposed Stipulation and Recommendation. The motion included the proposed stipulation as an attachment ("Stipulation"). The substantive terms of the Stipulation are as follows:

- (1) For purposes of estimating cost of removal, a rate of 3.77% will be used in this filing. Future SAVE Rider filings may use a rate that more accurately reflects the Company's experience.¹³
- (2) Property taxes for purposes of Rider E will be calculated on an end-of-period basis.¹⁴
- (3) At the end of the SAVE Plan period, subject to Commission approval, ongoing eligible infrastructure replacement costs will be consistent with footnote 20 of the *Columbia Gas SAVE Order* which allows for the recovery of such costs through alternative mechanisms as follows:

While the SAVE Plan and SAVE Rider end on December 31, 2016, the Company is not precluded from recovering any reasonable costs incurred thereunder through, among other possibilities, a final true-up, a subsequent or extended SAVE Rider, and/or a subsequent base rate proceeding.¹⁵

The Stipulating Parties stated that the Stipulation represents a compromise, not to be used as precedent.¹⁶

⁵ *Id.* at 5.

⁶ *Id.* at 4.

⁷ Direct Testimony of John M. Cogburn ("Cogburn Direct") at 13-14.

⁸ *Id.* at 18.

⁹ Application at 6.

¹⁰ *Id.* at 6-7.

¹¹ Cogburn Direct at 6.

¹² Application at 7.

¹³ Exhibit No. 9, at 1.

¹⁴ *Id.*

¹⁵ *Id.* at 1-2.

¹⁶ *Id.* at 2-3.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

On June 8, 2012, the Report of Alexander F. Skirpan, Jr., Hearing Examiner ("Hearing Examiner's Report" or "Report") was filed. In the Report, the Hearing Examiner summarized the history and the record in this case and recommended that the Commission enter an order that: (1) adopts the findings and recommendations contained in the Report; (2) grants the Company a SAVE Rider designed to recover a total revenue requirement of \$2,749,493;¹⁷ and (3) passes the papers in the record to the file for ended causes.¹⁸ Specifically, the Hearing Examiner found that the Company demonstrated that the proposed Save Plan is prudent and reasonable and that the Stipulation "offers a reasonable and just resolution to all of the issues in this case" and should be adopted.¹⁹

On June 15, 2012, VNG filed comments on the Hearing Examiner's Report in which it expressed support for the Hearing Examiner's findings and recommendations as well as the adoption of the Report and Stipulation by the Commission. On June 15, 2012, the Staff filed a letter with the Clerk of the Commission stating that it did not intend to file comments on the Hearing Examiner's Report.

NOW THE COMMISSION, having considered this matter, is of the opinion and finds that the Hearing Examiner's Report should be adopted as modified herein. We further find that the Stipulation should be adopted and that the Company's SAVE Plan and Rider E satisfy the statutory provisions of the SAVE Act and should therefore be approved in accordance with the terms of the Stipulation.

Accordingly, IT IS ORDERED THAT:

- (1) A SAVE Plan, as permitted by § 56-603 *et seq.* of the Code is hereby approved as set forth in this Order Approving SAVE Plan and Rider.
- (2) A SAVE Rider, as permitted by § 56-603 *et seq.* of the Code, is approved as set forth in this Order Approving SAVE Plan and Rider and shall become effective commencing with the first billing cycle of August 2012.
- (3) The findings and recommendations of the June 8, 2012 Hearing Examiner's Report are hereby adopted as modified herein.
- (4) The Stipulation between VNG and Staff is hereby adopted and made part of this Order.
- (5) VNG shall forthwith file with the Clerk of the Commission and with the Commission's Divisions of Energy Regulation and Utility Accounting and Finance, in accordance with this Order, revised tariffs and terms and conditions of service for the SAVE Rider, with workpapers supporting the total revenue requirement and rates, all of which shall reflect the findings and requirements set forth in this Order Approving SAVE Plan and Rider. The Clerk of the Commission shall retain such filing for public inspection in person and on the Commission's website: <http://www.scc.virginia.gov/case>.
- (6) At least 30 days prior to the specific filings required as part of the SAVE Plan, as approved by the Commission in this Order Approving SAVE Plan and SAVE Rider, the Company shall provide information related to such filings to the Staff upon request.
- (7) This matter is dismissed.

¹⁷ The Hearing Examiner's Report recommends that we grant VNG "a SAVE Rider designed to recover a total revenue requirement of \$2,749,493." Hearing Examiner's Report at 14. However, the Report, in its discussion of the record in this proceeding, finds that "the total revenue requirement for the SAVE Rider in this case is \$2,749,494." Hearing Examiner's Report at 13. The latter revenue requirement is supported by the record and the former appears to contain a typographical error. We therefore find below that the total revenue requirement for the SAVE Rider should be \$2,749,494, and we modify the Hearing Examiner's Report accordingly.

¹⁸ Hearing Examiner's Report at 14.

¹⁹ *Id.* at 12.

**CASE NO. PUE-2012-00013
AUGUST 6, 2012**

APPLICATION OF
COLUMBIA GAS OF VIRGINIA, INC.

For authority to amend and extend its natural gas conservation and ratemaking efficiency plan

FINAL ORDER

On April 12, 2012, Columbia Gas of Virginia, Inc. ("Columbia" or the "Company"), filed an application ("Application") with the State Corporation Commission ("Commission"), pursuant to § 56-600 *et seq.* of the Code of Virginia ("CARE Act"), requesting authority to amend and extend its natural gas conservation and ratemaking efficiency plan ("CARE Plan") approved by the Commission in Case No. PUE-2009-00051.¹ The Company's current CARE Plan, which expires on December 31, 2012, contains six programs comprised of twenty-seven individual conservation and energy efficiency measures designed to promote natural gas conservation and energy efficiency by the Company's residential and small general service customers.²

¹ *Application of Columbia Gas of Virginia, Inc., For approval to implement a natural gas conservation and ratemaking efficiency plan including a decoupling mechanism*, Case No. PUE-2009-00051, 2009 S.C.C. Ann. Rept. 484, Final Order (Dec. 4, 2009).

² Under the Company's current CARE Plan, residential and small general service customers receive cash rebates for installing such things as energy efficient appliances, equipment, and insulation. Additionally, those customers participating in the Web-Based Audit Program can receive free faucet aerators and high-efficiency shower heads.

Columbia's Application requests authority to extend its CARE Plan for an additional three years, through December 31, 2015, and to amend certain provisions of its current CARE Plan ("Amended CARE Plan").³ The Company's Application proposes to retain the six original programs approved by the Commission in Case No. PUE-2009-00051, namely, (1) the Web-Based Home Audit Program; (2) the Home Savings Program; (3) the Business Savings Program; (4) the Business Custom Program; (5) the Residential Low-Income Program; and (6) the Education and Outreach Program. The Application further proposes to implement a new program called the Residential Elderly Audit Program, which will provide free in-home audits and the installation of high-efficiency shower heads, faucet aerators, pipe insulation, and pre-programmed thermostats at no cost to qualified residential customers.⁴

The Company's Application further proposes to amend, combine, and remove several of the conservation and energy efficiency measures offered under the Company's current CARE Plan. For residential customers who participate in the Company's Web-Based Home Audit Program, the Company proposes to remove its free water heater pipe insulation measure and to continue providing free high-efficiency shower heads and faucet aerators to each participant in the Program.⁵ The Company further proposes to amend its Home Savings Program for residential customers to: (i) reduce the incentive payments for installing ENERGY STAR[®] tankless water heaters from \$300 to \$250 a unit and for installing high-efficiency natural gas furnaces with an average fuel utilization efficiency ("AFUE") $\geq 90\%$ and $< 94\%$ from \$300 to \$275 a unit; (ii) combine its duct sealing and duct insulation measures and provide one combined incentive payment of \$450 per site; (iii) include two new measures that will provide a \$350 incentive payment per unit to encourage the installation of high-efficiency gas furnaces with an AFUE of $\geq 94\%$, and a \$700 incentive payment for the construction of ENERGY STAR qualified homes; and (iv) revise the delivery mechanism for the attic and floor insulation measures from a post-purchase delivery mechanism to a customer instant rebate mechanism where incentives are paid directly to qualified contractors who install attic and flooring insulation meeting program requirements.⁶

The Application also proposes several revisions to the measures offered to small general service customers.⁷ The Company proposes to reduce the incentive payments for customers who install: (i) high-efficiency coin-operated or laundromat washers from \$150 to \$65 a unit; (ii) high-efficiency gas storage water heaters ($\leq 75,000$ British thermal units ("Btu")/hr) from \$50 to \$35 a unit; (iii) ENERGY STAR tankless water heaters ($< 200,000$ Btu/hr) from \$2.00/kBtu/hr to \$1.15/kBtu/hr; (iv) ENERGY STAR gas boilers ($< 300,000$ Btu/hr) from \$3.00/kBtu/hr to \$2.25/kBtu/hr; (v) high-efficiency gas furnaces with an AFUE $\geq 92\%$ and $< 94\%$ from \$300 to \$250 a unit; and (iv) high-efficiency gas furnaces with an AFUE $\geq 94\%$ from \$400 to \$300 a unit.⁸

The Company also proposes to amend its Residential Low-Income Program to eliminate funding for the education and training of energy auditors for low-income residential customers. The Company proposes to transition from providing education and training of auditors to providing outreach, education, and free direct installation of high-efficiency shower heads and faucet aerators for its low-income residential customers.⁹

The Company proposes to spend approximately \$9.7 million over the next three years to implement its Amended CARE Plan.¹⁰ These expenses will be recovered from the Company's residential and small general service customers through the CARE Program Adjustment ("CPA") approved by the Commission in Case No. PUE-2009-00051.¹¹ For 2013, the calculated residential CPA rate is \$.173/Mcf, and the small general service CPA rate is \$.016/Mcf. This will cost the average residential customer, using about 70 Mcf a year, approximately \$12 in 2013.¹² In addition, the Company will continue to compare its actual program costs with the program costs recovered through the CPA, and calculate a true-up or reconciliation of the prior year's over- or under-recovery of program costs.¹³ This will ensure a dollar-for-dollar recovery of all the costs of the Company's Amended CARE Plan from residential and small general service customers.

The Company's Application further proposes to retain the CARE Program Performance Incentive ("CPPI") mechanism and the Revenue Normalization Adjustment ("RNA") decoupling mechanism approved by the Commission in Case No. PUE-2009-00051.¹⁴ The CPPI mechanism, which is mandated by § 56-602 F of the Code of Virginia ("Code"), is designed to allow Columbia to receive up to 15% of the net verified economic benefits generated by the Company's Amended CARE Plan. The RNA decoupling mechanism, which is mandated by § 56-602 A of the Code, adjusts the Company's actual non-gas distribution revenues to its "allowed distribution revenues," as defined by § 56-600 of the Code. The RNA will operate in exactly the same manner as in the Company's current CARE Plan, but the Company's "allowed distribution revenues" have been updated to reflect the rates and charges approved by the Commission in Columbia's most recent rate case, Case No. PUE-2010-00017.¹⁵

³ Application at 7-13.

⁴ *Id.* at 7, 12-13. To qualify for the Residential Elderly Audit Program, a customer must be 65 years of age or older and have a gross annual income between 60% and 80% of the State Median Income Level. *See* Gibbs Direct at 10.

⁵ Application at 8-9, Griffin Direct at 16-18.

⁶ Application at 9-10, Griffin Direct at 16, 18-19, Gibbs Direct at 12-13.

⁷ Application at 10.

⁸ Griffin Direct at 16, 20, Gibbs Direct at 13.

⁹ Application at 10-11, Griffin Direct at 16, 21-23, Gibbs Direct at 14.

¹⁰ Application at 8.

¹¹ *Id.* at 13-14, Griffin Direct at 14, Horner Direct at 19-21.

¹² Application at 14.

¹³ Horner Direct at 20-21.

¹⁴ Application at 14-16.

¹⁵ *Application of Columbia Gas of Virginia, Inc., For authority to increase rates and charges and to revise the terms and conditions applicable to gas service*, Case No. PUE-2010-00017, 2010 S.C.C. Ann. Rept. 475, Final Order (Dec. 17, 2010).

On April 27, 2012, the Commission issued an Order for Notice and Comment that, among other things, docketed the Company's Application; directed the Company to provide public notice of its Application; allowed interested persons to file comments on the Application; directed the Commission's Staff to investigate the Application and to file a report containing the Staff's findings and recommendations; and allowed the Company to file responses to the Staff report and any comments filed by interested persons.

No comments were filed on the Company's Application by interested persons.

On June 22, 2012, the Commission Staff filed its report ("Staff Report" or "Report") on the Company's Application. Among other things, the Staff Report examined the cost-effectiveness of the Company's current CARE Plan; summarized the Company's proposed Amended CARE Plan, including the Company's proposals to continue applying its current CRA, RNA, and CPPI approved by the Commission in Case No. PUE-2009-00051; and critiqued the cost-benefit tests filed by the Company in support of its Amended CARE Plan.

The Staff Report noted, among other things, that the Company's current CARE Plan approved by the Commission in Case No. PUE-2009-00051 has produced substantially less benefits than expected.¹⁶ Based upon the forecasted data provided in Case No. PUE-2009-00051, the Company's current CARE Plan passed all of the cost-benefit tests specified by the CARE Act, with the exception of the Ratepayer Impact Measure ("RIM") test.¹⁷ However, based on actual data and updated estimates, the Company's current CARE Plan only passed the Participant test.¹⁸ It failed the Total Resource Cost ("TRC") test, the Program Administrator ("PA") test, and the RIM test, calling into question the cost-effectiveness of the Company's current CARE Plan. According to the Staff Report, the lower than expected benefits were caused primarily by lower than expected gas prices and lower than expected customer participation in the Company's current CARE Plan.¹⁹

The Staff Report also examined the cost-benefit tests filed in support of the Company's Amended CARE Plan. One of the major concerns of the Staff was the Company's proposed treatment of program costs in the cost-benefit tests supporting its Amended CARE Plan. Instead of allocating program costs to each individual measure within a program,²⁰ the Company's cost-benefit tests considered program costs on the program level to determine the cost-effectiveness of a program as a whole.²¹ This proposed treatment of program costs, according to the Staff Report, leads to upwardly biased test ratios and net present values that artificially inflate the cost-effectiveness of each individual conservation and energy efficiency measure.²² In addition, for marginally cost-effective individual measures, such as those measures with cost-benefit ratios slightly above 1.0, the failure to recognize program costs at the measure level could result in approving conservation and energy efficiency measures that are not, in fact, cost-effective. Another problem with the Company's proposed treatment of program costs, according to the Staff Report, is that "this methodology allows measures in a program that are not cost-effective to be subsidized by cost-effective measures."²³

The Staff Report also found a similar problem with the costs associated with the Company's Education and Outreach Program. The Education and Outreach Program is a "gateway" or "feeder" program that is designed to educate customers and encourage them to participate in the Amended CARE Plan. However, instead of allocating the Education and Outreach Program costs among the Company's proposed CARE programs, "the costs of this program are combined with the costs and benefits of the other programs to determine the cost-effectiveness of the portfolio [of programs] as a whole."²⁴ According to Staff, "[t]his causes the identical problem related to positive bias in the cost/benefit results that were described above with respect to program costs."²⁵

The Staff Report also questioned the Company's forecasted natural gas prices used in its cost-benefit tests.²⁶ The Company forecasted its future gas prices using a two-step methodology. First, for the 2012 to 2017 time period, the Company used the Sendout gas supply model to forecast the first six years of winter and summer gas prices. The Company then applied regression lines to the six summer and six winter gas price data points produced by Sendout to determine a time trend for each set of seasonal prices that could be extrapolated into future years. However, the Staff Report noted that this forecasting methodology produced an anomalous result with summer gas prices exceeding winter gas prices by 2022, and with the divergence in summer and winter gas prices increasing over the remaining forecast period.²⁷ The Staff Report concluded that the Company's forecasted gas prices using trend lines with only six data points "does not appear credible."²⁸

¹⁶ Staff Report at 18-20.

¹⁷ *Id.* at 20.

¹⁸ *Id.* at 19.

¹⁹ *Id.* at 20.

²⁰ A measure is an individual conservation and energy efficiency offering within a broad-based program. For example, the Company's proposed Home Savings Program has nine individual conservation and energy efficiency measures that include rebates for such things as the installation of energy efficient appliances, equipment, and attic and floor insulation.

²¹ Staff Report at 20-21.

²² *Id.* at 20.

²³ *Id.* at 22.

²⁴ *Id.* at 23.

²⁵ *Id.*

²⁶ *Id.* at 24-26.

²⁷ *Id.* at 25.

²⁸ *Id.*

Additionally, the Staff Report contained an analysis of the individual programs and conservation and energy efficiency measures proposed in the Company's Amended CARE Plan. First, the Staff recommended that the Commission not approve the high-efficiency natural gas furnace (AFUE \geq 94%) measure and the ENERGY STAR new home measure in the Home Savings Program.²⁹ The Staff further recommended that the Commission not approve the ENERGY STAR gas boiler (< 300,000 Btu/hr) measure, the high-efficiency gas steam boiler (\geq 300,000 Btu/hr) measure, and the high-efficiency gas furnace (AFUE \geq 94%) measure in the Company's proposed Business Savings Program.³⁰ All of these individual conservation and energy efficiency measures, according to the Staff Report, failed both the RIM and TRC cost-benefit tests. In addition, the ENERGY STAR new home measure and ENERGY STAR gas boiler (< 300,000 Btu/hr) measure failed the Participant Test. Given these cost-effectiveness results, the "Staff does not believe that these programs should be included in Columbia's Amended CARE Plan."³¹

The Staff Report also questioned several of the assumptions included in the Company's cost-benefit tests. With respect to the Company's Business Savings Program, the Staff Report noted that the program has had little success to date given the low number of program participants.³² In addition, the Staff Report noted that the cost-effectiveness of the entire Business Savings Program relies heavily on the direct contact gas water heater measure, which is projected to have nine total participants during the three-year term of the Amended CARE Plan. The Staff Report explained, however, that there have been no participants in the direct contact water heater measure to date. Moreover, if participation in the direct contact gas water heater measure is lower than expected, the Staff Report stated that "the cost-effectiveness of the entire Business Savings Program will be in question."³³

The Staff Report also questioned the Company's estimated gas savings from low-flow shower heads that will be provided in the Company's Web-Based Home Audit Program, Residential Low-Income Program, and Residential Elderly Audit Program. According to the Staff Report, the Company's flow rate assumption and the number of Btus necessary to heat water to shower temperature are both overstated when calculating the annual dekatherm ("Dth") savings from low-flow shower heads.³⁴ Correcting these assumptions, according to the Staff Report, would reduce the annual gas savings for low-flow shower heads from approximately 4 Dth to 1.7 - 1.96 Dth per year.³⁵

The Staff Report also concluded that the gas savings in the Company's Home Savings Program may be overstated as well. The Staff questioned the Company's use of a 45-year measure life when calculating the net present value benefits of Columbia's attic insulation measure. Staff contended that a 45-year measure life was not appropriate for calculating the benefits of the attic insulation measure.³⁶

The Staff also ran a simulation of the cost-effectiveness of the Company's proposed Amended CARE plan using "conservative adjustments to the assumptions contained in the [Company's cost-benefit tests] . . ."³⁷ These assumptions included:

- Natural gas prices were escalated at two percent annually from 2018 through the remainder of the forecast period.
- The individual measures that Staff identified as not cost-effective were deleted.
- The measure life of the attic insulation measure was reduced to twenty-five years.
- The number of participants in the commercial direct contact water heater measure was reduced from nine to six participants.
- The annual Dth gas savings for the low-flow shower head was reduced to 1.96 Dth annually.
- The parameters of the commercial high efficiency pre-rinse spray valve measure were modified to reflect its implementation as a free voucher-type measure.

According to the Staff Report, the Staff simulation using more conservative assumptions and "adjustments significantly reduced the cost-effectiveness of the proposed Amended CARE Plan to the point where the proposed portfolio of programs only passed the Participant Test."³⁸ Accordingly, the Staff found that on a portfolio basis using more conservative assumptions, the Amended CARE Plan failed three out of the four cost-benefit tests (TRC, PA, and RIM tests) that the Commission must consider under the CARE Act.

In concluding its Report, the Staff explained that the Company's Amended CARE Plan may need to be modified to ensure that it will be cost-effective as required by the CARE Act. However, the Staff explained that the structure of the Company's cost-benefit model makes the determination of appropriate modifications to the Amended CARE Plan to produce a cost-effective portfolio of programs somewhat uncertain.

²⁹ *Id.* at 27.

³⁰ *Id.*

³¹ *Id.*

³² *Id.* at 27-30.

³³ *Id.* at 30.

³⁴ *Id.* at 31-32.

³⁵ *Id.* at 32.

³⁶ *Id.* at 34-35.

³⁷ *Id.* at 36

³⁸ *Id.* at 37.

Finally, the Staff also addressed some relatively minor issues with the Amended CARE Plan. The Staff Report (i) did not oppose the Company's proposed change to the timing of the billing of the residential RNA billing factor from the second to the third succeeding billing month; (ii) recommended that the Company recalculate the amortization period for the CPPI mechanism based on the weighted average of measure lives of the measures of any CARE Plan approved by the Commission; and (iii) recommended that the Commission require measurement and verification of any Amended CARE Plan approved consistent with the measurement and verification requirements approved by the Commission in Case No. PUE-2009-00051.

On July 13, 2012, the Joint Motion of Columbia Gas of Virginia, Inc., and the Staff of the State Corporation Commission to Accept Stipulation and Recommendation was filed with the Commission ("Joint Motion"). The Joint Motion represented that Columbia and the Staff had successfully negotiated a Stipulation that resolves all contested issues between them in this proceeding. The proposed Stipulation, which substantially modifies the Amended CARE Plan proposed in the Company's Application, was attached to the Joint Motion as Attachment A.

The Stipulation proposes to, among other things, scale back the number of conservation and energy efficiency measures offered by the Amended CARE Plan and reduce the total costs of the Amended CARE Plan to Columbia's customers. The Stipulation proposes to remove four conservation and energy efficiency measures from the Home Savings Program and nine conservation and energy efficiency measures from the Business Savings Program, leaving a total of sixteen individual measures that will be offered to the Company's residential and small general service customers. Additionally, two of the rebates offered under the Home Savings Program have been reduced, with the rebate for the attic insulation measure being reduced from \$0.30 per square foot to \$0.18 per square foot and the rebate for high-efficiency gas furnaces (AFUE \geq 90%) being reduced from \$275 to \$200 per unit.

The Stipulation further proposes that the total costs of the Amended CARE Plan be reduced. In Columbia's Application, it proposed to spend \$9.7 million over the three-year term of the Amended CARE Plan. The Stipulation proposes to reduce the Company's program costs to \$5.7 million, or \$4 million less than the Company originally proposed.

The Stipulation also includes the results of revised cost-benefit tests for each of the conservation and energy efficiency measures supported by the Company and Staff in the Stipulation. The cost-benefit tests attached to the Stipulation address many of the Staff concerns with the assumptions included in the Company's original cost-benefit tests filed in support of the Company's Amended CARE Plan. The assumed annual savings for the high-efficiency shower heads, for example, was reduced to 1.96 Dth. Additionally, the measure life and participation level assumptions used for the attic insulation measure under the Company's Home Savings Program have been reduced. The assumptions used in the cost-benefit tests for the Company's Business Savings Program were also changed to reduce the participation level of the direct contact water heater measure and to modify the pre-rinse spray value measure to reflect a free voucher delivery where the Company is able to purchase and distribute spray valves at \$30 each. The Stipulation also incorporates a revised forecast of gas costs when calculating the benefits and overall cost-effectiveness of the Amended CARE Plan. The gas forecast used in the Stipulation eliminates the anomaly in the Company's original gas forecast which showed summer gas being more expensive than winter gas beginning in 2022.

With the proposed scale-back of the conservation and energy efficiency measures included in Amended CARE Plan, the proposed reduction in the costs of the Amended CARE Plan, and the revised assumptions included in the cost-benefit tests mandated by the CARE Act, the Company and the Staff represent that the Amended CARE Plan proposed in the Stipulation is cost-effective, and they recommend its approval by the Commission.

NOW THE COMMISSION, having considered this matter, is of the opinion and finds that the Company's Application for an Amended CARE Plan, as modified by the Stipulation, should be granted. Specifically, we find that the Amended CARE Plan proposed by the Stipulation (Attachment A hereto) is consistent with the requirements of the CARE Act because (i) it applies only to residential and small general service classes and not large commercial and industrial classes; (ii) it has a normalization component that removes the effect of weather when determining conservation and energy results; (iii) it has a decoupling mechanism that is revenue-neutral as that term is defined by § 56-600 of the Code; (iv) it contains one or more cost-effective conservation and energy efficiency programs; (v) it has provisions that address the needs of low-income or low-usage customers; (vi) it has provisions to ensure that the rates and service to non-participating classes of customers are not adversely impacted; and (vii) it has a performance-based incentive that allows Columbia to receive up to a 15% share of the net economic benefits generated by the Amended CARE Plan.³⁹ Accordingly, we find that the Company's Amended CARE Plan, as modified by the Stipulation, should be approved effective December 31, 2012, the first billing unit for the Company's January 2013 billing cycle and that within thirty (30) days of the entry of this Final Order, Columbia should file revised tariff sheets with the Clerk of the Commission and with the Division of Energy Regulation for implementation of its Amended CARE Plan, as modified by the Stipulation.

While we find that the Company's proposed Amended CARE Plan, as modified by the Stipulation, is consistent with law and should be approved, we remain concerned over the financial impact on those residential and small general service customers who elect not to participate in Columbia's Amended CARE Plan. Non-participating residential and small general service customers will see their rates increase as a result of the Amended CARE Plan's CRA and RNA mechanisms, both of which are mandatory under § 56-602 of the Code. As explained earlier herein, the CRA allows the Company to recover all of the costs of its Amended CARE Plan from residential and small general service customers on a dollar-for-dollar basis. In addition, the RNA decouples the recovery of the Company's distribution costs from volumetric rates, thereby preventing any "lost revenues" caused by any reductions in gas usage produced by the Amended CARE Plan. Finally, residential and small general service customers could also see their rates increase if the Company achieves its targeted gas savings under the CPPI mechanism authorized by the § 56-602 F of the Code. These statutorily mandated provisions transfer most of the costs of such programs to the Company's non-participating residential and small general service customers. Accordingly, when reviewing proposed CARE plans, the Commission must ensure that any such CARE programs do not create any significant economic hardships on non-participating residential and small general service customers by approving only those conservation and energy efficiency programs that are cost-effective as required by law.

The Stipulation, however, proposes substantial modifications to the Company's Amended CARE Plan that attempt to minimize any substantial adverse financial impacts on non-participating residential and small general service customers by recommending that only cost-effective conservation and energy efficiency measures be included in the Amended CARE Plan. The Stipulation, for example, proposes a substantial reduction in the number of conservation and energy efficiency measures offered by Columbia, as well as a substantial reduction in the total costs of the Amended CARE Plan. The Company originally proposed to spend \$9.7 million on twenty-nine individual conservation and energy efficiency measures over the next three years. The Stipulation proposes to eliminate thirteen of the originally proposed measures, leaving sixteen measures in its Amended CARE Plan. The Stipulation further proposes to spend only \$5.7 million on its Amended CARE Plan. Accordingly, the Stipulation mitigates the negative economic impacts upon

³⁹ See §§ 56-600 and 56-602 of the Code.

non-participating residential and small general service customers by substantially reducing the scope of Columbia's Amended CARE Plan, as well as the costs that must be borne by these non-participating customers.

The Amended CARE Plan, as modified by the Stipulation, also contains recalculated cost-benefit tests that more accurately reflect the cost-effectiveness of each individual conservation and energy efficiency measure supported by the Stipulation. As noted in the Staff Report, the Company originally proposed five conservation and energy efficiency measures that failed at least two of the four cost-benefit tests that the Commission must consider under § 56-600 of the Code. In addition, the Staff noted that several of the assumptions contained in the cost-benefit tests supporting the Company's Amended CARE Plan were upwardly biased and tended to overstate the benefits produced by the Amended CARE Plan. To the extent possible, the Stipulation appears to have resolved most of these problems.

In addition, the Stipulation has recalculated the Company's cost-benefit tests to include more realistic assumptions with respect to the projected benefits of the individual conservation and energy efficiency measures offered under the Amended CARE Plan. In accepting the Amended CARE Plan proposed in the Stipulation and the cost-benefit tests contained therein, we note that the record demonstrates that many of the projections included in the cost-benefit tests are characterized by significant uncertainties. Future natural gas prices and customer participation, for example, are extremely difficult to predict with any reasonable degree of precision. Indeed, these two factors alone are primarily responsible for the Company's current CARE Plan not producing the net economic benefits we expected when it was approved in Case No. PUE-2009-00051. Further, in an era of falling or low gas prices, brought about by the development of new shale-gas supplies, cost-benefit claims for these types of programs will be speculative at best. Nevertheless, based on the record herein, it appears that for purposes of this evaluation, the assumptions used to measure the cost-effectiveness of the Amended CARE Plan proposed in the Stipulation are minimally reasonable and that the individual conservation and energy efficiency measures included in the Amended CARE Plan proposed in the Stipulation can be deemed cost-effective.

The recalculation of the cost-benefit tests also resulted in the proposed elimination of eight measures in addition to the five described above that did not pass the Company's own cost-benefit tests. The proposed elimination of these additional measures, which total thirteen individual measures proposed to be removed by the Stipulation, produce a more focused, more efficient, and more cost-effective Amended CARE Plan that somewhat minimizes any adverse financial impacts on non-participating residential and small general service customers.

Finally, we note that many of the proposals included in the Company's Application are identical or similar to those approved in the Company's current CARE Plan. The Company's proposed CRA and RNA are identical to the CRA and RNA currently used by the Company, except that the Company's "allowed distribution revenues" under the RNA have been revised to reflect the average annual, weather-normalized, non-gas commodity revenue per customer as approved in Columbia's most recent rate case in Case No. PUE-2010-00017. Additionally, the CPPI mechanism is exactly the same as approved in Case No. PUE-2009-00051, except the targeted gas savings and amortization period have been reduced to reflect the reduced scope of the Amended CARE Plan proposed in the Stipulation. The Stipulation also continues the identical measurement and verification protocol for calculating the net economic benefits produced by the Amended CARE Plan and the Company's sharing of net economic benefits as under the current CARE Plan CPPI mechanism.

In conclusion, based on the record developed herein, we find that the Amended CARE Plan, as modified by the Stipulation, is consistent with the terms and conditions of the CARE Act and should be approved. As we approve a Stipulation to which Staff and Columbia agreed for purposes of settlement of outstanding issues, our approval is limited to the terms of this Stipulation and does not represent a precedent for future cases.

Accordingly, IT IS ORDERED THAT:

- (1) The Company's Application for approval of an Amended CARE Plan, as modified by the Stipulation, is granted.
- (2) In accordance with the findings made herein, the Stipulation identified as Attachment A hereto is adopted, and its terms and conditions are hereby incorporated into this Final Order by its attachment hereto.
- (3) The Company's proposed Amended CARE Plan, as modified by the Stipulation attached hereto, is approved, effective December 31, 2012, the first billing unit for the Company's January 2013 billing cycle.
- (4) The Company shall continue to include a separate line item for the RNA in its bills to customers who are subject to the RNA.
- (5) Consistent with the findings made herein and the Stipulation attached hereto, Columbia must file for approval to extend, modify, or renew its Amended CARE Plan beyond December 31, 2015, or the Amended CARE Plan will terminate.
- (6) Consistent with the findings herein and the Stipulation attached hereto, Columbia shall file its Amended CARE Plan tariff sheets with the Clerk of the Commission and the Division of Energy Regulation within thirty (30) days of the entry of this Final Order.
- (7) There being nothing further to be done herein, this case is dismissed from the Commission's docket of active proceedings, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. PUE-2012-00014
AUGUST 21, 2012**

APPLICATION OF
WASHINGTON GAS LIGHT COMPANY

For approval to recover hexane costs and to revise tariffs

FINAL ORDER

On February 3, 2012, Washington Gas Light Company ("WGL" or "Company") filed an application ("Application") with the State Corporation Commission ("Commission") requesting authority from the Commission to recover \$1,252,580 of non-Btu hexane costs the Company incurred during the fiscal year ended September 30, 2010 ("fiscal year 2010") and \$12,908 of non-Btu hexane costs the Company under-collected during the fiscal year ended September 30, 2009 ("fiscal year 2009").¹ In support of its Application, the Company states that it began injecting hexane into its distribution system in 2006 in order to replace heavy hydrocarbons in liquefied natural gas that enters the Company's system² and in response to increased leaks in the mechanical couplings on the Company's distribution system.³

WGL's Application explains that its proposed recovery of non-Btu hexane costs is permitted under the terms and conditions of the Company's performance-based rate regulation plan ("PBR Plan") approved by the Commission in Case No. PUE-2006-00059.⁴ The Company's PBR Plan allows the Company to recover its hexane costs in two components: (1) a Btu-component, which represents the fuel value of injected hexane and is recovered through the Company's purchased gas charge; and (2) a non-Btu component, which represents the cost of injected hexane less its fuel value and is recovered through base rates.⁵ Additionally, the PBR Plan permits the Company to request recovery of its non-Btu hexane costs in excess of \$400,000 if the Company's earned return on equity is less than 10.0% during any PBR Plan annual period.⁶

WGL's Application represents that the earnings test for the Company's Annual Informational Filing ("AIF") for the twelve-month period ended September 30, 2010, indicates the Company earned an 8.08% return on equity, thus qualifying the Company for a recovery of its proposed non-Btu hexane costs in excess of \$400,000 under the terms and conditions of its PBR Plan.⁷ The Application therefore seeks recovery of the actual Virginia jurisdictional amount of the non-Btu hexane costs in excess of \$400,000 expensed during fiscal year 2010, or \$1,252,580, and \$12,908 of costs relating to an actual under-collection of non-Btu hexane costs incurred during fiscal year 2009.

WGL proposes to collect its non-Btu hexane costs from customers receiving service under Rate Schedule Nos. 1 – Residential Service, 1A - Residential Delivery Service, 2 - Commercial and Industrial Service, 2A – Commercial and Industrial Delivery Service, 3 - Group Metered Apartment Service, 3A – Group Metered Apartment Delivery Service, 4 - Interruptible Service, 7 – Interruptible Delivery Service, 8 – Developmental Natural Gas Vehicle Service, and 10 – Large Volume Delivery Service. WGL further proposes that its recovery of non-Btu hexane costs be computed on a cents-per-therm basis comprising a current and a reconciling factor in accordance with the Company's General Service Provision No. 33 – Performance-Based Rate Recovery ("GSP No. 33"). Under GSP No. 33, the current factor is calculated annually by dividing the non-Btu hexane costs approved by the Commission by projected total weather normalized throughput for the year. The reconciling factor represents the difference between the actual amount charged and the actual amount collected during the preceding twelve-month period.⁸ The Company also filed an Exhibit with its Application showing the derivation of the \$0.0020 per therm factor necessary to recover its proposed non-Btu hexane costs.⁹ In addition, WGL proposes to include the \$0.0020 cents per therm charge in the "All Applicable Riders" line on customer bills in the first billing cycle month following the Commission's approval of its Application.

¹ WGL's Application notes that its request to recover non-Btu hexane costs is similar to the Company's application in Case No. PUE-2010-00063, in which the Commission allowed the Company to recover \$507,121 of non-Btu hexane costs for the fiscal year ended September 30, 2009. *See Application of Washington Gas Light Company, For approval to recover hexane costs and to revise tariffs*, Case No. PUE-2010-00063, 2010 S.C.C. Ann. Rept. 540, Final Order (Dec. 15, 2010).

² Application at 2.

³ Lawson Direct Testimony at 2.

⁴ *See Application of Washington Gas Light Company, For a general increase in rates, fees, charges and revisions to the terms and conditions of service as well as approval of a performance-based rate regulation methodology under Va. Code § 56-235.6*, Case No. PUE-2006-00059, 2007 S.C.C. Ann. Rept. 315, Final Order (Sept. 19, 2007) ("PBR Order"). Pursuant to the terms and conditions of the Stipulation adopted by the PBR Order, the Company's PBR Plan expired on September 30, 2011.

⁵ PBR Order, Attachment A at 7-9.

⁶ *Id.* at 8-9.

⁷ WGL further noted in footnote 8 on page 4 of its Application that the Staff Report filed on October 6, 2011, in the Company's 2010 AIF in Case No. PUE-2011-00010 showed that WGL earned a 7.38% return on equity for the twelve-month period ended September 30, 2010. Accordingly, both the Company and Staff found that the Company's return on equity was less than 10.0%, thus qualifying the Company for a recovery of its non-Btu hexane costs in excess of \$400,000 under the Company's PBR Plan.

⁸ GSP No. 33 currently describes how the non-Btu hexane charge is calculated "for the 2008-2009 PBR period." *See* GSP No. 33 A. 1. and GSP No. 33 A. 1. a. As explained in Ordering Paragraph (4) herein, we will direct the Company to file a revised GSP No. 33 applicable to the 2009-2010 PBR period. Otherwise, the method for calculating the non-Btu hexane charge will remain the same.

⁹ *See* Lawson Direct, Exh. RAL-2, page 1 of 2.

Finally, WGL's Application notes that the Company has a pending general rate case before the Commission docketed as Case No. PUE-2010-00139,¹⁰ wherein the Company proposes new rate schedules for its large commercial and industrial customers and large group metered apartment customers.¹¹ These proposed rate schedules include Rate Schedule Nos. 5 – Large Commercial and Industrial Service, 5A – Large Commercial and Industrial Delivery Service, 6 – Large Group Metered Apartment Service, and 6A – Large Group Metered Apartment Delivery Service.¹² The Company proposes to recover its non-Btu hexane costs from customers receiving service under these new rate schedules using the same \$0.0020 cents per therm factor.

On February 16, 2012, the Commission entered its Order for Notice and Comment ("Order"). In its Order, the Commission invited interested persons to file comments or requests for hearing on the Company's Application; directed the Company to provide public notice of its Application; required the Commission Staff to file a report or testimony, as appropriate, on the Company's Application; and allowed the Company to file responses or testimony, as appropriate, in rebuttal to the comments or requests for hearing filed by interested persons or the Staff Report or testimony.

No comments or requests for hearing were filed by interested persons.

On May 25, 2012, the Staff filed its Report ("Staff Report") on the Company's Application. The Staff Report summarized the Company's Application; described the provisions of the Company's PBR Plan that allow the Company to request a recovery of its non-Btu hexane costs; discussed the Company's accounting for hexane and the method used for allocating hexane costs to Virginia; reviewed the Company's proposed cents per therm factor for the recovery of the Company's non-Btu hexane costs; and contained the Staff's findings and recommendations relative to the Company's Application.

On pages 4 and 5 of the Staff Report, the Staff discusses WGL's accounting for hexane costs. According to the Staff Report, WGL records hexane to Account 151.112 (Fuel Stock – Hexane), an inventory account, when purchased. While WGL eliminates most storage inventory accounts from rate base so as to recover storage carrying costs through its Actual Cost Adjustment, Account 151.112 remains in rate base and earns a return. As hexane is withdrawn from storage and injected into the natural gas stream, it is removed from storage inventory. The portion of withdrawn hexane inventory that represents heating content is charged to Account 191.249 (Unrecovered Purchased Gas Charge) and is billed to customers through the PGC. The first \$400,000 of withdrawn hexane inventory that represents non-heating content is charged to Account 807.500 (Other Purchased Gas Expense). The excess of withdrawn non-Btu hexane is charged to Account 182.399, since WGL's expectation was that it would be under-earning and eligible for recovery of such costs in this Application.

According to the Staff Report, the Company's accounting for hexane is not in accordance with the Stipulation approved by the Commission in Case No. PUE-2006-00059, which requires the Company to expense the entire amount of its Virginia-allocated non-Btu hexane costs. However, the Staff Report further notes that the Stipulation's accounting requirements do not have a material impact on the Company's earnings for fiscal year 2010 or disqualify the Company from seeking a recovery of its non-Btu hexane costs.

With respect to the allocation of non-Btu hexane costs to Virginia, the Staff Report notes that WGL accepted the change in the allocation factor for hexane recommended by the Staff in Case No. PUE-2011-00010, the Company's 2010 AIF.¹³ The Staff recommended that the method for allocating hexane costs to Virginia be changed from a Firm Sales factor, which excludes firm delivery and interruptible therms, to a Total Throughput factor. The Staff supported using a Total Throughput factor to allocate hexane costs because all of the Company's customers, including firm delivery and interruptible customers, benefit from hexane injections.

The Staff Report further notes that WGL earned a 7.38% return on average common equity in its 2010 AIF. Additionally, the Staff notes that had the Company complied with the Stipulation approved by the Commission in Case No. PUE-2006-00059 and expensed its hexane costs, the Company's return on average equity would have been lower. Staff further notes that based on the Staff's reported 7.38% return on average common equity, WGL's revenues were approximately \$18 million below what is required to earn a 10.0% return on average common equity for fiscal year 2010. The Staff therefore concludes that the Company's proposed recovery of its non-Btu hexane costs would not exceed the 10.0% rate of return on common equity limit established by WGL's PBR Plan.

The Staff Report also indicates that the Staff examined the workpapers supporting the Company's proposed cost recovery of non-Btu hexane costs for fiscal year 2010 and the under-recovery of non-Btu hexane costs for fiscal year 2009. After correcting for some minor errors in the Company's calculations, the Staff found that the non-Btu hexane costs allocated to Virginia (inclusive of the \$400,000 reduction) should be increased from \$1,252,580 to \$1,256,104. However, the Company's proposed \$0.0020 cents per therm factor does not change with the Staff's corrections of the minor errors in the Company's original calculations or Staff's decision to update the Company's forecasted weather normalized throughput.

Based on its investigation, the Staff concludes that:

- (1) WGL's request to recover \$1,252,580 in non-Btu hexane costs would not result in earnings which exceed a 10.0% rate of return on average common equity for fiscal year 2010;

¹⁰ *Application of Washington Gas Light Company, For an increase in rates and charges and to revise its terms and conditions for gas service*, Case No. PUE-2010-00139, Doc. Cont. No. 110130216, Application (Jan. 31, 2011).

¹¹ On July 2, 2012, the Commission entered an Order in Case No. PUE-2010-00139 approving a Stipulation filed by most of the parties in the WGL general rate case, with the exception of the Stipulation's allocation of the proposed \$20 million rate increase among the Company's rate schedules. The findings of this Order were deemed final effective July 24, 2012. See Orders issued on July 2, 2012, and July 24, 2012, in Case No. PUE-2010-00139.

¹² These new rate schedules are now effective given the Commission's decision in Case No. PUE-2010-00139.

¹³ *Application of Washington Gas Light Company, For an annual informational filing for the Twelve Months Ended September 30, 2010*, Case No. PUE-2011-00010, Staff Report at 7-8, Doc. Cont. No. 111020009 (Oct. 6, 2011); See also WGL's November 18, 2011 letter in response to the Staff Report stating that the Company "accepts the adjustments in the Staff Report, except that the Company's acceptance of the Staff's recommendation relating to the deferred income tax impacts of Medicare Part D, is contingent upon the final outcome related to this issue in Washington Gas' pending rate proceeding, Case No. PUE-2010-00139."

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- (2) WGL's proposed recovery factor of \$0.0020 cents per therm reflects Staff's adjustments to fiscal year 2010 non-Btu hexane costs; and
- (3) WGL's proposed revision to General Service Provision No. 33 should be approved.

On June 8, 2012, WGL, by counsel, filed a letter stating that the Company agrees with the conclusions in the Staff Report.

NOW THE COMMISSION, upon consideration of the Application, the Company's direct testimony, the Staff Report, the Company's Response thereto, and the applicable law, is of the opinion and finds that the Company's Application to recover \$1,252,580 of non-Btu hexane costs for fiscal year 2010 and an actual under-recovery of \$12,908 of non-Btu hexane costs for fiscal year 2009 is supported by the record and should be approved; that the proposed \$0.0020 cents per therm factor to recover such non-Btu hexane costs should be approved; that the proposed per therm factor should be implemented in the "All Applicable Riders" line item of customer bills in the first billing cycle month following issuance of this Final Order to recover the non-Btu portion of the cost of hexane injections; that it is appropriate to apply the per therm factor to recover the Company's non-Btu hexane costs to Rate Schedule Nos. 1, 1A, 2, 2A, 3, 3A, 4, 5, 5A, 6, 6A, 7, 8, and 10; that the Company should file a revised GSP No. 33 applicable to the 2009-2010 PBR period and adding Rate Schedule Nos. 5, 5A, 6, and 6A; and that this case should be dismissed from the Commission's docket of active proceedings.

Accordingly, IT IS ORDERED THAT:

- (1) In accordance with the findings made herein, the Company's Application to recover \$1,252,580 of non-Btu hexane costs for fiscal year 2010 and an actual under-recovery of \$12,908 of non-Btu hexane costs for fiscal year 2009 is granted.
- (2) The Company's proposed \$0.0020 cents per therm factor to recover such non-Btu hexane costs shall be implemented as an adjustment to the "All Applicable Riders" line item in customer bills and applied in the first billing cycle month following the issuance of this Final Order and in accordance with the Company's General Service Provision No. 33 - Performance-Based Rate Recovery.
- (3) The \$0.0020 cents per therm factor to recover the Company's non-Btu hexane costs shall be applied to Rate Schedule Nos. 1, 1A, 2, 2A, 3, 3A, 4, 5, 5A, 6, 6A, 7, 8, and 10.
- (4) The Company shall file a revised General Service Provision No. 33 – Performance-Based Rate Recovery applicable to the 2009-2010 PBR period and adding Rate Schedules 5, 5A, 6, and 6A with the Division of Energy Regulation within thirty (30) days of the entry of this Final Order. Otherwise, the method for calculating the non-Btu hexane charge in GSP No. 33 shall remain unchanged.
- (5) There being nothing further to be done herein, this case is hereby dismissed from the Commission's docket of active proceedings, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. PUE-2012-00015
APRIL 26, 2012**

APPLICATION OF
ROANOKE GAS COMPANY

For approval of certain transactions pursuant to the Affiliates Act of Title 56 of the Code of Virginia

ORDER GRANTING APPROVAL

On February 9, 2012, Roanoke Gas Company ("Roanoke Gas" or "Applicant") filed an application with the State Corporation Commission ("Commission") seeking approval of an agreement ("Agreement") whereby Roanoke Gas will provide certain services to its affiliate, RGC Ventures of Virginia, Inc. d/b/a Utility Consultants ("Ventures"), pursuant to Chapter 4 of Title 56 of the Code of Virginia ("Code").¹

Roanoke Gas is a Virginia public service corporation that provides retail distribution and sale of natural gas to approximately 58,400 residential, commercial, and industrial customers located in the cities of Roanoke and Salem and the surrounding counties of Roanoke, Bedford, Botetourt, and Franklin in southwestern Virginia. Roanoke Gas is a wholly owned subsidiary of RGC Resources, Inc. ("RGC").

Ventures primarily provides consulting services to other utilities for regulatory filings. The consulting includes preparing filings, providing case management services, providing interrogatory management services, and providing expert testimony services. To date, all of Ventures' clients have been located in West Virginia. Ventures is a wholly owned subsidiary of RGC.

Section 56-77 of the Code requires Commission approval of affiliate agreements prior to their execution and implementation. However, Roanoke Gas billed Ventures \$19,705 for services rendered during the fiscal year ending September 30, 2011. In addition, the proposed Agreement states that Roanoke Gas will only provide information systems and data processing support services to Ventures. However, Roanoke Gas also provides regulatory consulting services to Ventures.

NOW THE COMMISSION, upon consideration of this matter and having been advised by its Staff, is of the opinion and finds as follows. The Applicant represents that the proposed Agreement allows Roanoke Gas to utilize its exempt employees during slow operating periods to provide consulting services to utilities in other states for regulatory filings. Roanoke Gas states that the arrangement reduces payroll costs that would otherwise be charged to Virginia customers. Accordingly, we find that the proposed Agreement is beneficial to Roanoke Gas customers and, therefore, is in the public interest and should be approved subject to certain amendments and requirements as described below.

¹ Va. Code § 56-76 *et seq.*

First, we remind the Applicant that § 56-77 of the Code requires regulatory approval of such agreements prior to their execution and implementation.

Second, we direct Roanoke Gas to amend the proposed Agreement to include regulatory consulting services in the list of services provided pursuant to the proposed Agreement ("Amended Agreement"). Specifically, the Amended Agreement should state that:

1. Roanoke Gas may provide information systems services, data processing services, and regulatory consulting services to Ventures.²

Third, because the actual level of future transactions under the Amended Agreement is not as yet well-defined, we will limit the duration of our initial approval of the Amended Agreement to five years.

Fourth, we find that the approval granted in this case should have no ratemaking implications. Specifically, the approval granted herein should not guarantee the recovery of any costs directly or indirectly related to the Amended Agreement.

Finally, we will direct Roanoke Gas to develop and maintain records showing that the provision of service by Roanoke Gas to Ventures is beneficial to Virginia customers. Specifically, for any service provided pursuant to the proposed Agreement, where a market may exist for such service, Roanoke Gas should bear the affirmative burden of showing, in any annual informational filing or rate proceeding, that it charged the higher of cost or market for providing such service.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to § 56-77 of the Code, Roanoke Gas is hereby granted approval to enter into the proposed Agreement as amended herein and consistent with the findings set forth above. Within thirty (30) days of this Order Granting Approval, Roanoke Gas shall file with the Commission an executed copy of the Amended Agreement as approved herein.

(2) The approval granted herein is limited to five years from the effective date of this Order Granting Approval. Should Roanoke Gas wish to continue the Amended Agreement as amended herein beyond that date, further Commission approval shall be required.

(3) The approval granted in this case shall have no ratemaking implications. Specifically, the approval granted herein should not guarantee the recovery of any costs directly or indirectly related to the Amended Agreement.

(4) Roanoke Gas shall develop and maintain records showing that the provision of service by Roanoke Gas to Ventures is beneficial to Virginia customers. Specifically, for any service provided pursuant to the Amended Agreement, where a market may exist for such service, Roanoke Gas shall bear the affirmative burden of showing, in any annual informational filing or rate proceeding, that it charged the higher of cost or market for providing such service.

(5) Commission approval shall be required for any change in the terms and conditions of the Amended Agreement, including successors or assigns.

(6) The approval granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code hereafter.

(7) The Commission reserves the right to examine the books and records of any affiliate in connection with the approval granted herein, whether or not such affiliate is regulated by the Commission.

(8) Roanoke Gas shall include all transactions associated with the approved Amended Agreement in its Annual Report of Affiliate Transactions ("ARAT") submitted to the Commission's Director of the Division of Utility Accounting and Finance ("UAF Director") on or before May 1 of each year, which deadline may be extended administratively by the UAF Director.

(9) In the event that Roanoke Gas's annual informational filings or general or expedited rate case filings are not based on a calendar year, then Roanoke Gas shall include the affiliate information contained in its ARAT in such filings.

(10) There appearing nothing further to be done, this case is dismissed from the Commission's docket of active cases, and the papers filed herein shall be placed in the Commission's file for ended causes.

² See Application, Exh. I at 1, 11. 16-17.

**CASE NO. PUE-2012-00016
MAY 22, 2012**

APPLICATION OF
AQUARIUS WATER SYSTEMS, INCORPORATED

For approval of the sale of assets of a public utility pursuant to Chapter 5 of Title 56 of the Code of Virginia

ORDER GRANTING APPROVAL

On February 8, 2012, Aquarius Water Systems, Incorporated ("Aquarius" or "Applicant") filed an application with the State Corporation Commission ("Commission") pursuant to Chapter 5 of Title 56 ("Utility Transfers Act") of the Code of Virginia ("Code") for approval of a transfer of utility assets.

Aquarius is a small water company that serves 93 residential and two business customers in Luray, Virginia. In 2011, Aquarius sold some equipment that it was no longer using. Aquarius sold a 20,000 gallon water tank in April, and a propane generator and propane tank were sold in December (the water tank, propane generator, and propane tank are hereinafter referred to as the "Assets"). Aquarius is requesting approval for the disposal of these Assets.

Aquarius represents that the sale of the Assets had no impact on the service to the public and that there is no need to adjust rates because of the transfer. The Applicant states that the Assets were purchased with the intent to use as backup equipment; however, none of the Assets were ever installed. The Applicant states that Aquarius now has access to a small generator if needed for any long-term electrical outages and has the use of two wells.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the transfer of Aquarius' Assets will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates and, therefore, should be approved. However, because the transfer of Assets has already taken place, we note that the Applicant violated the provisions of the Utility Transfers Act and that Commission approval should be received prior to completing any future transfers.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to §§ 56-89 and 56-90 of the Code, Aquarius is hereby granted approval of the disposition of the Assets, as described herein.
- (2) The approval granted herein shall have no ratemaking implications. Specifically, it will not guarantee the recovery of any costs directly or indirectly related to the transfer.
- (3) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2012-00017
MAY 11, 2012**

APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY
and
DOMINION RESOURCES SERVICES, INC.

For approval of a Revised Support Services Agreement under Chapter 4 of Title 56 of the Code of Virginia

ORDER GRANTING APPROVAL

On February 14, 2012, Virginia Electric and Power Company ("DVP" or the "Company") and Dominion Resources Services, Inc. ("DRS") (collectively, the "Applicants"), filed an application ("Application") with the State Corporation Commission ("Commission"), pursuant to Chapter 4 of Title 56 of the Code of Virginia ("Code")¹ and Ordering Paragraph (10) of the Commission's Order Granting Approval entered March 9, 2011, in Case No. PUE-2010-00144,² requesting approval of a Revised Virginia Power Support Services Agreement under which DVP will continue to provide support services to DRS, with a proposed effective date of January 1, 2013 (the "Revised Support Services Agreement").

¹ Va. Code § 56-76 *et seq.* (the "Affiliates Act").

² *Application of Virginia Electric and Power Company and Dominion Resources Services, Inc., For approval of a Revised Services Agreement under Chapter 4 of Title 56 of the Code of Virginia*, Case No. PUE-2010-00144, 2011 S.C.C. Ann. Rept. 410, Order Granting Approval (Mar. 9, 2011) ("March 9, 2011 Order in Case No. PUE-2010-00144"). Ordering Paragraph (10) states, in part, that: "DVP shall file a revised Virginia Power Support Agreement for approval under the Affiliates Act between February 1, 2012, and February 15, 2012, This will ensure that [this] agreement[] continue[s] to be in the public interest." *Id.* at 412. The Applicants state that the instant Application and Revised Support Services Agreement were filed in compliance with this Commission directive.

Since January 1, 2003, DRS has been receiving certain support services from DVP under the current Revised Virginia Power Support Services Agreement approved by the Commission in Case No. PUA-1999-00068 (the "Operative Virginia Power Support Agreement").³ The Company and DRS reviewed the fifteen support services that are currently offered under the Operative Virginia Power Support Agreement to determine whether all such support services were still required. As a result of this review, the Revised Support Services Agreement lists the following two support services that the Company proposes to offer going forward to DRS: (i) Fleet Services, and (ii) Office Space and Equipment.⁴ Exhibit III of the Revised Support Services Agreement (Methods of Allocation for the Company) sets forth the rules for determining and allocating costs for support services provided to DRS by the Company.

The Applicants represent that each of the support services under the Revised Support Services Agreement will be provided by the Company to DRS in compliance with the Commission's higher of cost or market standard. DRS may modify its selection of support services at any time upon thirty days' written notice to the Company, and either party may terminate the Agreement upon sixty days' written notice to the other party.

The Revised Support Services Agreement makes several modifications to the Operative Virginia Power Support Agreement. First, the Operative Virginia Power Support Agreement includes a provision whereby DVP can provide needed support services to DRS, which, in turn, can provide those support services to other DVP affiliates. That provision has been eliminated; the Revised Support Services Agreement only covers services provided by DVP to DRS. DVP will begin providing necessary support services to its affiliates under separate support services agreements. Therefore, to be consistent with the structure and mechanisms approved in Case Nos. PUE-2010-00144 and PUE-2010-00145,⁵ the Company filed a companion application with the Commission for approval of separate affiliate support services agreements between DVP and each of the five DVP affiliate co-applicants that need to continue receiving support services from the Company, with a proposed effective date of January 1, 2013 (collectively, the "Affiliate Support Services Agreements"), in Case No. PUE-2012-00018.⁶ Upon approval of the proposed Affiliate Support Services Agreements, and after their effective date of January 1, 2013, these affiliates will receive and be billed support services directly from DVP, not through DRS.

Second, Section IV of the Revised Support Services Agreement (Compensation and Allocation) states that the Company will provide support services to DRS at the higher of cost or market, and also use benchmarking processes to ensure that employee compensation is priced consistent with market. The Company states that it will look at the reasonableness of its costs using two primary data points. First, all DRI companies will use a market-pricing base pay strategy in which all jobs are reviewed and market-priced annually using external surveys. Further, Company base salary ranges and incentive compensation plans will be both independently and collectively assessed for market competitiveness when initiated and annually thereafter. The Company represents that the result is that its cost of providing service will be equivalent to market.

Third, the Operative Virginia Power Services Agreement does not have a termination date. Therefore, the Applicants propose that the Revised Support Services Agreement commence on January 1, 2013, and remain in effect, unless terminated earlier pursuant to the provisions the Revised Support Services Agreement, for a period of five (5) years.

Fourth, the Operative Virginia Power Support Agreement was approved prior to the repeal of the Public Utility Holding Company Act of 1935 ("1935 Act"). Therefore, all references to the 1935 Act, which are now rendered obsolete, have been deleted in the Revised Support Services Agreement.

Finally, in its January 5, 2007 Order Accepting Agreement for Filing and Permitting Operation Thereunder Pursuant to G.S. 62-153 in Docket No. E-22, Sub 434, the North Carolina Utilities Commission ("NCUC") directed Virginia Electric and Power Company d/b/a Dominion North Carolina Power ("DNCP"), among other things, to include specific provisions in all affiliate agreements to which DNCP is a party.⁷ Therefore, DVP has revised Section XIV(B) of the Revised Support Services Agreement to include the language required by the NCUC.

The Applicants represent that the Revised Support Services Agreement is in the public interest because it allows DVP to continue to provide needed support services to DRS. The Applicants further represent that customers will benefit because DVP will only provide services to DRS on an as-needed basis and because DVP will provide those services in compliance with the Commission's higher of cost or market standard.

³ *Joint Petition of Virginia Electric and Power Company and Virginia Natural Gas, Inc., and Dominion Resources, Inc., Dominion Resources Services, Inc., Dominion Capital, Inc., Dominion Energy, Inc., Virginia Power Services Energy Corp., Inc., CNG Transmission Corporation, CNG International Corporation, CNG Retail Services Corporation, CNG Power Services Corporation, and Consolidated Natural Gas Service Company, Inc., For certain exemptions from the requirements of § 56-77A of the Code of Virginia of 1950, as amended, and for approval and termination of agreements under Chapter 4, Title 56, Code of Virginia of 1950, as amended*, Case No. PUA-1999-00068, 2000 S.C.C. Ann. Rept. 145, Order Approving, In Part, and Denying, In Part, Petitioners' Requests (Dec. 15, 2000).

⁴ See Exhibits I and II to the Revised Support Services Agreement. The Applicants are proposing to delete the following thirteen support services that were in the Operative Virginia Power Support Agreement: Accounting; Regulatory; Information Technology, Electronic Transmission, and Computer Services; Human Resources; Operations; Marketing; Budgeting and Planning; Purchasing; Rates; Research; Customer Service; Energy Marketing; and External Affairs. The Applicants represent that DRS does not currently use these support services or require them from the Company prospectively.

⁵ See March 9, 2011 Order in Case No. PUE-2010-00144, *supra* n.2; *Application of Virginia Electric and Power Company, Dominion Energy, Inc., Dominion Energy Kewaunee, Inc., Dominion Nuclear Connecticut, Inc., Dominion Technical Solutions, Inc., Dominion Transmission, Inc., and Virginia Power Energy Marketing, Inc., For approval of Affiliate Services Agreements and future exemptions from the filing and prior approval requirements under Chapter 4 of Title 56 of the Code of Virginia*, Case No. PUE-2010-00145, 2011 S.C.C. Ann. Rept. 412, Order Granting Approval (Mar. 9, 2011), and Doc. Con. Cen. No. 120110101, Order Granting Motion (Jan. 6, 2012).

⁶ See *Application of Virginia Electric and Power Company and Dominion Energy Kewaunee, Inc., Dominion Nuclear Connecticut, Inc., Dominion Products and Services, Inc., Dominion Technical Solutions, Inc., and Dominion Transmission, Inc., For approval of affiliate support services agreements and future exemptions under Chapter 4 of Title 56 of the Code of Virginia*, Case No. PUE-2012-00018 (Feb. 14, 2012).

⁷ See *In the Matter of Petition of Virginia Electric and Power Company d/b/a Dominion North Carolina Power and Virginia Power Energy Marketing, Inc., For Approval of a Fuel Purchase, Sale, and Services Agreement*, Docket No. E-22, Sub 434, Order Accepting Agreement for Filing and Permitting Operation Thereunder Pursuant to G.S. 62-153, Ordering Paragraph (9) (NCUC Jan. 5, 2007).

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NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the above-described Revised Support Services Agreement is in the public interest and should, therefore, be approved subject to the requirements recommended in the Commission Staff's Action Brief filed contemporaneously with this Order and the requirements set forth below.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to § 56-77 of the Code, the Applicants are hereby granted approval to enter into the Revised Support Services Agreement, subject to the requirements set forth herein.

(2) The Revised Support Services Agreement shall be effective as of January 1, 2013, and shall extend for five (5) years from the effective date. Should the Applicants wish to continue operating under the Revised Support Services Agreement after the five (5)-year period of authorization, subsequent Commission approval shall be required.

(3) Approval of the Revised Support Services Agreement shall be limited to the specific support services identified in the Revised Support Services Agreement. Should DRS wish to obtain additional support services from DVP other than those specifically approved in this case, subsequent Commission approval shall be required.

(4) Separate Commission approval shall be required for any changes in the terms and conditions of the Revised Support Services Agreement, including changes in allocation methodologies, service category descriptions, and successors and assigns.

(5) DVP shall maintain records verifying that the services provided by DVP are priced at the higher of cost or market. For services provided by DVP where a market may now exist or hereafter develop, DVP shall investigate alternative sources from which DRS could purchase such services. If an alternative source for the provision of the service exists, DVP shall compare that market data to its cost and charge the higher of cost or market. In any rate proceeding, DVP shall bear the burden of proving that it charged the higher of cost or market for all services provided to DRS.

(6) The approval granted herein shall have no ratemaking implications. Specifically, it will not guarantee the recovery of any costs directly or indirectly related to the Revised Support Services Agreement.

(7) The approval granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code hereafter.

(8) The Commission reserves the right to examine the books and records of any affiliate in connection with the approval granted herein, whether or not such affiliate is regulated by this Commission.

(9) DVP shall file with the Commission a signed and executed copy of the Revised Support Services Agreement approved herein within thirty (30) days of the date of this Order Granting Approval.

(10) DVP shall include all transactions under the Revised Support Services Agreement in its Annual Report of Affiliate Transactions ("ARAT") submitted to the Commission's Director of Utility Accounting and Finance ("UAF Director") on or before May 1 of each year, which deadline may be extended administratively by the Commission's UAF Director. In addition to the information currently provided in the ARAT, all transactions under the Revised Support Services Agreement shall be reported as follows:

- (a) Case Number in which the transactions were approved;
- (b) Description of the support services provided by DVP;
- (c) FERC Account in which each transaction is booked;
- (d) Transactions by month; and
- (e) Dollar amount paid to DVP by DRS for each type of support service.

(11) In the event that rate filings are not based on a calendar year, then DVP shall include the affiliate information contained in its ARAT in such filings.

(12) There appearing nothing further to be done in this case, it is hereby dismissed.

**CASE NO PUE-2012-00018
MAY 11, 2012**

APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY
and
DOMINION ENERGY KEWAUNEE, INC.,
DOMINION NUCLEAR CONNECTICUT, INC.,
DOMINION PRODUCTS AND SERVICES, INC.,
DOMINION TECHNICAL SOLUTIONS, INC.,
DOMINION TRANSMISSION, INC.

For approval of Affiliate Support Services Agreements and future exemptions under Chapter 4 of Title 56 of the Code of Virginia

ORDER GRANTING APPROVAL

On February 14, 2012, Virginia Electric and Power Company ("DVP" or the "Company"), Dominion Energy Kewaunee, Inc., Dominion Nuclear Connecticut, Inc., Dominion Products and Services, Inc., Dominion Technical Solutions, Inc., and Dominion Transmission, Inc. (excluding DVP, collectively, the "Affiliates," and including DVP, collectively, the "Applicants"), filed an application ("Application") with the State Corporation Commission ("Commission"), pursuant to Chapter 4 of Title 56 of the Code of Virginia ("Code"),¹ requesting approval of affiliate support services agreements to be entered into separately by each of the Affiliates and DVP, with a proposed effective date of January 1, 2013 (the "Affiliate Support Services Agreements"). In addition, for any affiliates of DVP not identified in the instant Application ("Future Affiliates") that would be billed less than \$500,000 per service per year or \$2 million in total per year for services provided by DVP, the Company requests an exemption from future approval under the Affiliates Act of Affiliate Support Services Agreements, so long as the Future Affiliates execute the Affiliate Support Services Agreement in the form set forth in Revised Attachment G to the Application (the "Form Affiliates Support Services Agreement").² The Company represents that the Form Affiliates Support Services Agreement is identical in form to the Affiliate Support Services Agreements.

Since January 1, 2003, DVP has been providing needed support services to the Affiliates through Dominion Resources Services, Inc. ("DRS"), and the current Revised Virginia Power Support Services Agreement approved by the Commission in Case No. PUA-1999-00068 (the "Operative Virginia Power Support Agreement").³ The Applicants propose that, upon approval of the proposed Affiliate Support Services Agreements, and after their effective date of January 1, 2013, the support services that DVP will provide to the Affiliates and any Future Affiliates will be billed directly by DVP to each Affiliate or Future Affiliates, not through DRS as is done currently. The Applicants state that the instant Application is a companion filing to the Company's application for a revised Operative Virginia Power Support Agreement filed with the Commission in Case No. PUE-2012-00017 (the "Revised Support Services Agreement").⁴

Per Exhibit II of the Affiliate Support Services Agreements, each Affiliate can identify the support service(s) it wants to receive from the Company. The list of the six support services that will be offered by the Company is as follows: (i) Operations; (ii) Fleet Services; (iii) Corporate Planning; (iv) Supply Chain; (v) Customer Services; and (vi) Office Space and Equipment. The Company and the Affiliate may modify the offer or receipt of the enumerated services at any time upon thirty days' written notice to the other party, and either party may terminate the Agreement upon sixty days' written notice to the other party.

The Applicants represent that each of the support services under the Affiliate Support Services Agreements will be provided by the Company to the Affiliates in compliance with the Commission's higher of cost or market standard. Exhibit III of the Affiliate Support Services Agreements (Methods of Allocation for the Company) sets forth the rules for determining and allocating costs for support services provided to the Affiliates by the Company. The Company proposes that the Affiliate Support Services Agreements commence on the proposed effective date of January 1, 2013, and remain in effect, unless terminated earlier pursuant to the provisions of such agreements, for a period of five (5) years.

¹ Va. Code § 56-76 *et seq.* (the "Affiliates Act").

² The Applicants filed the original Affiliate Support Services Agreements and the Form Affiliates Support Services Agreement with the Application on February 14, 2012. However, on May 1, 2012, the Applicants filed Revised Affiliate Support Services Agreements and a Revised Form Affiliates Support Services Agreement. Therefore, all references herein to the Affiliate Support Services Agreements and the Form Affiliates Support Services Agreement refer to the Revised Affiliate Support Services Agreements and the Revised Form Affiliates Support Services Agreement filed on May 1, 2012, as Revised Attachments B-G to the Application.

³ *Joint Petition of Virginia Electric and Power Company and Virginia Natural Gas, Inc., and Dominion Resources, Inc., Dominion Resources Services, Inc., Dominion Capital, Inc., Dominion Energy, Inc., Virginia Power Services Energy Corp., Inc., CNG Transmission Corporation, CNG International Corporation, CNG Retail Services Corporation, CNG Power Services Corporation, and Consolidated Natural Gas Service Company, Inc., For certain exemptions from the requirements of § 56-77A of the Code of Virginia of 1950, as amended, and for approval and termination of agreements under Chapter 4, Title 56, Code of Virginia of 1950, as amended, Case No. PUA-1999-00068, 2000 S.C.C. Ann. Rept. 145, Order Approving, In Part, and Denying, In Part, Petitioners' Requests (Dec. 15, 2000).*

⁴ *See Application of Virginia Electric and Power Company, Principal Applicant, and Dominion Resources Services, Inc., Affiliate Applicant, For approval of a Revised Support Services Agreement under Chapter 4 of Title 56 of the Code of Virginia, Case No. PUE-2012-00017 (Feb. 14, 2012).* The Revised Support Services Agreement was filed pursuant to Ordering Paragraph (10) of the Commission's March 9, 2011 Order Granting Approval in Case No. PUE-2010-00144, which states, in part, that: "DVP shall file a revised Virginia Power Support Agreement for approval under the Affiliates Act between February 1, 2012, and February 15, 2012, . . . This will ensure that [this] agreement[] continue[s] to be in the public interest." *See Application of Virginia Electric and Power Company and Dominion Resources Services, Inc., For approval of a Revised Services Agreement under Chapter 4 of Title 56 of the Code of Virginia, Case No. PUE-2010-00144, 2011 S.C.C. Ann. Rept. 410, Order Granting Approval (Mar. 9, 2011).*

As previously stated, for Future Affiliates that would be billed less than \$2 million in total and less than \$500,000 per service per year from DVP, the Company requests an exemption from future approval under the Affiliates Act of Affiliate Support Services Agreements between the Future Affiliates and DVP, so long as the Future Affiliates execute the Form Affiliates Support Services Agreement contained in Revised Attachment G to the Application. The list of services available for a Future Affiliate to receive from DVP is identical to the six services proposed to be provided by DVP to the Affiliates in the above-described Affiliate Support Services Agreements. The Company proposes that, if a Future Affiliate executes the Form Affiliates Support Services Agreement, such agreement will be filed with the Company's next-occurring Annual Report of Affiliate Transactions ("ARAT") along with reporting of any charges occurring under the new agreement.⁵ The Company represents that approval of the requested exemption is in the public interest because no subsidization of affiliates will occur since the services, processes, and costs for the provision of services to Future Affiliates will have already been reviewed and approved by the Commission.

The Applicants represent that Affiliate Support Services Agreements and the Form Affiliates Support Services Agreement will allow DVP to provide the support services needed by the Affiliates so that they can continue to operate in a reliable and effective manner. In addition, the requested exemption will allow the Named Exemption Affiliates and other Future Affiliates to obtain needed support services from DVP without the filing and prior approval requirement of the Affiliates Act, as long as annual billings do not exceed \$500,000 per service or \$2 million in total and DVP reports all such transactions in its ARAT.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the above-described Affiliate Support Services Agreements and Form Affiliates Support Services Agreement as filed on May 1, 2012, and the requested exemption from future approval under the Affiliates Act, are in the public interest and should, therefore, be approved subject to the requirements recommended in the Commission Staff's Action Brief filed contemporaneously with this Order and the requirements set forth below.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to § 56-77 of the Code, the Applicants are hereby granted approval to enter into the Affiliate Support Services Agreements as filed herein on May 1, 2012, subject to the requirements set forth herein.

(2) Pursuant to § 56-77 B of the Code, the Applicants are hereby granted the requested exemption from future approval under the Affiliates Act of Affiliate Support Services Agreements with the Named Exemption Affiliates and any Future Affiliates that would be billed less than \$2 million in total and less than \$500,000 per service per year from DVP, provided that the Named Exemption Affiliate or Future Affiliate executes the Affiliate Support Services Agreement in the form set forth in the Form Affiliates Support Services Agreement as filed herein on May 1, 2012, and such transactions are reported in DVP's ARAT.

(3) The Affiliate Support Services Agreements shall be effective as of January 1, 2013, and shall extend for five (5) years from the effective date. Should the Applicants wish to continue operating under the Affiliate Support Services Agreements after the five (5)-year period of authorization, subsequent Commission approval shall be required.

(4) Approval of the Affiliate Support Services Agreements shall be limited to the specific support services identified in each of the Affiliate Support Services Agreements. Should the Affiliates wish to obtain additional support services from DVP, other than those specifically approved in this case, subsequent Commission approval shall be required. Additionally, the Company shall be required to seek separate Commission approval of any changes to the selected services to be provided by DVP to the Affiliates under each of the respective Affiliate Support Services Agreements if billings for such services exceed \$500,000 per service per year or \$2 million in total per year. The Company also shall be required to provide written notice to the Commission's Director of Utility Accounting and Finance ("UAF Director") within fifteen (15) days of any election by the Affiliates of new services to be provided by DVP, other than those services specifically selected in each of the respective Affiliate Support Services Agreements, regardless of the cost of such services. In the case where new services are selected, the Company shall include that information in its ARAT.

(5) DVP shall monitor billings of transactions for which the granted exemption applies to ensure that an application is filed with the Commission for prior approval for any transactions in which annual billings exceed \$500,000 per service or \$2 million in total.

(6) The exemption granted herein shall be revoked at any time that such revocation is deemed to be in the public interest.

(7) Separate Commission approval shall be required for any changes in the terms and conditions of the Affiliate Support Services Agreements and Form Affiliates Support Services Agreement, including changes in allocation methodologies, service category descriptions, and successors and assigns.

(8) DVP shall maintain records verifying that the services provided by DVP are priced at the higher of cost or market. For services provided by DVP where a market may now exist or hereafter develop, DVP shall investigate alternative sources from which the Affiliates could purchase such services. If an alternative source for the provision of the service exists, DVP shall compare that market data to its cost and charge the higher of cost or market. In any rate proceeding, DVP shall bear the burden of proving that it charged the higher of cost or market for all services provided to the Affiliates.

(9) The approval granted herein shall have no ratemaking implications. Specifically, it will not guarantee the recovery of any costs directly or indirectly related to the Affiliate Support Services Agreements or the exemptions granted herein.

(10) The approval granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code hereafter.

(11) The Commission reserves the right to examine the books and records of any affiliate in connection with the approval granted herein, whether or not such affiliate is regulated by this Commission.

⁵ The Company states that, upon Commission approval of the requested future exemption, DVP and the following affiliates intend to execute Form Affiliates Support Services Agreements: Dominion Elwood Services Company, Inc., Dominion Energy, Inc., Dominion Energy Brayton Point, LLC, Dominion Energy Manchester Street, Inc., Dominion Kincaid, Inc., Dominion Voltage, Inc., State Line Energy, L.L.C., and Fairless Energy, LLC (collectively, the "Named Exemption Affiliates").

(12) DVP shall file with the Commission signed and executed copies of each of the Affiliate Support Services Agreements approved herein within thirty (30) days of the date of this Order Granting Approval.

(13) DVP shall include all transactions under the Affiliate Support Services Agreements and the granted exemption in its ARAT submitted to the Commission's UAF Director on or before May 1 of each year, which deadline may be extended administratively by the Commission's UAF Director. In addition to information currently provided in the ARAT, all transactions under the Affiliate Support Services Agreements and the granted exemption shall be reported as follows:

- (a) Case Number in which the transactions were approved;
- (b) Description of the support services provided by DVP;
- (c) FERC Account in which each transaction is booked;
- (d) Transactions by month; and
- (e) Dollar amount paid to DVP by each Affiliate, Named Exemption Affiliate, and Future Affiliates for each type of support service provided by DVP, such as amount paid for Operations, Office Space and Equipment, etc.

(14) Signed and executed copies of each Form Affiliates Support Services Agreement entered into by the Named Exemption Affiliates or any Future Affiliates and DVP, to which the exemption granted herein applies, shall be submitted with DVP's next-occurring ARAT along with reporting of any charges occurring under the new agreement.

(15) All requirements regarding the Affiliate Support Services Agreements between DVP and the Affiliates shall apply to transactions between DVP and the Named Exemption Affiliates and any Future Affiliates, to which the requested exemption applies.

(16) In the event that rate filings are not based on a calendar year, then DVP shall include the affiliate information contained in its ARAT in such filings.

(17) There appearing nothing further to be done in this case, it is hereby dismissed.

**CASE NO. PUE-2012-00019
SEPTEMBER 28, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

CAROLINE WATER COMPANY, INC. d/b/a LADYSMITH WATER COMPANY
and
WILLIAM SELTZER,
Defendants

ORDER ON RULE TO SHOW CAUSE

On February 7, 2011, the State Corporation Commission ("Commission") issued an Order ("February Order") in Case No. PUE-2005-00115¹ that, among other things, directed Caroline Water Company, Inc. d/b/a Ladysmith Water Company ("Caroline Water" or the "Company") through its president, William Seltzer ("Mr. Seltzer") (collectively, the "Defendants"), to make its emergency water connection to the Caroline County ("County") system permanent and to file a rate case no later than July 29, 2011, to govern the rates, terms and conditions for water service to its customers. Specifically, the Commission found that "[t]he public convenience and necessity requires that Caroline Water's emergency water connection with the County be made permanent, and the Company should file a rate case reflecting its new cost of service and the decommissioning costs of its water treatment plant."²

On July 21, 2011, Caroline Water filed a Motion for Extension of Time to File Rate Case pursuant to the February Order. At that time, the Company claimed that its accounting firm experienced computer problems which hampered its operations and took several months to identify and remedy. On July 29, 2011, the Commission entered an Order ("July Order") granting the Company an extension of time until September 30, 2011, to file the rate case and to provide evidence that it had made permanent its interim water supply connection with Caroline County, as required by the February Order. At that time, the Commission made it clear that requests for additional time would not be entertained and that the Company should use the additional time granted in July to complete its rate case application:

We grant the Company's Motion and will require that the Company file its rate case on or before September 30, 2011, in accordance with the specific instructions below and in accordance with the applicable provisions of our Rules Implementing the Small Water or Sewer Public Utility Act, 20 VAC 5-200-40. [Footnote omitted.] We trust that this additional time will be spent in compiling a complete and accurate rate application and that no further delays will occur.³

¹ *Application of Caroline Water Company, Inc. d/b/a Ladysmith Water Company, For changes in rates, rules and regulations*, Case No. PUE-2005-00115, Doc. Con. No. 110210301. All referenced events and issued Commission Orders cited herein are associated with the proceedings in Case No. PUE-2005-00115 unless otherwise noted.

² February Order at 6.

³ July Order at 3-4.

Despite the clear instructions from the Commission that it should use the additional time granted to work diligently toward making a timely rate case filing, on September 30, 2011, the Company again asked for an extension of time to file its rate case. The Company provided no explanation regarding its failure to comply with the July Order and provided no evidence that it was negotiating with the County as required by the Commission's earlier Orders.

On October 20, 2011, the Commission entered an Order ("October Order") again providing the Company additional time to comply with the February Order. The Commission stated that "[w]e expect that the Company will file, on or before October 24, 2011, the rate case, proof that its emergency water supply connection with the County has been made permanent, and proof that any contracts necessary to effectuate this directive have been executed."⁴

On October 24, 2011, the Company filed a rate case application purporting to comply with the February Order and the July Order. This rate case application, however, did not fully address the decommissioning of the Company's water treatment plant but, rather, argued that decommissioning should not be required. On November 4, 2011, the Commission Staff ("Staff") filed a Motion to Order Company to Amend Application to Comply with Commission Orders and the Small Water or Sewer Public Utility Act ("Staff Motion"). The Staff requested that the Commission direct the Company to file an amended rate case application that complies with the Commission's previous orders and the Small Water or Sewer Public Utility Act. The Staff also requested that the Commission impose civil penalties on the Company for failing to comply with the Commission's directive that the Company make its water supply connection with the County permanent and that it file executed contracts with the County effectuating such arrangement.

On November 18, 2011, the Company filed its response to the Staff Motion. In its response, the Company did not dispute that it had failed to make its water supply arrangement with the County permanent. Rather, the Company stated that its "certificate of public convenience and necessity is a valuable property right and to force [the Company] to sign such an onerous contract as proffered by County would be equivalent to a back-door condemnation of this property right without paying [the Company] the value of its lost property rights."⁵

On February 22, 2012, the Commission issued a Rule to Show Cause directing the Defendants to appear and show cause why the \$75,000 salary paid by the Company to Mr. Seltzer as manager-in-fact should not be placed in escrow or retained by the Company and why penalties should not be imposed on each Defendant pursuant to Virginia Code §§ 12.1-13 and 12.1-33 for failure to comply with the Commission's Orders.

On March 7, 2012, the Company filed a Response to the Rule to Show Cause ("Response"), in which the Company admitted that it had not executed a contract to establish a permanent water connection with the County as directed by the Commission. The Company asserted in its Response that execution of the contract proffered by the County is contrary to the public interest and is contrary to the interests of both the Company and its customers.

On May 22, 2012, the Hearing Examiner convened a hearing to receive evidence regarding the Rule. Commission Staff and the Defendants each appeared by counsel. During the course of the hearing, the Hearing Examiner instructed counsel for the Defendants that:

You should attempt to set up some kind of meeting with the county about this issue, and to the extent that Staff is in agreement to it, perhaps notify me through some sort of filing as to if you have managed to reach an agreement in the interim, I would like to know about it. But if Staff has any kind of problem with that, they can object to it at that point. I'm not saying that that would mean that your client, that I wouldn't recommend any penalty against your client, but it would be a factor that could weigh in support of mitigation of what might be recommended. So I would strongly encourage you not to delay and to attempt to meet and talk about those issues as soon as possible.⁶

On July 3, 2012, the Hearing Examiner issued a Report in which she recommended, in part, that the Company and Mr. Seltzer be penalized \$50,000 and \$25,000, respectively, for violating the Commission's orders in Case No. PUE-2005-00115 and for failing to file proof that the Company's emergency water supply connection with the County had been made permanent. The Hearing Examiner recommended, however, that \$45,000 of the fine imposed upon the Company and \$24,000 of the fine imposed on Mr. Seltzer should be waived if the Defendants filed, on or before July 24, 2012, proof that the Company's water connection with the County had been made permanent and that any contracts necessary to effectuate this directive had been executed. The Defendants did not file such proof prior to July 24, 2012.

On July 20, 2012, the Defendants filed a Response to Hearing Examiner Report and Motion for Extension and Waiver ("Defendants' Motion"). The Defendants seek (1) an extension of the July 24, 2012 recommended deadline for the filing of satisfactory proof of the Company's executed contract with the County until such time as the County approves the contract and the Company has acquired financing for the necessary plant improvements; and (2) waiver of the Hearing Examiner's recommended penalties because the "Company has limited financial resources and has been unable to obtain conventional financing as a result of Commission orders."

On August 9, 2012, Commission Staff filed a Response to the Defendants' Motion. Staff asked that the Motion be denied, as the Hearing Examiner was not imposing a deadline on the Company that could be extended. The Hearing Examiner was providing the Company an opportunity to avoid penalties that were imposed following a hearing. Staff argued that the Company failed to take any substantive action toward satisfying its obligation and thus missed its opportunity to avoid the penalties recommended by the Hearing Examiner.

On August 22, 2012, the Defendants filed a Reply to the Staff's Response to the Motion, renewing their request that the penalties recommended by the Hearing Examiner be waived and that the deadline recommended by the Hearing Examiner for the filing of the executed contract with the County be extended.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that Mr. Seltzer should be penalized \$25,000 for violating the Commission's orders in Case No. PUE-2005-00115 and for failing to file proof that the Company's emergency water supply connection with the County had been made permanent. No portion of these penalties should be borne by Caroline Water's customers. In addition, effective immediately, the

⁴ October Order at 3.

⁵ Company Response at 2-3.

⁶ Tr. at 82.

annual salary of \$75,000 paid to Mr. Seltzer as manager-in-fact of the utility company should be held in escrow until further order of this Commission due to Mr. Seltzer's personal failure to comply with the Commission's directives. We will not at this time impose penalties upon the Company, but will revisit the issue in the future should conditions require that we do so.

The Hearing Examiner found that it is clear that the Defendants failed to comply with the Commission's October Order. Furthermore, the Hearing Examiner found that the Company's affirmative defense asserted in the hearing did not excuse their failure to comply with the order:

Moreover, I find Ladysmith's sole justification for failing to make permanent the water connection with Caroline County - that is, the allegedly inequitable terms of the contract proposed by Caroline County - to be unpersuasive. Assuming *arguendo* that the terms of the draft agreement proposed by Caroline County are "onerous" or "unfair" as maintained by Ladysmith, the Company failed to produce evidence that it made a reasonable effort, on a timely basis, to negotiate with Caroline County for more appropriate terms. In fact, the evidence demonstrates that Ladysmith made virtually no effort to negotiate with Caroline County for the permanent water connection. Under the circumstances, I find Ladysmith failed to show good cause for its failure to comply with the October 20th Order.⁷

We agree with the Hearing Examiner. The Commission's orders required that the Company negotiate an appropriate bulk water supply agreement with the County, something the Company, by its own admission, failed to do. That the Company and Mr. Seltzer view the County's proffer as unduly onerous is no excuse, given that the Defendants failed to make any effort to negotiate a more acceptable contract with the County.

As the Hearing Examiner noted, as of the date of the hearing on May 22, 2012, 210 days had passed from the deadline established by the October Order, thereby supporting - in accordance with the Commission's order and §§ 12.1-13 and 12.1-33 of the Code - the potential imposition of a fine in the amount of \$2,100,000 against the Company and \$1,050,000 against Mr. Seltzer.⁸ However, given the relatively small size of the Company, the Hearing Examiner recommended that the Commission impose a fine of \$50,000 against the Company and \$25,000 against Mr. Seltzer, with a portion of the fines to be waived if the Defendants remedied their failure to comply with the Commission's orders on or before July 24, 2012. The Hearing Examiner also recommended that no portion of the Defendants fines be borne by the Company's ratepayers.

We agree with the Hearing Examiner that fines against each Defendant are warranted by the record. However, given the current financial condition of the Company, we will at this time impose penalties only upon Mr. Seltzer. We expect, however, that the Company will act swiftly to bring itself into compliance with the Commission's orders, and should it fail to do so, the Commission may revisit this issue in the future. While fines significantly in excess of the amounts proposed by the Hearing Examiner would be permitted under the Code, we believe penalties against Mr. Seltzer recommended by the Hearing Examiner are reasonable under the circumstances. Additionally, we agree that no portion of the fines should be borne by the Company's ratepayers. We agree with Staff that it would be inappropriate to extend the date recommended by the Hearing Examiner to avoid the penalties and thus will order the full amount be paid by Mr. Seltzer.

The Hearing Examiner assessed the issue of Mr. Seltzer's salary as support for the fine imposed upon Mr. Seltzer. Because Mr. Seltzer held himself out as the manager-in-fact of the Company and testified that negotiating the contract with the County fell within his duties as the manager-in-fact, the Hearing Examiner concluded that imposition of penalties under the Code was appropriate. As noted above, we agree that imposition of penalties upon Mr. Seltzer is appropriate. However, we also believe that the record reflects that, prospectively, the salary paid to Mr. Seltzer should be held in escrow pending further order. Mr. Seltzer was acting as the manager of a public utility company, and as such, one of his primary responsibilities was to ensure that the utility complied with the orders of this Commission.⁹ Mr. Seltzer not only failed to do so, he flagrantly disregarded such orders on numerous occasions. Thus, we will order that in addition to the fine imposed on Mr. Seltzer, the manager's salary, which is currently being paid to Mr. Seltzer, be placed in escrow pending the Commission's decisions in this proceeding and the Company's rate case.¹⁰

Accordingly, IT IS ORDERED THAT:

- (1) The Defendants' August 9, 2012 Motion is Denied.
- (2) The findings and recommendations of the July 3, 2012 Hearing Examiner's Report are hereby adopted, as modified herein.
- (3) In accordance with the Commission's regulatory duties and powers, and pursuant to §§ 12.1-13 and 12.1-33 of the Code, judgment is entered in favor of the Commonwealth and against William Seltzer; a civil penalty of Twenty-five Thousand Dollars (\$25,000) shall be imposed on Mr. Seltzer for failure to comply with the Commission's orders in PUE-2005-00115.
- (4) Payment of the penalty imposed herein shall be made no later than forty-five (45) days following the date of this order by cashier's check or money order, payable to the Treasurer of Virginia, and such payment shall be directed to the attention of Susan Larsen, Director, Division of Utility Accounting and Finance, State Corporation Commission, P.O. Box 1197, Richmond, Virginia 23218-1197. Case Nos. PUE-2012-00019 and PUE-2005-00115 shall be referenced in any document transmitting payment of the penalties imposed herein.
- (5) No portion of the penalty ordered herein shall be borne by the Company's ratepayers.

⁷ Hearing Examiner's Report at 6.

⁸ Hearing Examiner's Report at 7-8.

⁹ See, e.g., Exh. 1; Tr. at 49 (duties of manager-in-fact include negotiation of all contracts with third parties).

¹⁰ We do so without addressing the legality of Mr. Seltzer being paid a salary at all or the amount of such salary, which we are aware have been raised as issues in Case No. PUE-2005-00115. The issue of Mr. Seltzer's role within the Company, the salary associated therewith, and the use of the escrowed funds should be addressed in the rate case.

(6) The Division of Utility Accounting and Finance shall file a memorandum with the Clerk of the Commission within sixty (60) days of this order advising whether Mr. Seltzer has transmitted the payment of the penalty imposed herein.

(7) Effective immediately, the Company shall, in lieu of paying the manager's salary to Mr. Seltzer on a monthly basis, place such salary (\$6,250) in escrow pending Commission decisions in this proceeding and the Company's rate case. The Company shall inform the Division of Utility Accounting and Finance of the action taken no later than October 31, 2012, including the name of the institution where the escrow is being held and documentation showing the first monthly payment has been made. Continuing thereafter, the Company shall submit a monthly statement of the escrow account to the Division of Utility Accounting and Finance on or before the fifteenth of each subsequent month.

(8) This case is continued.

**CASE NO. PUE-2012-00019
NOVEMBER 9, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
CAROLINE WATER COMPANY, INC. d/b/a LADYSMITH WATER COMPANY
and
WILLIAM SELTZER,
Defendants

ORDER

On September 28, 2012, the State Corporation Commission ("Commission") issued an Order on Rule to Show Cause ("September Order") that, among other things, directed William Seltzer, President of Caroline Water Company, Inc. d/b/a Ladysmith Water Company ("Caroline Water" or the "Company") to pay a civil penalty of Twenty-five Thousand Dollars (\$25,000) for failure to comply with the Commission's orders in PUE-2005-00115, which required, among other things, that the Company decommission its water treatment facilities and negotiate a permanent water supply agreement with Caroline County (the "County"). The September Order further required that the Company shall, in lieu of paying the manager's salary to Mr. Seltzer on a monthly basis, place such salary (\$6,250) in escrow pending Commission decisions in this proceeding and the Company's rate case. The Company was to provide evidence to the Commission's Division of Utility Accounting and Finance regarding the escrow arrangements no later than October 31, 2012, while Mr. Seltzer was to pay the civil penalty no later than November 13, 2012. The Staff has informed the Commission that as of the date of this Order, the Company has not provided any evidence that the escrow account has been established or that Mr. Seltzer's salary has been paid into escrow, as required by the September Order.

On November 4, 2012, the Company and Mr. Seltzer (collectively, the "Defendants") filed a Petition/Motion for Waiver of Penalties ("Motion"), wherein the Defendants requested that the Commission waive the civil penalty and escrow requirement set forth in the September Order, arguing that the County's contract demands are unreasonable.¹ The Defendants also request that the Commission Staff participate in its contract negotiations with the County.

NOW THE COMMISSION, having considered the matter, is of the opinion and finds that the Defendants' Motion should be denied. The penalty imposed on Mr. Seltzer and the escrow requirement set forth for the Company were the result of the Defendants' past conduct, and thus any waiver of such penalties would be inappropriate.

Accordingly, IT IS ORDERED THAT:

- (1) The Defendants' Petition/Motion for Waiver of Penalties is denied.
- (2) The Defendants shall comply with all requirements of the September 28, 2012 Order on Rule to Show Cause, including payment of the civil penalty and evidence of the escrow arrangement and payment(s) made, no later than November 13, 2012.
- (3) The Company shall inform the Commission Staff of any meeting scheduled between the Company and Caroline County to discuss a permanent water supply agreement.
- (4) This case is continued pending further order of the Commission.

¹ The Defendants style their pleading a Petition for Reconsideration of Penalties. The Commission notes that the request was filed outside the 21 day period for Petitions for Reconsideration set forth in 5 VAC 5-20-220.

**CASE NO. PUE-2012-00020
MARCH 5, 2012**

APPLICATION OF
KENTUCKY UTILITIES COMPANY D/B/A OLD DOMINION POWER COMPANY

To revise its fuel factor pursuant to § 56-249.6 of the Code of Virginia

ORDER ESTABLISHING 2012-2013 FUEL FACTOR PROCEEDING

On February 17, 2012, Kentucky Utilities Company d/b/a Old Dominion Power Company ("KU/ODP" or "Company") filed with the State Corporation Commission ("Commission") its application, written testimony, and exhibits ("Application") proposing to increase its levelized fuel factor by \$0.00111 per kilowatt-hour ("kWh") from \$0.03026 per kWh to \$0.03137 per kWh, effective for service rendered on and after April 1, 2012.¹ The Company's Application represents that the proposed fuel factor will increase the monthly bill of a residential customer using 1,000 kWh by \$1.11, before the addition of any local utility tax.²

According to KU/ODP, the proposed fuel factor is designed, in part, to recover higher forecast fuel expenses. For a residential customer using 1,000 kWh, the higher forecast fuel expense represents approximately \$0.89 of the monthly increase of \$1.11, before the addition of any local utility tax. The proposed fuel factor also includes a correction factor, which is designed to recover a portion of fuel expense from past periods not previously recovered from customers. For a residential customer using 1,000 kWh, the correction factor represents approximately \$0.22 of the monthly increase of \$1.11, before the addition of any local utility tax.³

NOW THE COMMISSION, having considered the Application, is of the opinion and finds that this matter should be docketed; that public notice and an opportunity for participation in this proceeding should be given; and that a hearing should be scheduled before the Commission to consider the Company's Application. The Commission finds that the proposed factor should take effect, on an interim basis and subject to modification at the conclusion of this proceeding, for service rendered on and after April 1, 2012.

The Commission will appoint a hearing examiner to rule on the Company's Motion for Protective Order and all other discovery matters that may arise. We will also direct the Commission Staff ("Staff") to investigate the Application and to present the results of its investigation in testimony and exhibits.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed and assigned Case No. PUE-2012-00020.
- (2) The proposed levelized fuel factor shall take effect for service provided on and after April 1, 2012, on an interim basis and subject to modification by further order of the Commission.
- (3) Pursuant to subsection A of Rule 5 VAC 5-20-120, *Procedure before hearing examiners*, of the Commission's Rules of Practice and Procedure ("Rules of Practice"), 5 VAC 5-20-10 *et seq.*, a hearing examiner shall be appointed to rule on any discovery matters that may arise during the course of this proceeding and on the Motion for Protective Order.
- (4) A public hearing shall be convened on April 24, 2012, at 10:00 a.m. in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, to receive evidence related to the establishment of KU/ODP's fuel factor. Any person desiring to make a statement at the public hearing concerning the Application need only appear in the Commission's Second Floor Courtroom at 9:45 a.m. on the day of the hearing and contact the Bailiff.
- (5) The Company shall forthwith make copies of its application, written testimony, and exhibits available for public inspection during regular business hours at each of the Company's business offices in the Commonwealth of Virginia. Interested persons may also review a copy of KU/ODP's Application in the Commission's Document Control Center, located on the First Floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5:00 p.m., Monday through Friday, excluding holidays. Interested persons may also request a copy of the Application, at no charge, by written request to counsel for KU/ODP, Kendrick R. Riggs, Esquire, Stoll Kennon Ogden PLLC, 2000 PNC Plaza, 500 West Jefferson Street, Louisville, Kentucky 40202-2828. Upon request, KU/ODP shall make available on an electronic basis a copy of its Application. In addition, unofficial copies of the Company's Application, Commission Orders entered in this docket, the Commission's Rules of Practice, as well as other information concerning the Commission and the statutes it administers, may be viewed on the Commission's website: <http://www.scc.virginia.gov>.
- (6) On or before March 18, 2012, KU/ODP shall cause a copy of the following notice to be published as display advertising (not classified) on one (1) occasion in newspapers of general circulation throughout its service territory:

¹ The Company also filed on February 17, 2012, a Motion for Protective Order.

² Application at 5.

³ The Company provides a summary of its analysis in the Application at 3-5.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

NOTICE TO THE PUBLIC OF 2012-2013 FUEL FACTOR
 PROCEEDING FOR KENTUCKY UTILITIES COMPANY
 D/B/A OLD DOMINION POWER COMPANY
CASE NO. PUE-2012-00020

On February 17, 2012, Kentucky Utilities Company d/b/a Old Dominion Power Company ("KU/ODP" or "Company") filed with the State Corporation Commission ("Commission") its application, written testimony, and exhibits ("Application") proposing to increase its levelized fuel factor by \$0.00111 per kilowatt-hour ("kWh") from \$0.03026 per kWh to \$0.03137 per kWh, effective for service rendered on and after April 1, 2012. The Company's Application represents that the proposed fuel factor will increase the monthly bill of a residential customer using 1,000 kWh by \$1.11, before the addition of any local utility tax.

According to KU/ODP, the proposed fuel factor is designed, in part, to recover higher forecast fuel expenses. The proposed fuel factor also includes a correction factor, which is designed to recover a portion of fuel expense from past periods not previously recovered from customers.

The proposed increase in the fuel factor will take effect for service rendered on and after April 1, 2012, on an interim basis and subject to modification by further order of the Commission.

The Commission has scheduled a public hearing to commence at 10:00 a.m. on April 24, 2012, in the Commission's Second Floor Courtroom, Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, for the purpose of receiving testimony from members of the public and evidence related to the establishment of KU/ODP's fuel factor. Any person desiring to make a statement at the public hearing concerning KU/ODP's Application need only appear in the Commission's Second Floor Courtroom at 9:45 a.m. on the day of the hearing and identify himself or herself to the Bailiff.

The Company's application, written testimony and exhibits are available for public inspection during regular business hours at the Company's business offices in the Commonwealth of Virginia. Interested persons may also review a copy of the Application in the Commission's Document Control Center, located on the First Floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5:00 p.m., Monday through Friday, excluding holidays. A copy of the Company's Application may also be obtained by written request to counsel for KU/ODP, Kendrick R. Riggs, Esquire, Stoll Kennon Ogden PLLC, 2000 PNC Plaza, 500 West Jefferson Street, Louisville, Kentucky 40202-2828. In addition, unofficial copies of the Company's Application, Commission Orders entered in this docket, the Commission's Rules of Practice and Procedure, 5 VAC 5-20-10 *et seq.*, as well as other information concerning the Commission and the statutes it administers, may be viewed on the Commission's website: <http://www.scc.virginia.gov>.

Any person or entity may participate as a respondent in this proceeding by filing a notice of participation on or before March 22, 2012. If not filed electronically, an original and fifteen (15) copies of a notice of participation shall be filed with the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Any person or entity shall simultaneously serve a copy of the notice of participation on counsel to the Company at the address set forth above. Such persons or entities should obtain a copy of the Commission's Order Establishing 2012-2013 Fuel Factor Proceeding for further details on participation as a respondent. All filed papers shall refer to Case No. PUE-2012-00020.

On or before March 30, 2012, each respondent may file, either electronically or with the Clerk at the address set forth above, any testimony and exhibits by which the respondent expects to establish its case and shall serve copies of the testimony and exhibits on counsel to KU/ODP and on all other respondents. Non-electronic filings must include an original and fifteen (15) copies.

On or before April 17, 2012, any interested person or entity may file with the Clerk of the Commission, either electronically or with the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, comments on KU/ODP's Application. Any interested person or entity desiring to submit comments electronically may do so by following the instructions on the Commission's website: <http://www.scc.virginia.gov/case>. All comments shall refer to Case No. PUE-2012-00020.

KENTUCKY UTILITIES COMPANY
D/B/A OLD DOMINION POWER COMPANY

(7) On or before March 14, 2012, the Company shall serve a copy of this Order on the chairman of the board of supervisors and county attorney of each county and upon the mayor or manager of every city and town (or upon equivalent officials in counties, towns, and cities having alternate forms of government) in which the Company provides service. Service shall be made by first class mail to the customary place of business or residence of the person served.

(8) At the commencement of the hearing scheduled herein, the Company shall provide proof of service and notice as required in Ordering Paragraphs (6) and (7) this Order.

(9) Any person desiring to comment on the Company's Application shall file, on or before April 17, 2012, such comments, either electronically or with the Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Any persons desiring to file comments electronically may do so by following the instructions on the Commission's website: <http://www.scc.virginia.gov/case>.

(10) Any person or entity may participate as a respondent in this proceeding by filing a notice of participation on or before March 22, 2012. If not filed electronically, an original and fifteen (15) copies of a notice of participation shall be filed with the Clerk of the Commission at the address set forth in Ordering Paragraph (9) above. Any person or entity shall simultaneously serve a copy of the notice of participation on counsel to the Company at the address set forth in Ordering Paragraph (5) above. Pursuant to Rule 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Such persons or entities shall refer in all of their filed papers to Case No. PUE-2012-00020.

(11) Within two (2) business days of receipt of a notice of participation as a respondent, the Company shall serve upon each respondent a copy of this Order, a copy of the Application, and all materials filed with the Commission, unless these materials have already been provided to the respondent.

(12) On or before March 30, 2012, each respondent may file with the Clerk of the Commission, either electronically or at the address set forth above, any testimony and exhibits by which the respondent expects to establish its case and shall simultaneously serve copies of the testimony and exhibits on counsel to the Company and all other respondents. Non-electronic filings must include an original and fifteen (15) copies.

(13) The Commission Staff ("Staff") shall investigate the reasonableness of the Company's estimated fuel expenses and proposed fuel factor. On or before April 10, 2012, the Staff shall file its testimony and exhibits with the Clerk of the Commission.

(14) On or before April 17, 2012, the Company shall file with the Clerk of the Commission any rebuttal testimony that the Company expects to offer in rebuttal to the testimony and exhibits of the respondents and the Staff, and shall on the same day serve one (1) copy on Staff and all respondents. Non-electronic filings must include an original and fifteen (15) copies.

(15) Responses and objections to written interrogatories and requests for production of documents shall be served within seven (7) calendar days after receipt of the same. In addition to the service requirements of Rule 5 VAC 5-20-260, *Interrogatories or requests for production of documents and things*, of the Rules of Practice, on the day that copies are filed with the Clerk of the Commission, a copy of the interrogatory or request for production shall be served electronically, or by facsimile, on the party to whom the interrogatory or request for production is directed or the assigned Staff attorney⁴ if the interrogatory or request for production is directed to the Staff.

(16) This matter is continued generally pending further order of the Commission.

⁴ The assigned Staff attorney is identified on the Commission's website <http://www.scc.virginia.gov/case> by clicking "Case Search" and entering the case number, PUE-2012-00020, in the appropriate box.

CASE NO. PUE-2012-00020 MAY 3, 2012

APPLICATION OF
KENTUCKY UTILITIES COMPANY d/b/a OLD DOMINION POWER COMPANY

To revise its fuel factor pursuant to § 56-249.6 of the Code of Virginia

ORDER ESTABLISHING 2012-2013 FUEL FACTOR

On February 17, 2012, Kentucky Utilities Company d/b/a Old Dominion Power Company ("KU/ODP" or "Company") filed with the State Corporation Commission ("Commission") its Application and supporting testimony and exhibits proposing to increase its levelized fuel factor by \$0.00111 per kilowatt-hour ("kWh"), from \$0.03026 per kWh to \$0.03137 per kWh, effective for service rendered on and after April 1, 2012. According to KU/ODP, the proposed fuel factor is designed, in part, to recover higher forecast fuel expenses. The proposed fuel factor also includes a correction factor, which is designed to recover a portion of fuel expense from past periods not previously recovered from customers.¹

By Order Establishing 2012-2013 Fuel Factor Proceeding of March 5, 2012 ("Order Establishing Proceeding"), the Commission docketed the Application and set the matter for public hearing in Richmond on April 24, 2012. The Commission also found that KU/ODP's proposed levelized fuel factor should take effect, on an interim basis and subject to modification, for service rendered on and after April 1, 2012.

The Commission directed the Commission Staff ("Staff") to investigate the Application and to present the results of its investigation in testimony and exhibits offered at the hearing.

The Commission's Order Establishing Proceeding also provided procedures for interested persons to participate as respondents to the Application or to file comments or make statements as public witnesses at the hearing in Richmond. In addition, the Commission arranged for public witnesses in Norton to testify by telephone during the hearing in Richmond.²

¹ The Company's projected under-recovery position includes Virginia jurisdictional fuel expense that was under-recovered due to an accounting error regarding a transmission interconnection. The Commission addressed recovery in *Application of Kentucky Utilities Company d/b/a Old Dominion Power Company, To revise its fuel factor pursuant to § 56-249.6 of the Code of Virginia*, Case No. PUE-2011-00019, 2011 S.C.C. Ann. Rept. 449, Order Establishing Fuel Factor (Mar. 29, 2011). In addition, the Company identified a jurisdictional misallocation related to generating capacity, which was corrected in December 2011. Ex. 2 at 3.

² SCC News Release, SCC Schedules Session April 24 In Norton To Receive Testimony On Kentucky Utilities Fuel Rate Request (Apr. 6, 2012).

At the hearing on April 24, 2012, the testimony and the exhibits of the Company and the Staff were admitted into the record. No respondents or public witnesses participated in the hearing.

The Company presented the testimony and exhibits of three witnesses. Company witness Robert M. Conroy provided testimony on fuel expense recovery and sponsored the proposed leveled fuel factor.³ Company Witness Mike Dotson provided testimony on KU/ODP's coal price forecast and the methodology employed to develop the forecast.⁴ KU/ODP's third witness, Charles R. Schram, addressed energy forecasting, load forecasting, natural gas price projections, generating unit performance, and purchased power contracts.⁵

In its testimony, the Staff expressed general agreement with the Company witnesses' analyses. Staff witness Diane W. Jenkins offered an evaluation of the reasonableness of KU/ODP's forecasts of energy sales and fuel prices and the consistency of these forecasts with the Commission's Standards for Fuel Cost Projections of Electric Utilities, 20 VAC 5-300-100.⁶ Ms. Jenkins concluded that the forecasts were within reasonable limits in light of current conditions in the regional economy and fuel markets.⁷

Staff witness Timothy R. Faherty provided testimony on KU/ODP's projected fuel recovery and projected generating unit performance. He also addressed purchase and interchange transactions, fuel mix and cost, and projected Virginia jurisdictional fuel expense and sales for the period April 1, 2012 — March 31, 2013.⁸ Mr. Faherty concluded that the Company's Virginia jurisdictional fuel expenses and sales forecasts are reasonable.⁹ Staff witness Faherty also reviewed the under-recovery associated with the error in the Virginia jurisdictional allocation factor from May 2010 through November 2011 primarily related to the Trimble County Unit 2.¹⁰ In summary, the Staff recommended that the Commission approve the proposed leveled fuel factor for the period April 1, 2012 — March 31, 2013.¹¹ KU/ODP did not file rebuttal testimony and exhibits.¹²

NOW THE COMMISSION, upon consideration of this matter and the applicable law, is of the opinion and finds that an increase in the Company's fuel factor to \$0.03137 per kWh, effective for service rendered on and after April 1, 2012, as proposed by the Company, is reasonable and appropriate. The rate now in effect on an interim basis shall remain in effect.

KU/ODP offered testimony and exhibits on its forecasting methodology, fuel price estimates, generating unit performance, power sales and purchases, and other components that support the prescription of a fuel factor under Virginia law and the Commission's methodology. The Staff reviewed the Company's testimony and exhibits and concluded that the methodology and estimates appeared reasonable.

The Company and the Staff also addressed the misallocation associated with the error in the Virginia jurisdictional allocation factor primarily related to the Trimble County Unit 2. The Commission finds that recovery of any Virginia jurisdictional fuel expense attributed to this allocation error is appropriate. The continued recovery of the under-recovery due to an accounting error regarding a transmission interconnection near Clinch River, Virginia, was also addressed. The Commission finds that recovery as previously approved should continue until the Virginia jurisdictional amount has been recovered.

Our approval of the fuel factor, however, should not be construed as approval of KU/ODP's actual fuel expenses.

The Staff conducts periodic audits and investigations which address, among other things, the appropriateness and reasonableness of KU/ODP's booked fuel expenses. The Staff's audit results are documented in a Staff Report, a copy of which is sent to KU/ODP and to each party who participated in KU/ODP's fuel factor proceedings, all of whom are provided with an opportunity to comment and request a hearing on the Staff Report.

Based on the record made in this proceeding, the Commission enters a final order that addresses the Company's fuel factor cost recovery position. Notwithstanding any findings made by the Commission in an earlier order establishing KU/ODP's fuel factor based on estimates of future expenses and unaudited booked expenses, the final order will be the determination of allowable fuel expenses and credits and KU/ODP's over-or under-recovery position as of the end of the audit period. Should the Commission find in its final order (1) that any component of actual fuel expenses or credits has been inappropriately included or excluded, or (2) that KU/ODP has failed to minimize fuel costs or has made decisions resulting in unreasonable fuel costs, the Company's recovery position will be adjusted. This adjustment will be reflected in the recovery position at the time of KU/ODP's next fuel factor proceeding. We reiterate that no finding in this Order is final, as this matter is continued generally pending the Staff's audit of actual fuel expenses.

³ Ex. 3.

⁴ Ex. 4.

⁵ Ex. 5.

⁶ Ex. 6 at 2.

⁷ *Id.* at 6.

⁸ Ex. 7 at 2.

⁹ *Id.* at 10.

¹⁰ *Id.* at 4-5.

¹¹ *Id.* at 10-11.

¹² Letter of April 12, 2012, from Kendrick R. Riggs, Esquire, to Joel Peck, Clerk, State Corporation Commission, filed in Case No. PUE-2012-00020, Doc. Con. Cen. No. 120420131.

Accordingly, IT IS ORDERED THAT:

- (1) As provided by § 56-249.6 and related provisions of the Code of Virginia, the Company's Application to revise its levelized fuel factor is granted.
- (2) The total fuel factor of \$0.03137 per kWh, in effect on an interim basis for service rendered on and after April 1, 2012, shall remain in effect.
- (3) The Company shall forthwith file with the Commission's Division of Energy Regulation appropriate tariff provisions implementing Ordering Paragraph (2).
- (4) This Case No. PUE-2012-00020 is hereby continued.

**CASE NO. PUE-2012-00022
MARCH 13, 2012**

APPLICATION OF
RAPPAHANNOCK ELECTRIC COOPERATIVE

For authority to refinance long-term debt

ORDER GRANTING AUTHORITY

On February 22, 2012, Rappahannock Electric Cooperative ("Rappahannock" or "Applicant") filed an application with the State Corporation Commission ("Commission") under Chapter 3¹ of Title 56 of the Code of Virginia for authority to refinance long-term debt. Rappahannock has paid the requisite fee of \$250.

Rappahannock requests authority to refinance up to \$17,101,447 of its debt currently outstanding with the Rural Utilities Services, which carries a fixed interest rate of 5%. The Applicant will refinance the debt with CoBank debt. The interest rate on the new debt is projected to be approximately 4.5% and no more than the interest rate on the debt which it will replace. It is anticipated that the total savings will be approximately \$5,134,000 over the life of the new debt.

NOW THE COMMISSION, upon consideration of the application and having been advised by its Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest.

Accordingly, IT IS ORDERED THAT:

- (1) The Applicant is hereby authorized to refinance up to \$17,101,447 of its long-term debt, under the terms and conditions and for the purposes set forth in the application.
- (2) Within thirty (30) days of the date of the refinance of funds, the Applicant shall file with the Commission's Division of Utility Accounting & Finance a Report of Action, which shall include the amount of the refinance, the term of the new debt, and the interest rate associated with the new debt.
- (3) The authority granted herein shall have no implications for ratemaking purposes.
- (4) There appearing nothing further to be done in this matter, it is hereby dismissed.

¹ Va. Code § 56-55 *et seq.*

**CASE NO. PUE-2012-00024
APRIL 9, 2012**

APPLICATION OF
APPALACHIAN NATURAL GAS DISTRIBUTION COMPANY

For approval of a Firm Transportation Service Tariff

ORDER DISMISSING PROCEEDING

On February 29, 2012, Appalachian Natural Gas Distribution Company ("ANGD" or "Company") delivered a proposed Firm Transportation Service Rate Schedule, Schedule FTS ("FTS Filing") to the State Corporation Commission ("Commission"), which the Company requested the Commission to accept on an administrative basis as a new rate. According to the FTS Filing, Schedule FTS would be available to any non-residential customer who was previously purchasing natural gas from an exempt utility service provider pursuant to § 56-265.4:5 of the Code of Virginia.

On March 29, 2012, the Commission entered an Order that, among other things, docketed the proceeding; directed ANGD to provide notice of its FTS Filing on or before April 13, 2012, and to file supplemental testimony supporting its proposed Schedule FTS on or before April 24, 2012; and provided interested persons an opportunity to file written comments and request a hearing on the matter.

On April 2, 2012, ANGD filed a letter with the Clerk of the Commission advising that the Company is withdrawing its FTS Filing and requesting that this proceeding be terminated due to the erroneous submission of a draft Schedule FTS instead of the intended rate schedule.

NOW THE COMMISSION, upon consideration of the foregoing, is of the opinion and finds that, good cause having been shown, ANGD's request should be granted; the Company should be permitted to withdraw its FTS Filing; and this case should be dismissed without prejudice.

Accordingly, IT IS ORDERED THAT:

- (1) ANGD's request is hereby granted, and the Company may withdraw its FTS Filing.
- (2) This case shall be dismissed without prejudice from the Commission's docket of active proceedings, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. PUE-2012-00026
MARCH 15, 2012**

APPLICATION OF
VIRGINIA NATURAL GAS, INC.

For an Annual Informational Filing for 2011

ORDER GRANTING WAIVER

Rule 20 VAC 5-201-30 of the Rules Governing Utility Rate Applications and Annual Informational Filings (20 VAC 5-201-10 *et seq.*) ("Rate Case Rules") provides, among other things, that "each utility not subject to § 56-585.1 of the Code of Virginia, and which is not requesting a base rate increase shall make an annual informational filing." This Rule also requires that a utility's annual informational filing ("AIF") be based on a 12 month test period "ending in the same month used in the utility's most recent rate application [and] shall be filed . . . within 120 days after the end of the test period." Under this Rule, Virginia Natural Gas, Inc.'s ("VNG" or the "Company") AIF for 2011 was due to be filed with the State Corporation Commission ("Commission") on or before January 30, 2012.

On March 5, 2012, VNG filed a Motion of Virginia Natural Gas, Inc. For a Waiver of Requirement to File an Annual Informational Filing for 2011 ("Motion"), which requests the Commission to waive Rule 20 VAC 5-201-30 of the Rate Case Rules and relieve the Company from filing an AIF for 2011. In support of its Motion, VNG represents that it completed its application for a base rate increase on February 23, 2011, and the Company's application was ruled upon by the Commission on December 20, 2011, in Case No. PUE-2010-00142.¹ Since "the period that would be under review in a 2011 AIF would overlap work already conducted by the Commission Staff in the 2011 Rate Case, as well [as] the Commission's determinations in that proceeding[.]"² the Company requests a waiver of Rule 20 VAC 5-201-30 of the Rate Case Rules.

Additionally, the Company represents that it is exempt from filing Schedules 9-18, the "Earnings Test Schedules," as part of its AIF under Rule 20 VAC 5-201-30 of the Rate Case Rules. "Therefore, regardless of whether the Company is required to file its 2011 AIF, it is exempt from filing the Earnings Test Schedules thereto."³

Finally, VNG's Motion admits that the Company misinterpreted Rule 20 VAC 5-201-30 of the Rate Case Rules and failed to file its 2011 AIF on or before January 30, 2012. However, the Motion further states that after discussions with the Commission Staff, the "Commission Staff has indicated to VNG that they are not opposed to the filing of this waiver out of time."⁴ For all these reasons, the Company requests that the Commission waive the requirement of Rule 20 VAC 5-201-30 of the Rate Case Rules and relieve the Company from the obligation to file an AIF for 2011.

NOW THE COMMISSION, having considered the Motion, is of the opinion and finds that the Motion should be granted; that Rule 20 VAC 5-201-30 of the Rate Case Rules should be waived; and that the Company should be relieved from filing an AIF for 2011. As noted herein, the Company's rates were recently reviewed by the Commission in Case No. PUE-2010-00142 and a Final Order was entered on December 20, 2011, approving revised rates for VNG. Under these circumstances, we find that the Company should not be required to file an AIF for 2011.

Accordingly, IT IS ORDERED THAT:

- (1) The Company's Motion for a waiver of Rule 20 VAC 5-201-30 of the Rate Case Rules is granted.
- (2) The Company is relieved from filing its AIF for 2011.
- (3) This matter is dismissed.

¹ See, *Application of Virginia Natural Gas, Inc., For an increase in base rates and for authority to revise the terms and conditions applicable to natural gas service pursuant to Chapter 10 (§ 56-232 et seq.) of Title 56 of the Code of Virginia*, Case No. PUE-2010-00142, Doc. Cont. Cen. No. 111240046, Final Order (Dec. 20, 2011).

² Motion at 2.

³ *Id.* at 3.

⁴ *Id.*

**CASE NO. PUE-2012-00027
JUNE 1, 2012**

APPLICATION OF
COLUMBIA GAS OF VIRGINIA, INC.

For approval to extend an FSS Service Agreement and to consolidate and extend SST Service Agreements with Columbia Gas Transmission, LLC

ORDER GRANTING APPROVAL

On March 6, 2012, Columbia Gas of Virginia, Inc. ("CGV"), filed an application ("Application") with the State Corporation Commission ("Commission") requesting approval to amend a Firm Storage Service ("FSS") Service Agreement and to consolidate and extend certain Storage Service Transportation ("SST") Service Agreements with Columbia Gas Transmission, LLC ("TCO"), pursuant to Chapter 4 of Title 56 of the Code of Virginia ("Code").¹

CGV and TCO are wholly owned subsidiaries of the Columbia Energy Group, which in turn is a wholly owned subsidiary of NiSource, Inc. In a 1996 order, the Commission approved CGV's *Policy for Executing Revised or New Transportation Agreements with Affiliates*, which permitted CGV to enter into supply-related arrangements with TCO prior to Commission approval, with the understanding that the specifics of the arrangements would be provided to the Commission after the agreements were executed.² In a 2004 order, the Commission modified the 1996 Order to require CGV to provide notice to the Commission's Division of Public Utility Accounting³ as soon as such a supply-related agreement became effective and to file for Affiliates Act approval within forty-five (45) days of the agreement's execution.⁴ CGV complied with both provisions in this filing.

CGV specifically requests that the Commission: (1) approve an amendment to extend the term of FSS Service Agreement No. 79112 through March 31, 2020 ("Amended Agreement"); (2) approve the consolidation of SST Service Agreement Nos. 50469, 50474, and 50475 into SST Service Agreement No. 79111 ("Consolidating Agreement"); (3) approve the extension of the term of the consolidated SST service through March 31, 2020; (4) approve the corresponding termination of SST Service Agreement Nos. 50469, 50474, and 50475 ("Terminating Agreements"), effective March 31, 2012; (5) approve its requests as in the public interest without the necessity of a public hearing; and (6) grant such further relief as may be necessary and appropriate under the Affiliates Act.

The Application does not request approval of any new services. CGV represents that the proposed Amended and Consolidating Agreements simply allow it to retain, consolidate, and extend its FSS and SST capacity with TCO, which is a crucial part of CGV's peak day supply, seasonal storage, and no notice balancing, and is one of its lowest cost sources of storage capacity. CGV represents that it will continue to pay rates and charges established pursuant to TCO's approved tariff with the Federal Energy Regulatory Commission, and no unregulated affiliate will be subsidized as a result of the proposed agreements.

NOW THE COMMISSION, upon consideration of this matter and having been advised by its Staff, is of the opinion and finds that the above-described Amended Agreement and Consolidating Agreement are in the public interest and should be approved subject to the requirements recommended in the Staff's Action Brief filed contemporaneously with this Order and to the other requirements set forth below.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to § 56-77 of the Code, CGV is hereby granted approval to enter into the Amended and Consolidating Agreements, subject to the requirements set forth herein.
- (2) The duration of the Commission's approval herein shall extend through March 31, 2020. Should CGV wish to continue operating under the Amended and Consolidating Agreements after that date, separate Commission approval shall be required.
- (3) The approval granted herein shall have no ratemaking implications. Specifically, it will not guarantee the recovery of any costs directly or indirectly related to the Amended and Consolidating Agreements.
- (4) The Commission's notice, filing, and reporting requirements for CGV-TCO's existing agreements shall apply to the Amended and Consolidating Agreements approved herein.
- (5) Separate Commission approval shall be required for any changes in the terms and conditions of the Amended and Consolidating Agreements approved herein, including any changes in successors or assigns.
- (6) The approval granted herein shall not preclude the Commission from exercising the provisions of § 56-78 and § 56-80 of the Code hereafter.

¹ Va. Code § 56-76 *et seq.* (the "Affiliates Act").

² *Application of Commonwealth Gas Services, Inc., For approval of agreements with affiliates*, Case No. PUA-1995-00025, 1996 S.C.C. Ann. Rept. 118, Order Granting Approval (July 18, 1996) ("1996 Order"). Commonwealth Gas Services, Inc., changed its name to Columbia Gas of Virginia, Inc., effective January 16, 1998. Columbia Gas Transmission Corporation converted to Columbia Gas Transmission, LLC, on December 9, 2008.

³ The Division of Public Utility Accounting is now known as the Division of Utility Accounting and Finance.

⁴ *Application of Columbia Gas of Virginia, Inc., For approval of a firm transportation service agreement pursuant to Chapter 4 of Title 56 of the Code of Virginia*, Case No. PUE-2004-00013, 2004 S.C.C. Ann. Rept. 432, Order Granting Approval (April 13, 2004) ("2004 Order").

(7) The Commission reserves the right to examine the books and records of any affiliate in connection with the approval granted herein, whether or not such affiliate is regulated by this Commission.

(8) CGV shall include all transactions under the Amended and Consolidating Agreements in its Annual Report of Affiliate Transactions ("ARAT") submitted to the Commission's Director of the Division of Utility Accounting and Finance ("UAF Director") on or before May 1 of each year, which deadline may be extended administratively by the Commission's UAF Director.

(9) In the event that rate filings are not based on a calendar year, then CGV shall include the affiliate information contained in its ARAT in such filings.

(10) There appearing nothing further to be done in this case, it is hereby dismissed.

**CASE NO. PUE-2012-00028
MARCH 29, 2012**

APPLICATION OF
BARC ELECTRIC COOPERATIVE

For authority to incur long-term indebtedness

ORDER GRANTING AUTHORITY

On March 9, 2012, BARC Electric Cooperative ("BARC" or "Applicant") filed an application with the State Corporation Commission ("Commission") under Chapter 3¹ of Title 56 of the Code of Virginia for authority to incur long-term debt. BARC has paid the requisite fee of \$250.

BARC requests authority to refinance up to \$1,040,000 of its debt currently outstanding with the Rural Utilities Services ("RUS"), which carries a fixed interest rate of 5%. The Applicant will refinance the debt with National Cooperative Services Corporation ("CSC") debt. The interest rate on the new debt is projected to be approximately 3.87% and no more than the interest rate on the debt which it will replace. It is anticipated that savings will be generated by the lower interest rate and term differences between the new and existing debt.

BARC is also seeking authority to establish a \$10 million note with the National Rural Utilities Cooperative Finance Corporation ("CFC") and obtaining advances on this CFC note totaling no more than \$3.5 million, from time to time before June 2014. BARC represents that CFC will sell the BARC loans to the Federal Agriculture Mortgage Corporation ("Farmer Mac"). The purpose of the CFC and Farmer Mac loan transactions are to obtain more favorable financing terms by delaying higher cost RUS construction loan fund advances. The transactions also are structured in such a way because Farmer Mac is not a direct lender and works with only lenders such as the CFC. BARC will use the proceeds to finance existing, approved construction work plans. The interest rate on the CFC debt is projected to be approximately 1.5% and no more than the interest rate on the RUS debt. It is anticipated that the total savings of the new debt over the existing RUS debt will be approximately \$210,000.

NOW THE COMMISSION, upon consideration of the application and having been advised by its Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest.

Accordingly, IT IS ORDERED THAT:

(1) The Applicant is hereby authorized to refinance up to \$1,040,000 of its long-term RUS debt, under the terms and conditions and for the purposes set forth in the application.

(2) BARC is authorized to obtain a borrowing note of up to \$10 million from the CFC and to obtain from this CFC note advances totaling no more than \$3.5 million.

(3) Within thirty (30) days of the date of the refinance of funds, BARC shall file with the Commission's Division of Utility Accounting & Finance a Report of Action, which shall include the amount of the refinance, the term of the new debt, and the interest rate associated with the new debt.

(4) Within thirty (30) days of the date of any advance of funds from the CFC, BARC shall file with the Commission's Division of Economics and Finance a Report of Action, which shall include the amount of the advance, the interest rate, and the interest rate term.

(5) The authority granted herein shall have no implications for ratemaking purposes.

(6) There appearing nothing further to be done in this matter, it is hereby dismissed.

¹ Va. Code § 56-55 *et seq.*

**CASE NO. PUE-2012-00030
AUGUST 28, 2012**

APPLICATION OF
ROANOKE GAS COMPANY

For approval of a SAVE Plan and Rider pursuant to Virginia Code §§ 56-603 *et seq.*

ORDER APPROVING SAVE PLAN AND RIDER

On April 12, 2012, Roanoke Gas Company ("Roanoke Gas" or "Company") completed its application ("Application") with the State Corporation Commission ("Commission") for approval to implement a plan and rider pursuant to Chapter 26 of Title 56 of the Code of Virginia ("Code") §§ 56-603 *et seq.* — Steps to Advance Virginia's Energy Plan ("SAVE") Act.¹ Accompanying the Application were the Direct Testimony and Exhibits of John S. D'Orazio and Dale P. Lee. The Company proposes to recover costs associated with an investment of \$24 million during the six (6)-year term (2013-2018) of its plan ("SAVE Plan") to accelerate the replacement of specified types of aging infrastructure and facilities.² The Company intends to spend approximately \$4 million annually.³ Recovery would be through a rider on customers' bills authorized by the SAVE Act ("Rider").

On April 27, 2012, the Commission issued an Order for Notice and Hearing that, among other things: (1) docketed this proceeding; (2) required public notice of the Application; (3) established procedures for participation in this matter; (4) required Staff of the Commission ("Staff") to investigate the Application and file testimony on its findings; (5) scheduled a public hearing on the Application; and (6) appointed a Hearing Examiner to conduct all further proceedings in this matter on behalf of the Commission and to file a final report. The Commission did not receive any notices of participation in this matter.

On June 29, 2012, the Staff filed its testimony. By letter dated July 3, 2012, the Company informed the Commission that it would not file rebuttal testimony and that the Staff and the Company were working toward a stipulation.

On July 18, 2012, the Staff and the Company (collectively, "Stipulating Participants") filed a Joint Motion to Accept Stipulation ("Joint Motion") and included the proposed stipulation as an attachment ("Stipulation"). In the Joint Motion, the Stipulating Participants represented that the Stipulation resolves all issues and is prudent and reasonable. The Stipulation, among other things, provides that:

- (1) Roanoke Gas will implement a SAVE Plan and Rider to accelerate the replacement of specified types of aging infrastructure during a six-year term (calendar years 2013-2018). The costs related to the investment will be collected through a rider on customer's bills. The Company will invest approximately \$4 million per year.⁴
- (2) The Company will be allowed the flexibility to spend up to 10% above or below the projected annual level of \$4 million in any given year. Every effort will be made to stay within the band. If the investment during a given year exceeds the upper band limit, the Company will not charge the excess to SAVE Plan projects. If the increased costs are expected to continue, the Company will file an amendment to the SAVE Plan.⁵
- (3) The Company accepts Staff witness McLeod's 2013 SAVE Rider cost of service components and recommended revenue requirement of \$264,876.⁶
- (4) The Company accepts Staff's rate design as presented in the testimony of Staff witness Tufaro.⁷

The Stipulating Participants stated that the Stipulation represents a settlement, not to be used as precedent.⁸

A hearing was convened on July 25, 2012, as scheduled. All testimony was admitted into the record without cross-examination. The Stipulation was also admitted into the record.

¹ As provided by § 56-604 B of the Code, the Commission shall approve or deny the Company's Application within 180 days. Roanoke Gas originally filed its Application on March 15, 2012, but it was deemed incomplete at that time. With the filing of additional information on April 5, 2012, and April 12, 2012, Roanoke Gas completed its Application.

² Exhibit 2 at 1-2.

³ *Id.*

⁴ Exhibit 10 at 1.

⁵ *Id.* at 1-2

⁶ *Id.* at 2.

⁷ *Id.*

⁸ *Id.* at 3.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

On July 25, 2012, the Report of Deborah V. Ellenberg, Chief Hearing Examiner ("Report"), was filed. In her Report, the Chief Hearing Examiner summarized the history and record in this case and recommended that the Commission enter an order that: (1) adopts the findings in the Report and recommendations set forth in the Stipulation;⁹ (2) approves the proposed SAVE Plan;¹⁰ (3) grants the Company a SAVE Rider designed to recover a total revenue requirement of \$264,876 in the first year of the Plan;¹¹ and (4) dismisses this case from the Commission's docket of active cases and passes the papers in the record to the file for ended causes.¹² Specifically, the Chief Hearing Examiner found that the Company demonstrated that its proposed SAVE Plan, as modified by the Stipulation, is prudent and reasonable; that the Stipulation offers a reasonable and just resolution to all of the issues in this case; and that it should be adopted.¹³

NOW THE COMMISSION, having considered this matter, is of the opinion and finds that the Chief Hearing Examiner's Report should be adopted and that the Company's SAVE Plan and Rider satisfy the statutory provisions of the SAVE Act and should, therefore, be approved in accordance with the terms of the Stipulation.

Accordingly, IT IS ORDERED THAT:

- (1) A SAVE Plan, as permitted by § 56-603 *et seq.* of the Code, is hereby approved as set forth in this Order Approving SAVE Plan and Rider.
- (2) A SAVE Rider, as permitted by § 56-603 *et seq.* of the Code, is approved as set forth in this Order Approving SAVE Plan and Rider and shall become effective commencing with the first billing cycle of January 2013.
- (3) The findings and recommendations of the July 25, 2012 Chief Hearing Examiner's Report are hereby adopted.
- (4) The Stipulation between Roanoke Gas and the Staff is hereby adopted and made part of this Order Approving SAVE Plan and Rider.
- (5) Roanoke Gas shall forthwith file with the Clerk of the Commission and with the Commission's Divisions of Energy Regulation and Utility Accounting and Finance, in accordance with this Order, revised tariffs and terms and conditions of service for the SAVE Rider, with workpapers supporting the total revenue requirement and rates, all of which shall reflect the findings and requirements set forth in this Order Approving SAVE Plan and Rider. The Clerk of the Commission shall retain such filing for public inspection in person and on the Commission's website: <http://www.scc.virginia.gov/case>.
- (6) At least thirty (30) days prior to the specific filings required as part of the SAVE Plan, as approved by the Commission in this Order Approving SAVE Plan and Rider, the Company shall provide information related to such filings to the Staff upon request.
- (7) This matter is hereby dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

⁹ Chief Hearing Examiner's Report at 8.

¹⁰ *Id.*

¹¹ *Id.* at 9.

¹² *Id.*

¹³ *Id.* at 8.

**CASE NO. PUE-2012-00032
APRIL 9, 2012**

APPLICATION OF
VIRGINIA-AMERICAN WATER COMPANY

For authority to issue debt securities

ORDER GRANTING AUTHORITY

On March 16, 2012, Virginia-American Water Company ("Applicant" or the "Company") filed an application with the State Corporation Commission ("Commission") for authority under Chapter 3¹ of Title 56 of the Code of Virginia to issue up to \$10 million of long-term debt securities from time to time through December 31, 2012. Applicant paid the requisite fee of \$250.

In its application, the Company proposes to issue the debt securities in the form of promissory notes ("Notes") to an affiliate, American Water Capital Corporation ("AWCC") pursuant to the Chapter 4² authority for affiliate financing transactions under a financial services agreement ("FSA") as granted by the Commission in Case No. PUE-2011-00118. The terms of the Notes' interest rates, maturity dates, and issuance costs will depend on market conditions at the time of issuance. However, such terms will mirror the terms of the securities to be issued by AWCC to provide funds for the Notes. Proceeds from the Notes may be used for one or more of the following purposes: repay all or a portion of outstanding short-term debt; purchase, acquire, and/or construct additional properties and facilities, as well as improve the Company's existing plant; and for general corporate purposes.

¹ Va. Code § 56-55 *et seq.*

² Va. Code § 56-76 *et seq.*

NOW THE COMMISSION, upon consideration of the application and having been advised by its Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest. Moreover, the Notes shall be issued, subject to the provisions of the affiliates' FSA as authorized in Case No. PUE-2011-00118.³

Accordingly, IT IS ORDERED THAT:

(1) The Applicant is hereby authorized to issue up to \$10 million of Notes to AWCC, through December 31, 2012, under the terms and conditions and for the purposes set forth in the captioned application. All ordering provisions of the Order Granting Authority issued December 21, 2011, in Case No. PUE-2011-00118 shall remain in effect.

(2) The Applicant shall file a preliminary Report of Action within ten (10) days after the issuance of any security pursuant to this Order to include the type of security, the issuance date, the amount of issuance, the interest rate or yield, the maturity date, and any securities retired with the proceeds.

(3) On or before March 1, 2013, the Applicant shall file a Final Report of Action to include details concerning all financing activities completed pursuant to this authority. Such report shall include a summary of the information required in the preceding ordering paragraph, in addition to a break-even analysis showing that the retiring of any long-term debt prior to maturity was cost beneficial, and a comparison of the interest rate on the debt issued to AWCC against the interest rate available to the company from non-affiliated sources.

(4) Approval of this application shall have no implications for ratemaking purposes.

(5) This matter shall be continued, subject to the continued review, audit, and appropriate directive of the Commission.

³ *Application of Virginia-American Water Company and American Water Capital Corp., To continue participation in a financial services agreement with an affiliate*, Case No. PUE-2011-00118, Doc. Con. Cen. No. 120110213, Order Granting Authority (Dec. 21, 2011). Applicant's existing affiliate agreement with AWCC is set to expire December 31, 2010.

**CASE NO. PUE-2012-00033
JUNE 15, 2012**

JOINT APPLICATION OF
KENTUCKY UTILITIES COMPANY d/b/a OLD DOMINION POWER COMPANY,
LOUISVILLE GAS AND ELECTRIC COMPANY,
and
LG&E AND KU SERVICES COMPANY

For authority to engage in affiliate transactions under Chapter 4 of Title 56 of the Code of Virginia

ORDER GRANTING AUTHORITY

On March 21, 2012, Kentucky Utilities Company d/b/a Old Dominion Power Company ("KU/ODP"), Louisville Gas and Electric Company ("LG&E"), and LG&E and KU Services Company ("LK Services") (collectively, the "Applicants") filed a Joint Application with the State Corporation Commission ("Commission"), pursuant to Chapter 4 of Title 56 of the Code of Virginia ("Code"),¹ requesting authority to engage in affiliate transactions and to amend their currently effective Amended and Restated Utility Services Agreement dated December 9, 2011 (the "Prior Agreement"),² to provide for the transfer of interests in real estate between KU/ODP and LG&E (as amended, the "Amended Agreement").

¹ Va. Code § 56-76 *et seq.*

² The Prior Agreement was approved by the Commission, along with certain other affiliate services agreements, in Case No. PUE-2011-00095. *See Joint Application of Kentucky Utilities Company d/b/a Old Dominion Power Company, Louisville Gas and Electric Company, LG&E and KU Services Company, LG&E and KU Energy LLC, LG&E and KU Capital LLC, PPL Corporation, PPL Electric Utilities Corporation, and PPL Services Corporation, For authority to engage in affiliate transactions and to enter into Utility Services Agreements, pursuant to Chapter 4 of Title 56 of the Code of Virginia, § 56-76 et seq.*, Case No. PUE-2011-00095, 2011 S.C.C. Ann. Rept. 534, Order Granting Authority (Nov. 14, 2011) ("2011 Order").

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Applicants represent that, since their merger in 1998, KU/ODP and LG&E have jointly operated their respective electric systems on an increasingly integrated basis to achieve economies of scale and scope,³ including the joint economic dispatch of their units.⁴ In addition, KU/ODP and LG&E have engaged in integrated system planning and have jointly constructed or acquired, owned, and operated several generating units.⁵

Because of their integrated system planning, from time to time and in the normal course of business, KU/ODP and LG&E encounter situations where one company owns real property that the other should also own for the operation of their joint public utility business. Therefore, the Applicants are requesting authority to include additional provisions in the Amended Agreement that will allow for the transfer of interests in real estate between KU/ODP and LG&E in such situations and in the ordinary course of business, for the joint construction, ownership, operation, and maintenance of their generation facilities and their respective distribution and transmission systems. Pursuant to the terms of the Amended Agreement, such transfers of real estate will be priced at cost. According to the Applicants, the real estate interests will be held by KU/ODP and LG&E as tenants in common, with the expectation that the transfers will be permanent.

The Applicants state that the proposed transfers of real estate will be included in the rate base of the utility receiving the real estate. However, the Applicants represent that the effect of including this real estate in the rate base will be *de minimis* because all real estate will be priced at the cost incurred when the land was originally purchased, not at an appreciated value, and the Applicants do not expect the cumulative amount of such transfers over time to be significant.

KU/ODP contemplates that any real estate it conveys to LG&E will be located in Kentucky. KU/ODP will continue to hold and own its Virginia real estate in its name, while LG&E does not own any real estate in Virginia. The Applicants state that KU/ODP will be charged only the Virginia jurisdictional allocation of the original cost of any real estate in Kentucky transferred from LG&E to KU/ODP. Cost will be determined using the price originally paid for the real estate by the utility owning the property, and the utility receiving the property will then be charged according to the percentage ownership it will hold in the real estate.

With the exception of the additional provisions discussed herein, the terms and conditions of the Amended Agreement are substantively identical to those existing in the Prior Agreement approved by the Commission in Case No. PUE-2011-00095.⁶ The Amended Agreement provides that KU/ODP, LG&E, or LK Services may terminate the agreement by providing sixty (60) days written notice to the remaining parties. The Amended Agreement contains a five (5)-year period of authorization, to become effective upon the date of approval by the Commission, and does not provide for renewability.

The Applicants represent that the Amended Agreement is in the public interest because the affiliate transactions provided for in the agreement facilitate the continued joint construction, ownership, acquisition and operation of generation assets and other utility operations that allow for the efficient and economical performance of KU/ODP's and LG&E's generation fleet.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the above-described affiliate transactions and the Amended Agreement are in the public interest and should, therefore, be approved subject to the requirements recommended in the Commission Staff's Action Brief filed contemporaneously with this Order and noted below.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to § 56-77 of the Code, the Applicants are hereby granted authority to engage in affiliate transactions and to enter into the Amended Agreement, subject to the requirements set forth herein.

(2) The authority granted herein for the Amended Agreement shall be for a set period of five (5) years from the date of this Order Granting Authority. Should the Applicants wish to continue operating under the Amended Agreement after the five (5)-year period of authorization, subsequent Commission approval shall be required.

(3) Separate Commission approval shall be required for any changes in the terms and conditions of the Amended Agreement, including changes in allocation methodologies, service category descriptions, and successors and assigns.

³ The merger of KU/ODP and LG&E was approved by the Commission in Case No. PUA-1997-00041. *See Petition of Kentucky Utilities Company, d/b/a Old Dominion Power Company, KU Energy Corporation, and LG&E Energy Corp., For approval of the acquisition of control of Kentucky Utilities Company by LG&E Energy Corp.*, Case No. PUA-1997-00041, 1998 S.C.C. Ann. Rept. 162, Consent Order (Jan. 20, 1998). The Applicants state that the Petition in that case explained the proposed integrated planning and operation of the electric system. *See id.*, Petition at ¶¶ 21-23 (filed July 25, 1997). The Kentucky Public Service Commission ("KPSC") also approved the merger stating that "integrated system planning may be the single most important benefit of the merger." *See In the Matter of: Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for Approval of Merger*, Case No. 97-300, Order (KPSC Sept. 12, 1997).

⁴ The joint planning, operation, and dispatch of the Applicants' generating units is memorialized in a Power Supply System Agreement that was executed during the merger proceedings in 1997. *See Louisville Gas and Electric Company, LG&E Energy Marketing Inc., and Kentucky Utilities Company*, Docket No. ER98-111-000, 82 FERC ¶ 61,308, Order Approving Merger, Accepting Proposed Agreements for Filing, Accepting and Suspending Open Access Transmission Tariff, and Establishing Hearing Procedures (FERC Mar. 27, 1998).

⁵ The jointly owned generating units are Brown Generating Station Units 5-7, Paddy's Run Generating Station Unit 13, and Trimble County Generating Station Units 2 and 5-10. *See* Joint Application at n.5. *See also Commonwealth of Virginia, ex rel., State Corporation Commission, In re: Kentucky Utilities Company d/b/a Old Dominion Power Company's Integrated Resource Plan filing pursuant to Va. Code § 56-597 et seq.*, Case No. PUE-2011-00097, Doc. Con. Cen. No. 110840164, Integrated Resource Plan at 8-18 (filed Aug. 31, 2011). The Applicants represent that the Commission previously approved the cost-sharing arrangement, including the transfer of interests in real estate, associated with Trimble County Generating Station Unit 2 in Case No. PUE-2005-00074. *See Application of Kentucky Utilities Corporation d/b/a Old Dominion Power Company, For authority to engage in an affiliate transaction under Chapter 4 of Title 56 of the Code of Virginia*, Case No. PUE-2005-00074, 2005 S.C.C. Ann. Rept. 465, Order Granting Authority (Dec. 12, 2005).

⁶ *See* 2011 Order, *supra* n. 2.

(4) The authority granted herein shall have no ratemaking implications. Specifically, it will not guarantee the recovery of any costs directly or indirectly related to the Amended Agreement.

(5) The authority granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code hereafter.

(6) The Commission reserves the right to examine the books and records of any affiliate in connection with the authority granted herein, whether or not such affiliate is regulated by this Commission.

(7) KU/ODP shall file with the Commission a signed and executed copy of the Amended Agreement approved herein within thirty (30) days of the date of this Order Granting Authority.

(8) All transactions under the Amended Agreement shall be included in KU/ODP's Annual Report of Affiliate Transactions ("ARAT") submitted to the Commission's Director of Utility Accounting and Finance ("UAF Director") on or before May 1 of each year, which deadline may be extended administratively by the Commission's UAF Director. In addition to the information currently provided in the ARAT, all transactions under the Amended Agreement shall be reported in the ARAT as ordered in Case No. PUE-2010-00141.⁷

(9) If annual informational and/or general rate case filings are not based on a calendar year, then KU/ODP shall include the affiliate information contained in the ARAT in such filings.

(10) The authority granted herein shall supplement the authority granted in Case No. PUE-2011-00095. All other requirements related to the Prior Agreement set forth in the Commission's 2011 Order in Case No. PUE-2011-00095 shall apply to the authority granted herein for the Amended Agreement.

(11) There appearing nothing further to be done in this matter, it is hereby dismissed.

⁷ Joint Application of Kentucky Utilities Company d/b/a Old Dominion Power Company, Louisville Gas and Electric Company, and LG&E and KU Services Company, For authority to engage in affiliate transactions and to enter into an Amended and Restated Utility Service Agreement pursuant to Chapter 4 of Title 56 of the Code of Virginia, § 56-76 et seq., Case No. PUE-2010-00141, 2011 S.C.C. Ann. Rept. 400, 403, Order Granting Authority (May 11, 2011).

**CASE NO. PUE-2012-00034
JULY 13, 2012**

PETITION OF
BOXWOOD GREEN HOME OWNERS ASSOCIATION, INC.,
and
WESTERN VIRGINIA WATER AUTHORITY

For approval of a transfer of utility assets

ORDER GRANTING APPROVAL

On March 22, 2012, Boxwood Green Home Owners Association, Inc. ("Boxwood"), and the Western Virginia Water Authority ("Authority") (together, the "Petitioners") filed a petition with the State Corporation Commission ("Commission") for approval of the transfer of utility assets from Boxwood to the Authority pursuant to Chapter 5 of Title 56 of the Code of Virginia ("Code").

Boxwood is a Virginia corporation and the owner of the real estate, easements, and equipment that supplies water to the owners of homes and lots in the Boxwood Green Subdivision located on Smith Mountain Lake in Franklin County, Virginia. The Boxwood water system serves eighty (80) active customers and seven (7) availability customers.

The Authority was formed by the Council of the City of Roanoke and the Board of Supervisors for the County of Roanoke on July 1, 2004, pursuant to the Virginia Water and Waste Authorities Act, Chapter 51 of Title 15.2 of the Code, as a regional water authority to establish and operate water and sewer disposal systems and related facilities to serve citizens in and around Roanoke, Virginia. On November 5, 2009, Franklin County became a member of the Authority, and the Authority's area of service was expanded to include Franklin County, Virginia.

The Petitioners have entered into a Water System Purchase Agreement whereby Boxwood agrees to sell, and the Authority agrees to purchase, all of the assets presently used in the operation of the Boxwood Green Subdivision water system. After the proposed transfer, the Authority will provide water service to the Boxwood Green Subdivision customers. The Petitioners have agreed upon a purchase price of \$100,000 through arm's length bargaining.

The assets involved in the proposed transfer include the well lots, water line and access easements, all water lines, laterals, valves, fittings, connections, storage facilities, sources of water supply, pumps, manholes, and any and all other equipment and related appurtenances now installed or hereinafter installed in the streets and public utility or water line easement areas in the Boxwood Green Subdivision. Also included are all inventory and water treatment chemicals and all items of tangible personal property currently being used for the treatment of water.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the proposed transfer will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates and, therefore, should be approved. The proposed transfer will benefit Boxwood by allowing it to dispose of the water system to a capable operator while exiting the water business. The Authority will benefit by acquiring a water system in its service territory. Finally, the customers of the Boxwood water system will benefit from the professional full-time staff operating the water system, which should result in higher service quality.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to §§ 56-89 and 56-90 of the Code, the Petitioners are hereby granted approval of the transfer of assets to Western Virginia Water Authority, as described herein.
- (2) Within ninety (90) days after the consummation of the transfer to the Authority, the Petitioners shall file a report with the Commission to include the date of the transfer to the Authority and the actual transfer price.
- (3) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2012-00035
AUGUST 10, 2012**

APPLICATION OF
FRONTIER NATURAL GAS VIRGINIA, LLC

For Certificate of Public Convenience and Necessity Pursuant to Virginia Code § 56-365.3

DISMISSAL ORDER

On March 28, 2012, Frontier Natural Gas Virginia, LLC ("Frontier Virginia" or "Company"), filed an application ("Application") with the State Corporation Commission ("Commission") requesting approval of a certificate of public convenience and necessity ("CPCN") pursuant to § 56-265.3 of the Code of Virginia ("Code"). In its Application, Frontier Virginia requested a CPCN to provide natural gas distribution service in the currently uncertificated portions of Carroll County and Grayson County, Virginia (the "Counties").¹

On April 26, 2012, the Commission issued an Order for Notice and Comment ("April 26 Order") which, among other things, docketed the case; allowed interested persons to submit comments, file a notice of participation, and request a hearing; provided an opportunity for the Company to respond to any written comments and requests for hearing; required the Company to respond to all interrogatories, requests for production of documents, and other data requests; required publication of notice of the Company's Application; required the Staff of the Commission to file a report of their findings and recommendations; and appointed a Hearing Examiner to rule on any discovery matters that might arise in this proceeding.

On June 4, 2012, Carroll County, Virginia, filed a notice of participation in the proceeding and requested an evidentiary hearing.

On June 6, 2012, Grayson County, Virginia, filed a notice of participation in the proceeding and requested an evidentiary hearing.

On June 12, 2012, the City of Galax, Virginia, filed a notice of participation in the proceeding and requested an evidentiary hearing.

On July 12, 2012, the Commission issued an Order Scheduling Hearing that, among other things, vacated the procedural schedule set forth in the April 26 Order; appointed a Hearing Examiner to conduct all further proceedings in this matter on behalf of the Commission and to file a final report; scheduled a public hearing associated with the Application; and established a procedural schedule for the filing of testimony, exhibits, and comments in this matter.²

On July 30, 2012, Frontier Virginia filed a Motion to Withdraw Application ("Motion") requesting leave to withdraw its Application. The Company represented that it had decided to withdraw its Application due to the opposition of the Counties and the City of Galax (the "Localities").³ Frontier Virginia also indicated that the Localities did not object to its withdrawal of the Application.⁴

On August 1, 2012, the Hearing Examiner issued his Report recommending that the Commission enter an order granting the Motion and dismissing the Application.

NOW THE COMMISSION, having considered the matter, is of the opinion and finds that the Hearing Examiner's recommendations should be adopted and that this case should be dismissed.

¹ Frontier Virginia was not seeking a CPCN for those portions of the Counties certificated to Atmos Energy Corporation pursuant to Commission CPCN No. G-73b issued October 21, 1997.

² On July 19, 2012, Frontier Virginia filed a Motion to Alter the Procedural Schedule due to an unavoidable conflict with the September 13, 2012 hearing date. On July 23, 2012, the Hearing Examiner granted Frontier Virginia's Motion to Alter the Procedural Schedule which, among other things, rescheduled the hearing date to September 20, 2012.

³ Motion at 2.

⁴ *Id.*

Accordingly, IT IS ORDERED THAT:

(1) The Hearing Examiner's recommendations are hereby adopted.

(2) This case is dismissed without prejudice from the Commission's docket, and the record developed herein shall be placed in the file for ended causes.

**CASE NO. PUE-2012-00036
DECEMBER 20, 2012**

APPLICATION OF
APPALACHIAN POWER COMPANY

For approval of a rate adjustment clause: Rider G, Dresden Generating Plant

FINAL ORDER

Before the State Corporation Commission ("Commission") is the application ("Application") of Appalachian Power Company ("APCo" or "Company") for approval to continue a rate adjustment clause ("RAC") pursuant to § 56-585.1 A 6 and related provisions of the Code of Virginia ("Code"). The Company proposes to keep in effect a RAC, designated the G-RAC, which is designed to recover the costs of its Dresden Generating Plant ("Dresden") in Dresden, Ohio. Dresden is a 580 megawatt natural gas-fired combined cycle generating plant which went into service on January 31, 2012. The G-RAC became effective March 1, 2012, pursuant to the Commission's decision in Case No. PUE-2011-00036.¹

The Commission's G-RAC Order also required APCo to file a petition for a revised G-RAC on or before March 31, 2012.² On March 30, 2012, APCo filed the instant Application to keep in effect the G-RAC, which took effect on March 1, 2012, without modification. As of the time of filing the Application, the Company forecast a modest increase in the Dresden annual revenue requirement that would be substantially recovered by the current G-RAC.³ APCo proposed that the current G-RAC rates remain in effect and that any over- or under-recovery be considered in the future.⁴

By Order for Notice and Hearing of May 1, 2012, the Commission docketed the Application and established procedures for a hearing on August 28, 2012. The Commission also assigned the case to a Hearing Examiner who was directed to conduct the hearing and to file with the Commission a report with findings and recommendations. In addition to the Commission Staff ("Staff") and the Company, the Attorney General's Division of Consumer Counsel ("Consumer Counsel") participated in the proceeding and appeared at the hearing.

On November 30, 2012, the Report of Howard P. Anderson, Jr., Hearing Examiner ("Report") was filed with the Commission. After reviewing the record, the Hearing Examiner recommended that the Application be granted as filed by APCo. With regard to return on common equity ("ROE"), the Hearing Examiner noted that the Staff recommended use of the current ROE as a placeholder pending the Commission's consideration of ROE in the forthcoming 2013 biennial review proceeding. The Hearing Examiner further noted that the Company did not oppose this recommendation.

APCo filed a response in support of the Hearing Examiner's recommendations on December 10, 2012. In its comments, the Company clarified that its position is based on the application of any new ROE to the G-RAC prospectively from the date of the Final Order in the 2013 biennial review proceeding. On December 14, 2012, Consumer Counsel filed a response in support of the Report's recommendations. With regard to ROE, Consumer Counsel noted that the Commission has discretion to set the effective date for any change in the ROE applicable to the G-RAC.

NOW THE COMMISSION, having considered the record, the Report, and the responses to the Report, is of the opinion and finds that the Application should be granted.

Section 56-585.1 A 6 of the Code includes the following:

To ensure a reliable and adequate supply of electricity, to meet the utility's projected native load obligations and to promote economic development, a utility may at any time, after the expiration or termination of capped rates, petition the Commission for approval of a rate adjustment clause for recovery on a timely and current basis from customers of the costs of . . . one or more other generation facilities A utility that constructs any such facility shall have the right to recover the costs of the facility, as accrued against income, through its rates, including projected construction work in progress, and any associated allowance for funds used during construction, planning, development and construction costs, life-cycle costs, and costs of infrastructure associated therewith, plus, as an incentive to undertake such projects, an enhanced rate of return on common equity calculated as specified below.

¹ *Petition of Appalachian Power Company, For approval of a rate adjustment clause pursuant to § 56-585.1 A 6 of the Code of Virginia to recover the costs of the Dresden Generating Plant*, Case No. PUE-2011-00036, Doc. Con. Cen. No. 120110002, Final Order (Jan. 3, 2012) ("G-RAC Order").

² G-RAC Order at 10.

³ Application at 3-4.

⁴ *Id.* at 3-4.

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As noted above, the Commission has approved a rate adjustment clause, the G-RAC, for Dresden.⁵ In the Application now before us, the Company proposes to keep in effect the current G-RAC rates implemented on March 1, 2012.

The Company forecast an annual revenue requirement of approximately \$28 million for the 2013 rate year in its Application filed March 30, 2012.⁶ The Staff calculated a nearly identical going-forward revenue requirement for the rate year beginning March 1, 2013.⁷ The Company also projected in its Application that the G-RAC rates in effect since March 1, 2012, would substantially recover the projected revenue requirement.⁸

Based on information provided by the Company, the Staff determined that there was an under-recovery of Dresden costs and that the revenue requirement for the rate year beginning March 1, 2013, should total approximately \$31.2 million to cover the going-forward costs of Dresden.⁹ This amount also would reduce the projected under-recovery balance expected to be accumulated in the March 1, 2012 to February 28, 2013 rate year.¹⁰

APCo maintained that commercial operation of Dresden in advance of the effective date of the G-RAC caused most of the under-recovery. Mild weather and outages caused by severe storms also contributed to the under-recovery, and it was uncertain whether there would be continued under-recovery.¹¹ The Hearing Examiner agreed with the Company and recommended that the current G-RAC rates remain unchanged as requested by the Company.¹²

Hearing Examiner Anderson also found that APCo's ROE prescribed in the most recent biennial review, and enhanced for generation projects as provided by § 56-585.1 A 6 of the Code, should be approved for the purpose of this proceeding.¹³

The Commission finds that the rates should remain unchanged.¹⁴ The Commission further finds that the current ROE should be used as a placeholder pending our determination of an appropriate ROE in the Company's 2013 biennial review proceeding.¹⁵

So that rates remain aligned with Dresden costs and provide for the timely and current recovery pursuant to § 56-585.1 A 6 of the Code, the Commission directs the Company, on or before March 29, 2013, to petition the Commission to revise the G-RAC or to maintain the existing rates for a rate year commencing March 1, 2014. Any issues concerning over- or under-recovery of the costs of Dresden, including any carrying charges, can be addressed in subsequent G-RAC proceedings.

Accordingly, IT IS ORDERED THAT:

- (1) The Company's Application is granted.
- (2) On or before March 29, 2013, the Company shall petition the Commission to either revise the G-RAC or maintain the existing G-RAC for a rate year commencing March 1, 2014.
- (3) This case is dismissed from the Commission's docket and is placed in closed status in the records maintained by the Clerk of Commission.

⁵ G-RAC Order at 9-10.

⁶ Report at 3.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* at 3-4.

¹⁰ *Id.*

¹¹ *Id.* at 4.

¹² *Id.* at 4, 6.

¹³ *Id.* at 7.

¹⁴ Given the Commission's disposition on the Application, the Commission does not reach any issues concerning notice to the public.

¹⁵ The Commission need not reach in this case the issue of when an ROE prescribed in APCo's biennial review, to be commenced on or before January 31, 2013, shall apply to the G-RAC. The appropriate ROE for the G-RAC will be addressed in future proceedings.

**CASE NO. PUE-2012-00038
JUNE 27, 2012**

APPLICATION OF
AQUA VIRGINIA, INC.,
RESTON/LAKE ANNE AIR CONDITIONING CORPORATION,
AQUA VIRGINIA WATER UTILITIES, INC.,
AQUA VIRGINIA UTILITIES, INC.,
and
AQUA SERVICES, INC.

For approval of amended services agreement

ORDER

On March 20, 2012, Aqua Virginia, Inc. ("Aqua Virginia"), Reston/Lake Anne Air Conditioning Corporation ("RELAC"), Aqua Virginia Water Utilities, Inc. ("AVWU"), Aqua Virginia Utilities, Inc. ("AVU") (collectively, the "Virginia Water Companies"), and Aqua Services, Inc. ("Aqua Services") (together with the Virginia Water Companies, "Applicants"), filed a joint application ("Application") with the State Corporation Commission ("Commission") for approval of an amended service company agreement ("Proposed Agreement") between the Virginia Water Companies and Aqua Services pursuant to Chapter 4 of Title 56 ("Affiliates Act") of the Code of Virginia ("Code").

Aqua Virginia is a Virginia public service company that owns and operates water and wastewater systems in Virginia. RELAC is a certificated chilled water company. AVWU is a certificated company that provides water service in Virginia. AVU is a certificated company that provides wastewater service in Virginia. AVWU, AVU, and RELAC are all subsidiaries of Aqua Virginia. Aqua Virginia is a subsidiary of Aqua America, Inc. ("Aqua America"). Aqua America is a Pennsylvania corporation and, through subsidiaries like Aqua Virginia, serves approximately three million customers in ten states.

Aqua Services is a Pennsylvania corporation and is a wholly owned subsidiary of Aqua America. Aqua Services provides water and wastewater related products and services to the operating companies in order to help each company reduce costs or achieve efficiencies.

Aqua Services currently provides support services to the Virginia Water Companies through a Service Company Agreement ("Current Agreement") approved in Case No. PUE-2005-00060.¹ An amendment to the Current Agreement was approved by the Commission in Case No. PUE-2008-00071² to add a participant.

The Proposed Agreement permits Aqua Services to provide similar support services to the Virginia Water Companies to aid in the operation of their systems. These services are discussed in detail in Exhibit A of the Proposed Agreement and include: accounting and financial services, administration, communications, corporate secretarial, customer service and billing, engineering, financial, fleet services, human resources, information systems, operations, rates and regulatory compliance, risk management, water quality, purchasing, and legal services.

Except for language concerning technology-related administrative assets ("TRA Assets"), which is discussed below, the Proposed Agreement is similar to the Current Agreement. The services provided by Aqua Services to the Virginia Water Companies will continue to be rendered at cost. Costs will be directly charged to each of the Virginia Water Companies when such costs can be determined. Where the cost of services are rendered in common with similar services to another Virginia Water Company, such services will continue to be allocated using the same methodology that is currently used.

TRA Assets are information technology assets that are commonly owned and used by affiliated companies across the Aqua America system. The TRA Assets are purchased by Aqua Services and allocated to the Aqua America companies across the Aqua America system, including the Virginia Water Companies. The Applicants include language in the Proposed Agreement that permits TRA Assets to be allocated to the Virginia Water Companies with a cost of debt and equity capital and the opportunity to earn a return.

On June 22, 2012, the Applicants submitted comments to the Staff's action brief ("June 22, 2012 Comments") in which they expressed disagreement with the Staff's position that the TRA Assets should not be allocated as set forth in the Proposed Agreement. In particular, the Applicants suggested, among other things, that "there are a number of inconsistencies in treatment, confiscatory issues and ratemaking implications"³ contained in the Staff's action brief. The Applicants further requested additional time to respond to the Staff's action brief.

¹ *Application of Alpha Water Corporation, Aqua Utility-Virginia, Inc., Land 'Or Utility Company, Inc., Caroline Utilities, Inc., Aqua/SL, Inc., Mayfore Water Company, Inc., Ellerson Wells, Inc., Blue Ridge Utility Company, Mountainview Water Company, Inc., James River Service Corporation, Earlysville Forest Water Company, Rainbow Forest Water Corporation, Powhatan Water Works, Inc., Heritage Homes of Virginia, Inc., Sydnor Hydrodynamics, Inc., Sydnor Water Corporation, Indian River Water Company, Water Distributors, Inc., Reston/Lake Anne Air Conditioning Corp, Aqua Virginia, Inc., and Aqua Services, Inc., For approval of Amended Services Agreement, Case No. PUE-2005-00060, 2005 S.C.C. Ann. Rept. 452, Order Granting Authority (Dec. 28, 2005).*

² *Application of Alpha Water Corporation, Aqua Utility-Virginia, Inc., Aqua Lake Holiday Company, Inc., Land 'Or Utility Company, Inc., Caroline Utilities, Inc., Aqua/SL, Inc., Mayfore Water Company, Inc., Ellerson Wells, Inc., Blue Ridge Utility Company, Mountainview Water Company, Inc., James River Service Corporation, Earlysville Forest Water Company, Rainbow Forest Water Corporation, Powhatan Water Works, Inc., Heritage Homes of Virginia, Inc., Sydnor Hydrodynamics, Inc., Sydnor Water Corporation, Indian River Water Company, Water Distributors, Inc., Reston/Lake Anne Air Conditioning Corp, Aqua Virginia, Inc., and Aqua Services, Inc., For approval of amended services agreement, Case No. PUE-2008-00071, Doc. Con. Cen. No. 404534, Order Granting Approval (Oct. 23, 2008).*

³ June 22, 2012 Comments at 1.

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NOW THE COMMISSION, upon consideration of the Application and the representations of the Applicants, including their June 22, 2012 Comments, the applicable statutes, and having been advised by its Staff, is of the opinion and finds that, subject to certain modifications and requirements described below, the Proposed Agreement is in the public interest and should be approved.

We are concerned that the Proposed Agreement allows TRA Assets to be recorded on the Virginia Water Companies' books and provides specific ratemaking treatment to be afforded these assets in rate proceedings before this Commission. We note that Aqua Services is not a public utility as defined by § 56-232 of the Code and that this Commission does not set rates for this service company or determine to whom its services may be provided. Rather, we are tasked by the Affiliates Act to determine whether the Proposed Agreement serves the public interest and whether Aqua Virginia, AVWU, AVU, and RELAC — the regulated public utilities subject thereto — receive such services at a reasonable cost.⁴ As Aqua Services is a service company not subject to our ratemaking authority, we disagree with the Applicants that our decision herein is unconstitutional or confiscatory or that it raises any ratemaking implications.

Further, the allocation methodology proposed for assigning the TRA Assets may result in cross-subsidization between regulated and non-regulated Aqua America subsidiaries as well as among regulated subsidiaries. We find this proposal is not in the public interest, and therefore adopt Staff's recommended modifications to the Proposed Agreement concerning the TRA Assets.

With regard to the TRA Assets currently recorded on the Virginia Water Companies' books, we find that the Virginia Water Companies should be required to return the existing TRA Assets to Aqua Services as well as associated rate base items, including accumulated depreciation and accumulated deferred income taxes. The cost of these TRA Assets, including depreciation, property taxes, and actual interest expense, can then be recovered through the monthly service company bill. Similarly, future TRA Assets should remain at Aqua Services and be billed for on a monthly basis as described above. As discussed above, the Proposed Agreement allows Aqua Services to bill the Virginia Water Companies for the TRA Asset related services they receive at the service company's cost of providing such services.

Having considered additional concerns discussed by the Staff regarding the TRA Assets and other issues in reaching our conclusion herein, we further adopt certain other recommendations proposed by Staff in its action brief as included below.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to § 56-77 of the Code, the Applicants are hereby granted approval to enter into the Proposed Agreement as described and modified herein.

(2) All language referring to TRA Assets shall be stricken from the Proposed Agreement. Specifically, Recital paragraph Nos. 8 and 9 on page 4, paragraph 2.2 under Article II on page 6, and Exhibit B to the Service Agreement shall be stricken from the agreement. Likewise, paragraphs 2.4 and 2.5 of Article II shall be modified in accordance with Staff's recommendations. Furthermore, the Virginia Water Companies shall return the allocated TRA Assets currently on its books, as well as associated rate base items, including accumulated depreciation and accumulated deferred income taxes, to Aqua Services within ninety (90) days of the date of the entry of this Order.

(3) The approval granted herein shall be limited to five (5) years from the date of the entry of this Order. Should the Virginia Water Companies wish to continue the Proposed Agreement after that date, further approval shall be required.

(4) The approval granted herein is limited to the services specifically identified in the Proposed Agreement. Should the Virginia Water Companies wish to obtain additional services from Aqua Services, subsequent Commission approval shall be required.

(5) Separate Affiliates Act approval shall be required for the Virginia Water Companies to receive services from Aqua Services through the engagement of affiliated third parties. For any existing arrangements where Aqua Services uses affiliated third party companies to provide services to the Virginia Water Companies, the Applicants and the affiliated third party companies shall file an application with the Commission requesting Affiliates Act approval for such transactions within ninety (90) days of the date of the entry of this Order.

(6) Commission approval shall be required for any changes in terms and conditions in the Proposed Agreement, including changes in allocation methodologies and successors and assigns.

(7) The approval granted herein shall have no ratemaking implications. Specifically, it shall not guarantee the recovery of any costs directly or indirectly related to the Proposed Agreement.

(8) The Applicants should continue to review indirect costs in terms of cost causation and evaluate different allocation factors. The Applicants also should continue to take steps to direct charge more costs from Aqua Services. The results of such reviews should be made available to Staff upon request.

(9) The Virginia Water Companies shall be required to maintain records demonstrating that the services obtained from Aqua Services are and continue to be cost beneficial to rate payers and, therefore, in the public interest. For services where a market now exists or hereafter develops, the Virginia Water Companies shall investigate alternative sources from which to purchase such services. If such an alternative exists, the Virginia Water Companies shall be required to compare the market price to Aqua Services' cost and pay the lower of cost or market. In any rate proceeding, each of the Virginia Water Companies must bear the burden of proving that it paid the lower of cost or market for all services received from Aqua Services.

(10) All transactions under the Proposed Agreement shall be included in Aqua Virginia's Annual Report of Affiliate Transactions ("ARAT") filed with the Commission's Director of the Division of Utility Accounting and Finance ("UAF Director") by no later than May 1 of each year, such date subject to administrative extension by the UAF Director.

⁴ Section 56-77 of the Code provides that we conduct our review under the Affiliates Act within, at most, ninety days from the filing of an application for approval of an affiliate agreement. Given our statutory obligation to make a timely determination on the Proposed Agreement, we decline the Applicants' request for additional time to submit more expansive comments.

(11) The Virginia Water Companies shall file an executed copy of the Proposed Agreement approved in this case, reflecting any modifications ordered, within thirty (30) days of the entry of the Order in this case.

(12) The authority granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code of Virginia hereafter.

(13) The Commission reserves the authority to examine the books and records of any affiliate in connection with the approval granted herein whether or not the Commission regulates such affiliate.

(14) If General Rate Case Filings or Annual Informational Filings are not based on a calendar year, then Aqua Virginia shall include the affiliate information contained in the ARAT in such filings.

(15) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2012-00038
JULY 16, 2012**

APPLICATION OF
AQUA VIRGINIA, INC.,
RESTON/LAKE ANNE AIR CONDITIONING CORPORATION,
AQUA VIRGINIA WATER UTILITIES, INC.,
AQUA VIRGINIA UTILITIES, INC.,
and
AQUA SERVICES, INC.

For approval of amended services agreement

ORDER NUNC PRO TUNC

On June 27, 2012, the State Corporation Commission ("Commission") entered an Order in this proceeding ("June 27, 2012 Order") approving in part the Application of Aqua Virginia, Inc., Reston/Lake Anne Air Conditioning Corporation, Aqua Virginia Water Utilities, Inc., Aqua Virginia Utilities, Inc., and Aqua Services, Inc., for approval of an amended service company agreement ("Application"). The June 27, 2012 Order stated inadvertently in the first paragraph that the Application was filed with the Commission on March 20, 2012. In fact, the Application was filed with the Commission on March 30, 2012.

NOW THE COMMISSION, having considered its June 27, 2012 Order, has determined that the first paragraph should be revised to state that the Application in this proceeding was filed with the Commission on March 30, 2012.

Accordingly, IT IS ORDERED THAT:

(1) The first paragraph of the June 27, 2012 Order is modified to read as follows:

On March 30, 2012, Aqua Virginia, Inc. ("Aqua Virginia"), Reston/Lake Anne Air Conditioning Corporation ("RELAC"), Aqua Virginia Water Utilities, Inc. ("AVWU"), Aqua Virginia Utilities, Inc. ("AVU") (collectively, the "Virginia Water Companies"), and Aqua Services, Inc. ("Aqua Services") (together with the Virginia Water Companies, "Applicants"), filed a joint application ("Application") with the State Corporation Commission ("Commission") for approval of an amended service company agreement ("Proposed Agreement") between the Virginia Water Companies and Aqua Services pursuant to Chapter 4 of Title 56 ("Affiliates Act") of the Code of Virginia ("Code").

(2) In all other respects, the June 27, 2012 Order remains unaltered.

**CASE NO. PUE-2012-00038
JULY 17, 2012**

APPLICATION OF
AQUA VIRGINIA, INC.,
RESTON/LAKE ANNE AIR CONDITIONING CORPORATION,
AQUA VIRGINIA WATER UTILITIES, INC.,
AQUA VIRGINIA UTILITIES, INC.,
and
AQUA SERVICES, INC.

For approval of amended services agreement

ORDER GRANTING RECONSIDERATION

On June 27, 2012, the State Corporation Commission ("Commission") issued its Order in this proceeding ("Order"). Nineteen days later, on July 16, 2012, Aqua Virginia, Inc., Reston Lake Anne Air Conditioning Corporation, Aqua Virginia Water Utilities, Inc., Aqua Virginia Utilities, Inc., and Aqua Services, Inc., filed a Petition for Reconsideration and Clarification ("Petition") for the purpose of clarifying the Order as to whether it "intends to prevent, at the outset in this case, billing by Aqua Services of any part of its 'actual interest costs'"¹ or whether it "intends to permit Aqua Services to bill its entire 'actual interest costs' subject to later examination of the amounts for rate recovery in rate cases for Aqua Virginia, Inc. and its regulated subsidiaries."²

NOW THE COMMISSION, upon consideration of these matters and for the purpose of continuing the Commission's jurisdiction over these matters, will grant reconsideration to consider the Petition and any other matters raised in timely filed petitions for reconsideration.

Accordingly, IT IS ORDERED THAT:

- (1) Reconsideration is granted for the purpose of continuing the Commission's jurisdiction over these matters to consider the Petition and any other matters raised in timely filed petitions for reconsideration.
- (2) This case is continued.

¹ Petition at 3.

² *Id.*

**CASE NO. PUE-2012-00038
AUGUST 21, 2012**

APPLICATION OF
AQUA VIRGINIA, INC.,
RESTON/LAKE ANNE AIR CONDITIONING CORPORATION,
AQUA VIRGINIA WATER UTILITIES, INC.,
AQUA VIRGINIA UTILITIES, INC.,
and
AQUA SERVICES, INC.

For approval of amended services agreement

ORDER ON RECONSIDERATION

On March 30, 2012, Aqua Virginia, Inc., Reston/Lake Anne Air Conditioning Corporation, Aqua Virginia Water Utilities, Inc., Aqua Virginia Utilities, Inc. (collectively, the "Virginia Water Companies"), and Aqua Services, Inc. ("Aqua Services") (together with the Virginia Water Companies, "Applicants"), filed a joint application ("Application") with the State Corporation Commission ("Commission") for approval of an amended service company agreement ("Proposed Agreement") between the Virginia Water Companies and Aqua Services pursuant to Chapter 4 of Title 56 ("Affiliates Act") of the Code of Virginia ("Code"). On June 27, 2012, the Commission issued an Order approving the Proposed Agreement subject to certain modifications and requirements ("June 27, 2012 Order").

On July 16, 2012, the Applicants filed a Petition for Reconsideration and Clarification of the June 27, 2012 Order ("Petition"). On July 17, 2012, the Commission issued an Order Granting Reconsideration for the purpose of retaining its jurisdiction over the matter and to consider the Applicants' Petition.

In the Petition, the Applicants request that the Commission clarify the June 27, 2012 Order's findings, which provide in part that:

With regard to the TRA Assets^[1] currently recorded on the Virginia Water Companies' books, we find that the Virginia Water Companies should be required to return the existing TRA Assets to Aqua Services as well as associated rate base items, including accumulated depreciation and accumulated deferred income taxes. The cost of these TRA Assets, including depreciation, property taxes, and actual interest expense, can then be recovered through the monthly service company bill.

The Applicants specifically request that the Commission clarify whether the June 27, 2012 Order prevents Aqua Services from billing its "actual interest costs," or whether Aqua Services can bill its entire "actual interest costs" subject to later examination of the amounts for rate recovery in rate cases for the Virginia Water Companies.

NOW THE COMMISSION, upon consideration of the Petition, provides the following clarification. The Commission's review in this case is limited to whether the modified Proposed Agreement, which defines the services provided by Aqua Services and how the associated costs are billed and allocated to the Virginia Water Companies, is in the public interest. In the June 27, 2012 Order, we state that once the TRA Assets transfer is complete, Aqua Services can then charge the Virginia Water Companies through the monthly service company bill for their allocable portion of the TRA Assets-related costs, including depreciation, property tax, and actual interest expense.

We clarify, as requested by the Applicants, that the June 27, 2012 Order does not identify – at this time – the specific "actual interest expense" that may be approved for rate recovery in the future. The Applicants state that it is "the Commission's long-standing practice to avoid any approval in an affiliates case regarding cost amounts for rate recovery."² Indeed, the June 27, 2012 Order, at Ordering Paragraph (7), states that the "approval granted herein shall have no ratemaking implications." Thus ratemaking issues pertaining to costs billed pursuant to the modified Proposed Agreement may be addressed in rate proceedings and/or annual informational filings of the Virginia Water Companies.

Finally, we reiterate our statement in the June 27, 2012 Order that Aqua Services is not a public utility as defined by § 56-232 of the Code and, therefore, we do not set rates for it or determine to whom its services may be provided. Rather, our responsibility under the Affiliates Act is to determine whether the modified Proposed Agreement serves the public interest and to ensure that the Virginia Water Companies will receive the services provided under the modified Proposed Agreement at a reasonable cost.

Accordingly, IT IS ORDERED THAT:

(1) The June 27, 2012 Order is hereby clarified as described herein. All of the ordering paragraphs in the June 27, 2012 Order are affirmed and shall remain in force for the duration of our approval.

(2) There appearing nothing further to be done in this matter, it hereby is dismissed.

¹ The TRA Assets are technology-related administrative assets that are commonly owned and used by affiliated companies across the Aqua America system. The TRA Assets are initially purchased by Aqua Services and then allocated to the Aqua America companies across the Aqua America system, including the Virginia Water Companies.

² Petition at 3 n.2.

**CASE NO. PUE-2012-00041
JULY 18, 2012**

APPLICATION OF
COMMUNITY ELECTRIC COOPERATIVE

For a general increase in electric rates

ORDER FOR NOTICE AND HEARING

On June 19, 2012, Community Electric Cooperative ("CEC" or "Cooperative") filed an application and supporting documents ("Application") with the State Corporation Commission ("Commission") for a general increase in its electric rates.¹ CEC filed this Application pursuant to §§ 56-231.33, 56-231.34, 56-236, and 56-585.3 of the Code of Virginia ("Code").

In its Application, CEC seeks approval to increase test year jurisdictional sales revenues by \$1,184,450.² According to the Application, the Cooperative seeks this increase to pay expenses, service debt, fund capital additions, retire patronage, and maintain equity as a percent of assets for the near

¹ On June 20, 2012, the Cooperative filed revised copies of its Application to correct the incorrect cover pages that were included in the original submittal.

² Application at 5, 6-7. CEC's test year is the twelve months ending December 31, 2011. *Id.* at 3.

term at a level near 50%.³ The proposed increase produces total rate year jurisdictional margins of \$962,020; a 2.50x jurisdictional Times Interest Earned Ratio ("TIER"); a Debt Service Coverage Ratio ("DSC") of 2.04x; and a rate of return on rate base of 5.00%.⁴

CEC states that its test year results, while strong, are somewhat misleading.⁵ CEC represents that as of April 30, 2012, the Cooperative's financials indicate a deficit net operating margin of \$170,000 year-to-date, which could put the Cooperative at risk of not meeting its financial obligations as contained in its Rural Utility Services ("RUS") mortgage.⁶

The Cooperative requests that the proposed rates and charges be permitted to take effect, on an interim basis and subject to refund, for bills rendered on and after August 24, 2012.⁷

With respect to its rate schedules, the Cooperative proposes the following: (1) to roll-in Rider G-21 to base rates; (2) achieve revenue-neutral rebalancing between the supply and distribution components such that the electric supply service rates of each tariff fully recover the supply-related cost of service; and (3) to adjust distribution rates to produce the proposed revenue increase and address intra-class parity issues.⁸

The Cooperative also proposes to add one new tariff, Rider RE, which would offer residential customers electric service provided 100% from renewable energy. According to CEC, energy provided pursuant to this tariff would be comprised of a combination of undifferentiated electric energy and the retirement of renewable energy certificates.⁹ As proposed, Rider RE would be available on a voluntary basis as a "companion rate" to any residential customer who contracts with CEC for the purchase and retirement of renewable energy attributes for all of the customer's monthly consumption under an existing rate schedule.¹⁰ The Cooperative also requests to withdraw all of its Retail Access tariffs and instead include language in Schedules B, CH, IGS, and LP indicating that only the distribution portion of the tariff is applicable for customers not purchasing regulated supply service from CEC.¹¹ The Cooperative also proposes to eliminate Schedule AMR, under which no customers currently receive service.¹²

With respect to its Terms and Conditions, CEC seeks only to amend its list of available tariffs and revise the Primary Discount provision.¹³ According to CEC, no new fees or changes to existing fees are proposed for Schedule F-Fees.¹⁴

Pursuant to § 56-237.1 C of the Code, CEC requests that the Commission waive the notice requirements of § 56-237.1 A and B of the Code, as not necessary to provide adequate notice to all of the Cooperative's customers.¹⁵ In support of its request, CEC states that it provided notice of the rate filing by publication in the April 4, 2012 edition of the Smithfield Times, the Suffolk News Herald, and the Tidewater News.¹⁶ The Cooperative also intends to provide notice in an article appearing in the July edition of *Cooperative Living*.¹⁷ Additionally, CEC represents that it has communicated its intent to seek a rate adjustment: (1) through notice on the Cooperative's website; (2) on recent bills to the Cooperative's members; (3) through a press release for an article in local papers discussing the need for a rate adjustment; and (4) in postings at the Cooperative's offices. The Cooperative also states that it plans to have displays and discussion about the proposed rate increase at CEC's annual meeting on August 13, 2012.¹⁸

³ *Id.* at 5.

⁴ *Id.* at 5, 7. The rate year is defined by CEC as August 2012 through July 2013. *Id.* at 11. The proposed increase produces modified margins of \$748,205; a modified TIER of 2.17x; and a modified DSC of 1.89x. *Id.* at 5, 7.

⁵ *Id.* at 3. According to the Cooperative, test year margins were inflated by approximately \$412,000 of net 2010 unbilled sales revenue that CEC recorded in 2011, and an adjustment to CEC's SEPA rider calculations negatively impacted the Cooperative's revenues by nearly \$140,000. A large Margin Stabilization adjustment also reduced CEC's power cost and inflated net income in 2011. Moreover, the Cooperative represents that there has been a decline in the growth of new service connections and that its distribution expenses have increased in recent years. *Id.*

⁶ *Id.* According to CEC, RUS requires borrowers to have not less than a 1.25 TIER or a 1.1 Operating TIER for any two out of three consecutive years. CEC states that current projections indicate that the Cooperative will struggle to make its RUS required Operating TIER requirements even if proposed rates are approved and put in place as requested in the Application. *Id.*

⁷ *Id.* at 5, 17.

⁸ *Id.* at 7.

⁹ *Id.* at 10.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* at 11. Schedule AMR provides detailed load data to consumers or competitive service providers. Since competition for power supply service never developed, the service was never used. *Id.*

¹³ *Id.* at 12.

¹⁴ *Id.*

¹⁵ *Id.* at 14, 17.

¹⁶ *Id.* at 14-15.

¹⁷ *Id.* at 15.

¹⁸ *Id.*

Pursuant to Rule 20 VAC 5-200-21 B 7 of the Commission's *Rules governing streamlined rate proceedings and general rate proceedings for electric cooperatives subject to the State Corporation Commission's rate jurisdiction*, CEC requests a waiver of Rule 20 VAC 5-200-21 E, which requires any electric cooperative filing a rate application pursuant to § 56-582 of the Code to submit Schedules 15 through 19.¹⁹ In support of its request, the Cooperative refers to the 2004 amendments to the Virginia Electric Utility Regulation Act as significantly changing the dynamics that gave rise to these filing requirements.²⁰ CEC further states that given that it is now 2012, no purpose is served in projecting financial data and predicting rate adjustments on an annual basis through 2007, as called for in Schedules 15-19.²¹

NOW THE COMMISSION, upon consideration of the matter and the applicable statutes and rules, is of the opinion and finds that a public hearing should be convened to receive evidence on the Cooperative's Application. We also find that pursuant to 5 VAC 5-20-120 A, *Assignment*, of the Commission's Rules of Practice and Procedure, 5 VAC 5-20-10 *et seq.* ("Rules of Practice"), this matter should be assigned to a Hearing Examiner to conduct all further proceedings. We deny the Cooperative's request for waiver of § 56-237.1 C of the Code and direct it to give notice to the public of its Application. We find that interested persons should have an opportunity to comment on the Application or to participate as a respondent in this proceeding. The Staff of the Commission ("Staff") shall investigate the Application and present its findings in testimony. The Cooperative will be permitted to file testimony in rebuttal to the testimony filed by any respondents and the Staff.

We grant the Cooperative's request for waiver of Schedules 15 through 19 as required by Rule 20 VAC 5-200-21 E.²² We also will permit CEC's proposed rates to become effective for bills rendered on and after August 24, 2012, on an interim basis and subject to refund.

Accordingly, IT IS ORDERED THAT:

- (1) This case is docketed and assigned Case No. PUE-2012-00041.
- (2) Pursuant to 5 VAC 5-20-120 A of the Rules of Practice, a Hearing Examiner is appointed to conduct all further proceedings in this matter.
- (3) CEC's proposed rates and charges shall take effect for bills rendered on and after August 24, 2012, on an interim basis and subject to refund.
- (4) CEC's request for waiver of Rule 20 VAC 5-200-21 E with regard to the filing of Schedules 15 through 19 also is granted.
- (5) A public hearing shall be convened on January 8, 2013, at 10 a.m., in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, to receive evidence related to the establishment of rates in this proceeding. Any person desiring to offer testimony as a public witness at the hearing concerning the Application need only appear in the Commission's Courtroom at 9:45 a.m. on the day of the hearing and identify himself or herself to the Bailiff.
- (6) CEC shall forthwith make copies of its Application and this Order available for public inspection during regular business hours at CEC's business office at 52 West Windsor Boulevard, Windsor, Virginia 23487-0267. Copies also may be obtained by submitting a written request to counsel for CEC, John A. Pirko, Esquire, LeClair Ryan, 4201 Dominion Boulevard, Suite 200, Glen Allen, Virginia 23060. If acceptable to the requesting party, the Cooperative may provide the documents by electronic means. In addition, interested persons may review copies in the Commission's Document Control Center, located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5 p.m., Monday through Friday, excluding holidays, or download unofficial copies from the Commission's website: <http://www.scc.virginia.gov/case>.
- (7) On or before September 5, 2012, CEC shall cause a copy of the following notice to be published as display advertising (not classified) on one occasion in newspapers of general circulation in its service territory:

NOTICE TO THE PUBLIC OF AN APPLICATION BY
COMMUNITY ELECTRIC COOPERATIVE,
FOR A GENERAL INCREASE IN ELECTRIC RATES
CASE NO. PUE-2012-00041

On June 19, 2012, Community Electric Cooperative ("CEC" or "Cooperative") filed an application and supporting documents ("Application") with the State Corporation Commission ("Commission") for a general increase in its electric rates. CEC filed this Application pursuant to §§ 56-231.33, 56-231.34, 56-236, and 56-585.3 of the Code of Virginia.

In its Application, CEC seeks approval to increase test year jurisdictional sales revenues by \$1,184,450. According to the Application, the Cooperative seeks this increase to pay expenses, service debt, fund capital additions, retire patronage, and maintain equity as a percent of assets for the near term at a level near 50%. The proposed increase produces total rate year jurisdictional margins of \$962,020; a 2.50x

¹⁹ *Id.* at 15, 17.

²⁰ *Id.* at 16.

²¹ *Id.*

²² CEC's request for waiver of Schedules 15-19 is similar to requests for waivers granted previously by the Commission. *See, e.g., Application of Central Virginia Electric Cooperative, For a general increase in electric rates*, Case No. PUE-2010-00095, 2011 S.C.C. Ann. Rept. 354, Order for Notice and Hearing (Jan. 25, 2011); *Application of A&N Electric Cooperative, For a revenue-neutral adjustment of its electric rates and consolidation of tariffs*, Case No. PUE-2011-00096, Doc. Con. Cen. No. 120110096, Order for Notice and Hearing (Jan. 6, 2012).

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jurisdictional Times Interest Earned Ratio; a Debt Service Coverage Ratio of 2.04x; and a rate of return on rate base of 5.00%.

The Cooperative requests that the proposed rates and charges be permitted to take effect, on an interim basis and subject to refund, for bills rendered on and after August 24, 2012.

With respect to its rate schedules, the Cooperative proposes the following: (1) to roll-in Rider G-21 to base rates; (2) achieve revenue-neutral rebalancing between the supply and distribution components such that the electric supply service rates of each tariff fully recover the supply-related cost of service; and (3) to adjust distribution rates to produce the proposed revenue increase and address intra-class parity issues.

The Cooperative also proposes to add one new tariff, Rider RE, which would offer residential customers electric service provided 100% from renewable energy. According to CEC, energy provided pursuant to this tariff would be comprised of a combination of undifferentiated electric energy and the retirement of renewable energy certificates. As proposed, Rider RE would be available on a voluntary basis as a "companion rate" to any residential customer who contracts with CEC for the purchase and retirement of renewable energy attributes for all of the customer's monthly consumption under an existing rate schedule. The Cooperative also requests to withdraw all of its Retail Access tariffs and instead include language in Schedules B, CH, IGS, and LP indicating that only the distribution portion of the tariff is applicable for customers not purchasing regulated supply service from CEC. The Cooperative also proposes to eliminate Schedule AMR, under which no customers currently receive service.

With respect to its Terms and Conditions, CEC seeks only to amend its list of available tariffs and revise the Primary Discount provision. According to CEC, no new fees or changes to existing fees are proposed for Schedule F-Fees.

Interested persons should TAKE NOTICE that after considering all the evidence, the Commission may approve revenues and adopt rates, fees, charges, tariff revisions, and terms and conditions of service that differ from those appearing in the Cooperative's Application, or may apportion revenues among customer classes and/or design rates in a manner differing from that shown in the Cooperative's Application.

The Commission entered an Order for Notice and Hearing ("Order") in this proceeding that, among other things, scheduled a public hearing on January 8, 2013, at 10 a.m., in the Commission's second floor courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, to receive testimony from members of the public and evidence related to the Application from the Cooperative, any respondents, and the Commission's Staff. Any person desiring to testify as a public witness at this hearing should appear fifteen (15) minutes prior to the starting time of the hearing and contact the Commission's Bailiff. Individuals with disabilities who require an accommodation to participate in the hearing should contact the Commission at least seven (7) days before the scheduled hearing at 1-800-552-7945 (voice) or 1-804-371-9206 (TDD).

Copies of the Cooperative's Application and this Order are available for public inspection during regular business hours at CEC's business office at 52 West Windsor Boulevard, Windsor, Virginia 23487-0267. Copies also may be obtained by submitting a written request to counsel for CEC, John A. Pirko, Esquire, LeClair Ryan, 4201 Dominion Boulevard, Suite 200, Glen Allen, Virginia 23060. If acceptable to the requesting party, the Cooperative may provide the documents by electronic means. In addition, interested persons may review copies of all public documents filed in this proceeding in the Commission's Document Control Center, located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5 p.m., Monday through Friday, excluding holidays, or download unofficial copies from the Commission's website: <http://www.scc.virginia.gov/case>.

Any person or entity may participate as a respondent in this proceeding by filing, on or before October 10, 2012, a notice of participation. If not filed electronically, an original and fifteen (15) copies of the notice of participation shall be submitted to Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. A copy of the notice of participation as a respondent also must be sent simultaneously to counsel for CEC, John A. Pirko, Esquire, LeClair Ryan, 4201 Dominion Boulevard, Suite 200, Glen Allen, Virginia 23060. Pursuant to Rule 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice and Procedure, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. All filings shall refer to Case No. PUE-2012-00041. For additional information about participation as a respondent, any person or entity should obtain a copy of the Commission's Order.

On or before January 2, 2013, any interested person wishing to comment on the Cooperative's Application shall file with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, written comments on the Application. Any interested person desiring to file comments electronically may do so on or before January 2, 2013, by following the instructions on the Commission's website: <http://www.scc.virginia.gov/case>. Compact discs or any other form of electronic storage medium may not be filed with the comments. All such comments shall refer to Case No. PUE-2012-00041.

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The Commission's Rules of Practice and Procedure may be viewed at <http://www.scc.virginia.gov/case>. A printed copy of the Commission's Rules of Practice and Procedure and an official copy of the Commission's Order in this proceeding may be obtained from Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118.

COMMUNITY ELECTRIC COOPERATIVE

(8) On or before September 5, 2012, CEC shall serve a copy of this Order on the chairman of the board of supervisors and county attorney of each county and upon the mayor or manager of every city and town (or upon equivalent officials in counties, towns, and cities having alternate forms of government) in which the Cooperative provides service. Service shall be made by first class mail to the customary place of business or residence of the person served.

(9) On or before September 26, 2012, CEC shall provide proof of the notice and service required by Ordering Paragraphs (7) and (8) herein.

(10) On or before October 10, 2012, any person or entity may participate as a respondent in this proceeding by filing a notice of participation in accordance with 5 VAC 5-20-140, *Filing and service*, and 5 VAC 5-20-150, *Copies and format*, of the Rules of Practice. If not filed electronically, an original and fifteen (15) copies of the notice of participation shall be submitted to Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Any person or entity shall simultaneously serve a copy of the notice of participation upon counsel for CEC at the address set forth in Ordering Paragraph (6) above. Pursuant to 5 VAC 5-20-80 B, *Participation as a respondent*, of the Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Respondents shall refer in all filed papers to Case No. PUE-2012-00041.

(11) Within five (5) business days of receipt of a notice of participation as a respondent, CEC shall serve upon each respondent a copy of this Order, a copy of the Application, and all materials filed with the Commission, unless these materials have already been provided to the respondent.

(12) On or before October 31, 2012, each respondent may file with the Clerk of the Commission at the address set forth in Ordering Paragraph (10) above and serve on the Staff and all parties, in accordance with 5 VAC 5-20-140 and 5 VAC 5-20-150 of the Rules of Practice, any testimony and exhibits by which the respondent expects to establish its case. If not filed electronically, an original and fifteen (15) copies of such testimony shall be submitted to the Clerk of the Commission.

(13) The Staff shall investigate the reasonableness of CEC's Application. On or before November 30, 2012, the Staff shall file with the Clerk of the Commission and serve on the Cooperative and all parties in accordance with the Rules of Practice, its testimony and exhibits regarding its investigation of the Application. If not filed electronically, an original and fifteen (15) copies of such testimony and exhibits shall be submitted to the Clerk of the Commission.

(14) On or before December 14, 2012, CEC shall file with the Clerk of the Commission and serve on the Staff and all parties, in accordance with 5 VAC 5-20-140 and 5 VAC 5-20-150 of the Rules of Practice, any testimony and exhibits that it expects to offer in rebuttal to the testimony and exhibits of the respondents and the Staff. If not filed electronically, an original and fifteen (15) copies of such rebuttal testimony shall be submitted to the Clerk of the Commission.

(15) On or before January 2, 2013, any interested person may file an original and fifteen (15) copies of any written comments on the Application with the Clerk of the Commission at the address set forth in Ordering Paragraph (10) above. Diskettes, compact disks, or any other form of electronic storage medium may not be filed with written comments. Interested persons desiring to submit comments electronically may do so by following the instructions available at the Commission's website: <http://www.scc.virginia.gov/case>. All comments shall refer to Case No. PUE-2012-00041. Any person not participating as a respondent as provided for in Ordering Paragraph (10) above may make a statement as a public witness at the hearing on January 8, 2013.

(16) Responses and objections to written interrogatories and requests for production of documents shall be served within ten (10) calendar days after receipt of the same. In addition to the service requirements of 5 VAC 5-20-260, *Interrogatories or requests for production of documents and things*, of the Rules of Practice, on the day that copies are filed with the Clerk of the Commission, a copy of the interrogatory or request for production shall be served electronically, or by facsimile, on the party to whom the interrogatory or request for production is directed or the assigned Staff attorney²³ if the interrogatory or request for production is directed to the Staff. Except as modified herein, discovery shall be in accordance with Part IV of the Rules of Practice, 5 VAC 5-20-240 *et seq.*

(17) This matter is continued generally.

²³ The assigned Staff attorney is identified on the Commission's website <http://scc.virginia.gov/case> by clicking "Case Search" and entering the case number, PUE-2012-00041, in the appropriate box.

**CASE NO. PUE-2012-00045
AUGUST 6, 2012**

APPLICATION OF
CENTRAL VIRGINIA ELECTRIC COOPERATIVE

For a general increase in electric rates

ORDER FOR NOTICE AND HEARING

On June 7, 2012, Central Virginia Electric Cooperative ("CVEC" or "Cooperative") filed an application with the State Corporation Commission ("Commission") for a general increase in its electric rates ("Application").¹ CVEC filed this Application pursuant to §§ 56-231.33, 56-231.34, 56-235, 56-238, and 56-585.3 of the Code of Virginia ("Code").²

In its Application, CVEC seeks approval to increase test year jurisdictional revenues by \$15.2 million, an increase of approximately 24.9%.³ CVEC states that the majority of this increase results from the termination of CVEC's ten-year power supply contract with Constellation Energy Commodities Group, Inc.⁴ CVEC requests the Commission's approval to include the higher cost associated with its power supply in base rates and thereafter set its power cost adjustment factor to zero.⁵

According to the Cooperative, the proposed increase would produce jurisdictional margins of approximately \$5,164,317, would result in an estimated jurisdictional rate of return on rate base of 7.25%, and is expected to produce a TIER of 2.12.⁶ The Cooperative states that the proposed increase in rates "will more accurately reflect CVEC's cost of service and will enable CVEC to maintain its financial strength so that it can fulfill its distribution and power supply responsibilities, respond promptly to the demands of its customer base, and continue its long history of providing excellent service to its members."⁷ CVEC requests that the revised rates set forth in the Application be placed into effect for usage on and after December 1, 2012, subject to any refund required by the Commission's final order in this proceeding.⁸

CVEC also proposes revisions to its Terms and Conditions for Providing Electric Service to clarify and standardize the format of the document and to address changes in operating practices that reflect the evolving nature of the Cooperative's business. Specifically, CVEC's proposed changes include: (1) clarification of the requirements for member-installed generation equipment; (2) elimination of the requirement that a potential member complete an application before becoming a member; and (3) inclusion of harmonics and voltage flicker as electric load characteristics for which the Cooperative reserves the right to set limitations.⁹

Pursuant to Rule 20 VAC 5-200-21 B 7, of the Commission's *Rules governing streamlined rate proceedings for electric cooperatives subject to the State Corporation Commission's jurisdiction*, CVEC requests a waiver of Rule 20 VAC 5-200-21 E, which requires that any electric cooperative filing a rate application pursuant to § 56-582 of the Code submit Schedules 15 through 19.¹⁰ In support of its request for waiver, CVEC states that the Schedules are no longer relevant to a rate case proceeding in 2012.¹¹

¹ On June 14, 2012, the Cooperative filed a revised Application reflecting jurisdictional numbers rather than the system numbers included in the original Application and making other minor corrections. On June 27, 2012, the Cooperative also filed revisions to its Power Cost Adjustment Rider, submitted as part of Schedule 5A of the Application.

² Pursuant to Ordering Paragraph (5) of the Commission's Final Order in Case No. PUE-2010-00095, CVEC states that it also filed a Class Cost of Service study, System Functional Analysis or Schedule 20, and a Consumer Delivery Charge study for purposes of reviewing the rate design of Rate Schedule SHL-Street, Highway and Homestead Lighting Service, and a revised power cost adjustment mechanism that "trues-up" CVEC's energy costs and revenues on an annual basis. Application at 3. *Application of Central Virginia Electric Cooperative, For general rate relief*, Case No. PUE-2010-00095, 2011 S.C.C. Ann. Rept. 356, 358, Final Order (Sept. 7, 2011).

³ Application at 3.

⁴ Specifically, CVEC states that its new contract with Constellation Energy Commodities Group, Inc., and other power supply arrangements constitute \$13.0 million of the requested increase. According to the Cooperative, the remaining increase requested by CVEC is comprised of an adjustment to line losses to reflect those expected in a normal year and an adjustment to reflect increases to CVEC's cost of service due to other wholesale power cost increases, increased operating expenses and depreciation, and increased margins to meet CVEC's Times Interest Earned Ratio ("TIER"). *Id.* at 3-4.

⁵ *Id.* at 3.

⁶ *Id.* at 4, Schedule 3, Column 9.

⁷ *Id.* at 4.

⁸ *Id.* at 4, 6.

⁹ *Id.* at 4.

¹⁰ *Id.* at 5.

¹¹ *Id.*

The Cooperative's Application was accompanied by a Motion for Protective Order seeking to maintain the confidentiality of certain information filed under seal in accordance with Rule 5 VAC 5-20-170, *Confidential information*, of the Commission's Rules of Practice and Procedure ("Rules of Practice").¹²

Concurrent with its Application, CVEC filed a Motion for Authority to Implement Pilot Program ("Motion") requesting authority for the Cooperative to begin offering, on an interim basis effective September 1, 2012, a payment option to its members whereby electric bills may be paid by credit card without incurring a direct per-transaction fee.¹³ In support of its Motion, the Cooperative asserts that major credit card companies offer attractive rates to electric utilities if they do not pass along the transaction fees directly to the customer making payment by credit card.¹⁴ CVEC also anticipates that: (1) its overall costs will be reduced as the percentage of members who choose to pay in this manner increases because it is significantly less expensive to process such payments than other forms of payment; (2) its members will be encouraged to participate in the Cooperative's future electronic commerce initiatives if they become familiar with and accustomed to paying by credit card; and (3) its overall transaction costs associated with delinquent and disconnected accounts will decline, as members take advantage of the convenience of credit card payments.¹⁵ CVEC further asserts that to accept credit card payments from its members without a direct per-transaction fee starting September 1, 2012, would allow CVEC time to notify its members, gauge participation, encourage more participation, and begin analyzing associated savings or costs.¹⁶

The Cooperative requests authority to continue accepting credit card payments from its members without a direct per-transaction fee on a permanent basis if approved by the Commission in its final order in this proceeding.¹⁷ As such, CVEC states that it has included its anticipated cost of accepting payments by credit card without a direct per-transaction fee in its revenue requirement in the Application.¹⁸ While the Commission is analyzing the Application, however, CVEC proposes to absorb all costs associated with accepting credit card payments, including transaction fees and any administrative costs that the Cooperative incurs prior to the implementation of interim rates.¹⁹

On June 20, 2012, the Staff of the State Corporation Commission ("Staff") filed the Response of the Staff of the State Corporation Commission to Central Virginia Electric Cooperative's Motion for Authority to Implement Pilot Program ("Response"). In its Response, the Staff stated that it was not opposed to CVEC ceasing the collection of direct credit card transaction fees, at its own risk, beginning September 1, 2012.²⁰ The Staff asserted, however, that CVEC's request to include credit card transaction fees as part of its proposed revenue requirement as filed in the Application should be subject to full Commission review in the context of its pending rate case.²¹

NOW THE COMMISSION, upon consideration of the matter and the applicable statutes and rules, is of the opinion and finds that notice should be given so that interested persons have an opportunity to comment or participate in this proceeding. We also find that a public hearing should be convened to receive evidence on the Cooperative's Application; that pursuant to Rule 5 VAC 5-20-120 A, *Assignment*, of the Commission's Rules of Practice, this matter should be assigned to a Hearing Examiner to rule on the Cooperative's Motion for Protective Order and to conduct all further proceedings; and that the Staff shall investigate the Application and present its findings in testimony. The Cooperative will be permitted to file testimony in rebuttal to the testimony filed by any respondents and the Staff.

We grant the Cooperative's request to cease the collection of direct per-transaction fees from members paying by credit card on an interim basis, at its own risk, beginning September 1, 2012. We agree with the Staff, however, that CVEC's request to recover transaction fees as part of its proposed revenue requirement in the Application should be subject to full Commission review in the context of this rate proceeding.

Further, we grant the Cooperative's request for waiver of Schedules 15 through 19 as required by Rule 20 VAC 5-200-21 E, and we will permit CVEC's proposed rates to become effective for usage on and after December 1, 2012, on an interim basis and subject to refund.²²

¹² 5 VAC 5-20-10 *et seq.*

¹³ Motion at 1. On June 8, 2012, CVEC filed a revision to its Motion to clarify the proposed effective date.

¹⁴ *Id.*

¹⁵ *Id.* at 2.

¹⁶ *Id.*

¹⁷ *Id.* at 3.

¹⁸ *Id.* at 2.

¹⁹ *Id.* at 3.

²⁰ Specifically, the Staff stated that it did not oppose CVEC's request because: (1) CVEC's members will not incur any direct charges for credit card transactions during this period; (2) CVEC will not seek to recover any credit card transaction fees or associated administrative costs in rates for this period; (3) the request will give the Commission the time it needs to review the credit card transaction fees as part of the Cooperative's revenue requirement in the pending rate case; and (4) CVEC will have time to gather information about both the number of members who choose to make payments by credit card without a direct per-transaction fee and any savings or costs that may arise as a result. Response at 2-3.

²¹ *Id.*

²² CVEC's request for waiver of Schedules 15-19 is similar to requests for waivers granted previously by the Commission. See, e.g., *Application of Central Virginia Electric Cooperative, For a general increase in electric rates*, Case No. PUE-2010-00095, 2011 S.C.C. Ann. Rept. 354, Order for Notice and Hearing (Jan. 25, 2011); *Application of A&N Electric Cooperative, For a revenue-neutral adjustment of its electric rates and consolidation of tariffs*, Case No. PUE-2011-00096, Doc. Con. Cen. No. 120110096, Order for Notice and Hearing (Jan. 6, 2012); *Application of Community Electric Cooperative, For a general increase in electric rates*, Case No. PUE-2012-00041, Doc. Con. Cen. No. 120720258, Order for Notice and Hearing (July 18, 2012).

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Accordingly, IT IS ORDERED THAT:

- (1) This case is docketed and assigned Case No. PUE-2012-00045.
- (2) Pursuant to 5 VAC 5-20-120 A of the Rules of Practice, a Hearing Examiner is appointed to conduct all further proceedings in this matter.
- (3) CVEC's proposed rates and charges shall take effect for usage on and after December 1, 2012, on an interim basis and subject to refund.
- (4) CVEC's request for waiver of Rule 20 VAC 5-200-21 E with regard to the filing of Schedules 15 through 19 is granted.
- (5) CVEC may begin offering, on an interim basis effective September 1, 2012, a payment option to its members whereby electric bills may be paid by credit card without the incurrence of a direct transaction fee.
- (6) A public hearing shall be convened on December 11, 2012, at 10 a.m., in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, to receive evidence related to the establishment of rates in this proceeding. Any person desiring to offer testimony as a public witness at the hearing concerning the Application need only appear in the Commission's Courtroom at 9:45 a.m. on the day of the hearing and identify himself or herself to the Bailiff.
- (7) CVEC shall forthwith make copies of its Application and this Order available for public inspection during regular business hours at CVEC's business office at 800 Cooperative Way, Village of Colleen, Arrington, Virginia 22922. Copies also may be obtained by submitting a written request to counsel for CVEC, Noelle J. Coates, Esquire, Hunton & Williams LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219. If acceptable to the requesting party, the Cooperative may provide the documents by electronic means. In addition, interested persons may review copies in the Commission's Document Control Center, located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5 p.m., Monday through Friday, excluding holidays, or download unofficial copies from the Commission's website: <http://www.scc.virginia.gov/case>.
- (8) On or before September 10, 2012, CVEC shall cause a copy of the following notice to be published as display advertising (not classified) on one occasion in newspapers of general circulation in its service territory:

NOTICE TO THE PUBLIC OF AN APPLICATION BY
CENTRAL VIRGINIA ELECTRIC COOPERATIVE,
FOR A GENERAL INCREASE IN ELECTRIC RATES
CASE NO. PUE-2012-00045

On June 7, 2012, Central Virginia Electric Cooperative ("CVEC" or "Cooperative") filed an application with the State Corporation Commission ("Commission") for a general increase in its electric rates ("Application"). CVEC filed this Application pursuant to §§ 56-231.33, 56-231.34, 56-235, 56-238, and 56-585.3 of the Code of Virginia ("Code").

In its Application, CVEC seeks approval to increase test year jurisdictional revenues by \$15.2 million, an increase of approximately 24.9%. CVEC states that the majority of this increase results from the termination of CVEC's ten-year power supply contract with Constellation Energy Commodities Group, Inc. CVEC requests the Commission's approval to include the higher cost associated with its power supply in base rates and thereafter set its power cost adjustment factor to zero.

According to the Cooperative, the proposed increase would produce jurisdictional margins of approximately \$5,164,317, would result in an estimated jurisdictional rate of return on rate base of 7.25%, and is expected to produce a Times Interest Earned Ratio of 2.12. The Cooperative states that the proposed increase in rates "will more accurately reflect CVEC's cost of service and will enable CVEC to maintain its financial strength so that it can fulfill its distribution and power supply responsibilities, respond promptly to the demands of its customer base, and continue its long history of providing excellent service to its members." CVEC requests that the revised rates set forth in the Application be placed into effect for usage on and after December 1, 2012, subject to any refund required by the Commission's final order in this proceeding.

CVEC also proposes revisions to its Terms and Conditions for Providing Electric Service to clarify and standardize the format of the document and to address changes in operating practices that reflect the evolving nature of the Cooperative's business. Specifically, CVEC's proposed changes include: (1) clarification of the requirements for member-installed generation equipment; (2) elimination of the requirement that a potential member complete an application before becoming a member; and (3) inclusion of harmonics and voltage flicker as electric load characteristics for which the Cooperative reserves the right to set limitations.

By separate motion, CVEC also has requested authority for the Cooperative to begin offering payment by credit card to its members without a direct per-transaction fee. Instead, the Cooperative proposes to recover credit card transaction fees at a reduced rate in its proposed revenue requirement as filed in the Application. The Commission has granted CVEC interim authority to begin this optional payment offering on September 1, 2012, while reviewing whether the program should become permanent as part of this general rate investigation.

Interested persons are encouraged to review the Application and supporting documents for the details of these and other proposals. While the total revenue that may be approved by the Commission is

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limited to the amount requested by the Cooperative, TAKE NOTICE that the Commission may approve revenues and adopt rates that differ from those appearing in the Cooperative's Application and supporting documents and may apportion revenues among customer classes and/or design rates in a manner differing from that shown in the Application and supporting documents.

The Commission entered an Order for Notice and Hearing ("Order") in this proceeding that, among other things, scheduled a public hearing on December 11, 2012, at 10 a.m., in the Commission's second floor courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, to receive testimony from members of the public and evidence related to the Application from the Cooperative, any respondents, and the Commission's Staff. Any person desiring to testify as a public witness at this hearing should appear fifteen (15) minutes prior to the starting time of the hearing and contact the Commission's Bailiff. Individuals with disabilities who require an accommodation to participate in the hearing should contact the Commission at least seven (7) days before the scheduled hearing at 1-800-552-7945 (voice) or 1-804-371-9206 (TDD).

Copies of the Cooperative's Application and this Order are available for public inspection during regular business hours at CVEC's business office at 800 Cooperative Way, Village of Colleen, Arrington, Virginia 22922. Copies also may be obtained by submitting a written request to counsel for CVEC, Noelle J. Coates, Esquire, Hunton & Williams LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219. If acceptable to the requesting party, the Cooperative may provide the documents by electronic means. In addition, interested persons may review copies of all public documents filed in this proceeding in the Commission's Document Control Center, located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5 p.m., Monday through Friday, excluding holidays, or download unofficial copies from the Commission's website: <http://www.scc.virginia.gov/case>.

Any person or entity may participate as a respondent in this proceeding by filing, on or before October 1, 2012, a notice of participation. If not filed electronically, an original and fifteen (15) copies of the notice of participation shall be submitted to Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. A copy of the notice of participation as a respondent also must be sent simultaneously to counsel for CVEC, Noelle J. Coates, Esquire, Hunton & Williams LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219. Pursuant to Rule 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice and Procedure, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. All filings shall refer to Case No. PUE-2012-00045. For additional information about participation as a respondent, any person or entity should obtain a copy of the Commission's Order.

On or before November 29, 2012, any interested person wishing to comment on the Cooperative's Application shall file with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, written comments on the Application. Any interested person desiring to file comments electronically may do so on or before November 29, 2012, by following the instructions on the Commission's website: <http://www.scc.virginia.gov/case>. Compact discs or any other form of electronic storage medium may not be filed with the comments. All such comments shall refer to Case No. PUE-2012-00045.

The Commission's Rules of Practice and Procedure may be viewed at <http://www.scc.virginia.gov/case>. A printed copy of the Commission's Rules of Practice and Procedure and an official copy of the Commission's Order in this proceeding may be obtained from Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118.

CENTRAL VIRGINIA ELECTRIC COOPERATIVE

(9) On or before September 10, 2012, CVEC shall serve a copy of this Order on the chairman of the board of supervisors and county attorney of each county and upon the mayor or manager of every city and town (or upon equivalent officials in counties, towns and cities having alternate forms of government) in which the Cooperative provides service. Service shall be made by first class mail to the customary place of business or residence of the person served.

(10) On or before October 1, 2012, CVEC shall provide proof of the notice and service required by Ordering Paragraphs (8) and (9) herein.

(11) On or before October 1, 2012, any person or entity may participate as a respondent in this proceeding by filing a notice of participation in accordance with 5 VAC 5-20-140, *Filing and service*, and 5 VAC 5-20-150, *Copies and format*, of the Rules of Practice. If not filed electronically, an original and fifteen (15) copies of the notice of participation shall be submitted to Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Any person or entity shall simultaneously serve a copy of the notice of participation upon counsel for CVEC at the address set forth in Ordering Paragraph (7) above. Pursuant to 5 VAC 5-20-80 B, *Participation as a respondent*, of the Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Respondents shall refer in all filed papers to Case No. PUE-2012-00045.

(12) Within five (5) business days of receipt of a notice of participation as a respondent, CVEC shall serve upon each respondent a copy of this Order, a copy of the Application, and all materials filed with the Commission, unless these materials have already been provided to the respondent.

(13) On or before October 22, 2012, each respondent may file with the Clerk of the Commission at the address set forth in Ordering Paragraph (11) above and serve on the Staff and all parties, in accordance with 5 VAC 5-20-140 and 5 VAC 5-20-150 of the Rules of Practice, any testimony and exhibits by which the respondent expects to establish its case. If not filed electronically, an original and fifteen (15) copies of such testimony shall be submitted to the Clerk of the Commission.

(14) The Staff shall investigate the reasonableness of CVEC's Application. On or before November 8, 2012, the Staff shall file with the Clerk of the Commission and serve on the Cooperative and all parties in accordance with the Rules of Practice, its testimony and exhibits regarding its investigation of the Application.

(15) On or before November 20, 2012, CVEC shall file with the Clerk of the Commission and serve on the Staff and all parties, in accordance with 5 VAC 5-20-140 and 5 VAC 5-20-150 of the Rules of Practice, any testimony and exhibits that it expects to offer in rebuttal to the testimony and exhibits of any respondents and the Staff. If not filed electronically, an original and fifteen (15) copies of such rebuttal testimony shall be submitted to the Clerk of the Commission.

(16) On or before November 29, 2012, any interested person may file any written comments on the Application with the Clerk of the Commission at the address set forth in Ordering Paragraph (11) above. Diskettes, compact disks, or any other form of electronic storage medium may not be filed with written comments. Interested persons desiring to submit comments electronically may do so by following the instructions available at the Commission's website: <http://www.scc.virginia.gov/case>. All comments shall refer to Case No. PUE-2012-00045. Any person not participating as a respondent as provided for in Ordering Paragraph (11) above may make a statement as a public witness at the hearing on December 11, 2012.

(17) Responses and objections to written interrogatories and requests for production of documents shall be served within ten (10) calendar days after receipt of the same. In addition to the service requirements of 5 VAC 5-20-260, *Interrogatories or requests for production of documents and things*, of the Rules of Practice, on the day that copies are filed with the Clerk of the Commission, a copy of the interrogatory or request for production shall be served electronically, or by facsimile, on the party to whom the interrogatory or request for production is directed or the assigned Staff attorney²³ if the interrogatory or request for production is directed to the Staff. Except as modified herein, discovery shall be in accordance with Part IV of the Rules of Practice, 5 VAC 5-20-240 *et seq.*

(18) This matter is continued generally.

²³ The assigned Staff attorney is identified on the Commission's website <http://scc.virginia.gov/case> by clicking "Case Search" and entering the case number, PUE-2012-00045, in the appropriate box.

CASE NO. PUE-2012-00046 SEPTEMBER 7, 2012

APPLICATION OF VIRGINIA ELECTRIC AND POWER COMPANY

For approval and certification of electric transmission facilities for the Lexington-Cloverdale 500 kV Transmission Line Rebuild pursuant to §§ 56-46.1 and 56-265.1 *et seq.* of the Code of Virginia

FINAL ORDER

On May 2, 2012, Virginia Electric and Power Company d/b/a Dominion Virginia Power ("Dominion Virginia Power" or "Company") filed with the State Corporation Commission ("Commission") an application for approval and certification of electric transmission facilities ("Application") under §§ 56-46.1 and 56-265.1 *et seq.* of the Code of Virginia ("Code") to rebuild, entirely within existing rights-of-way, its 500 kV Lexington-Cloverdale Line #566 in Rockbridge County, which runs approximately 7.4 miles from the Company's Lexington Substation to a point of interconnection with a 500 kV transmission line owned by Appalachian Power Company ("APCo").¹ The Company further proposed to construct and install associated facilities at its Lexington Substation.²

Construction of Line #566 began in the early 1960s and was completed in 1966. It is part of the first 500 kV transmission system built in North America. Dominion Virginia Power has proposed to remove Line #566's existing weathering steel lattice towers, which support the line's 500 kV conductors, and replace them with new galvanized steel lattice towers. The Company also wishes to replace the existing two 2049.5 kmil bundled AAAC conductors with three triple-bundled 1351.5 kmil ACSR 45/7 phase conductors. According to the Company, rebuilding Line #566 as proposed would increase the transfer capability of its portion of the line from 1810 MVA to 4325 MVA. Dominion Virginia Power also proposed to replace one existing 500kV breaker and install one additional 500 kV breaker and associated equipment within the existing substation fence at the Lexington Substation, in order to accommodate the termination of the rebuilt Line #566.³ The projected in-service date for the rebuilt line is May 2014. The estimated cost is approximately \$17.0 million, of which approximately \$14.1 million would be spent on transmission line construction and approximately \$2.9 million would be spent on modifications at the Lexington Substation.⁴

¹ Application at 2. From this point of interconnection, at APCo's Structure #1/151, APCo's 500 kV line runs approximately 37.1 miles to APCo's Cloverdale Substation in Botetourt County.

² *Id.*

³ *Id.* at 4-5.

⁴ *Id.* at 4.

Dominion Virginia Power stated in its Application that these changes are necessary because power flow studies it conducted with PJM Interconnection, L.L.C., forecast that by Spring of 2014, during periods of light system load, the loading on Line #566 will violate mandatory North American Electric Reliability Corporation ("NERC") Reliability Standards during certain contingencies and that the failure to address these projected NERC violations could lead to service interruptions and could potentially damage Dominion Virginia Power's electrical facilities in this area.⁵

On May 30, 2012, the Commission entered an Order for Notice and Comment that, among other things, docketed the Application, established a procedural schedule, provided interested persons the opportunity to become a respondent, file written comments, or request a hearing on the Application, and directed the Commission's Staff ("Staff") to investigate the Application and present its findings in a report ("Staff Report").

As noted in the Commission's Order for Notice and Comment, the Staff requested that the Department of Environmental Quality ("DEQ") coordinate a review of the Company's proposed project by state and local agencies and file a report on the review. On July 19, 2012, DEQ filed its report ("DEQ Report") with the Clerk of the Commission. The DEQ Report offers ten general recommendations for the Commission's consideration that are in addition to any requirements of federal, state, or local law. Specifically, the DEQ Report contains the following recommendations to Dominion Virginia Power regarding the Project. The Company should:

- Conduct an on-site delineation of all wetlands and stream crossings within the project area with verification by the U.S. Army Corps of Engineers, using accepted methods and procedures, and follow DEQ's recommendations to avoid and minimize impacts to wetlands and streams.
- Follow DEQ's recommendations regarding air quality protection, as applicable.
- Reduce solid waste at the source, reuse it and recycle it to the maximum extent practicable, and follow DEQ's recommendations to manage waste, as applicable.
- Coordinate with the Department of Conservation and Recreation ("DCR") regarding DCR's recommendations, as well as check for updates to the Biotics Data System database if a significant amount of time passes before the project is implemented.
- Coordinate with the DCR Karst Program regarding its recommendations to protect karst features.
- Coordinate with the Department of Game and Inland Fisheries regarding its recommendations for wildlife protection.
- Coordinate with the Department of Historic Resources regarding its recommendations to protect historic and archaeological resources.
- Coordinate with the Department of Aviation regarding its recommendations.
- Follow the principles and practices of pollution prevention to the maximum extent practicable.
- Limit the use of pesticides and herbicides to the extent practicable.⁶

On August 7, 2012, Staff filed its Staff Report summarizing the results of its investigation of the Company's Application. Staff concluded that the Company reasonably demonstrated the need for the proposed rebuild of the 500 kV Lexington-Cloverdale Line #566 and for the associated substation work.⁷ The Staff recommended that the Commission issue the necessary certificate of public convenience and necessity for the proposed project.⁸

On August 14, 2012, Dominion Virginia Power filed comments ("Comments") with the Clerk of the Commission stating that it agrees with and supports the recommendations set forth in the Staff Report, including the Staff's findings and conclusions concerning the need for the project. The Company further noted in its Comments that two hearing requests were filed in the form of public comments in this proceeding. However, since the hearing requests were originally filed, one of the requests was retracted and it has been determined that the other request actually pertained to a different transmission facility.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the public convenience and necessity require that the proposed Lexington-Cloverdale 500 kV transmission line be constructed and that the associated work at the Company's existing Lexington Substation be performed as proposed in the Company's Application. Further, the Commission finds that certificates of public convenience and necessity should be issued authorizing the project.

Approval

The statutory scheme governing the Company's Application is found in several chapters of Title 56 of the Code. Section 56-265.2 A of the Code provides that "it shall be unlawful for any public utility to construct . . . facilities for use in public utility service . . . without first having obtained a certificate from the Commission that the public convenience and necessity require the exercise of such right or privilege."

Section 56-46.1 of the Code further directs the Commission to consider several factors when reviewing the Company's Application. Subsection A of the statute provides that:

⁵ *Id.* at 2-3.

⁶ DEQ Report at 6-7.

⁷ Staff Report at 11.

⁸ *Id.*

Whenever the Commission is required to approve the construction of any electrical utility facility, it shall give consideration to the effect of that facility on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact In every proceeding under this subsection, the Commission shall receive and give consideration to all reports that relate to the proposed facility by state agencies concerned with environmental protection; and if requested by any county or municipality in which the facility is proposed to be built, to local comprehensive plans that have been adopted Additionally, the Commission (a) shall consider the effect of the proposed facility on economic development within the Commonwealth . . . and (b) shall consider any improvements in service reliability that may result from the construction of such facility.

Section 56-46.1 B of the Code further provides that: "[a]s a condition to approval the Commission shall determine that the line is needed and that the corridor or route the line is to follow will reasonably minimize adverse impact on the scenic assets, historic districts and environment of the area concerned."

The Code further requires that the Commission consider existing right-of-way easements when siting transmission lines. Section 56-46.1 C of the Code provides that "[i]n any hearing the public service company shall provide adequate evidence that existing rights-of-way cannot adequately serve the needs of the company." In addition, § 56-259 C of the Code provides that "[p]rior to acquiring any easement of right-of-way, public service corporations will consider the feasibility of locating such facilities on, over, or under existing easements of rights-of-way."

Need and Service Reliability

We find that the Company's load growth forecasts support the need for the project. The need for the project to resolve projected violations of NERC Standards has not been questioned. Thus, the uncontroverted evidence in this case indicates that the proposed rebuild is necessary to ensure that reliable service is maintained. We therefore find that the proposed rebuild of the Lexington-Cloverdale Line #566 will effectively meet the Company's long-term transmission reliability needs.

Economic Development

We find that the proposed project will promote economic development in the Commonwealth of Virginia by maintaining the operational reliability of the transmission line and, in turn, continuing to ensure the delivery of sufficient supplies of electrical power. As an added benefit, the project will increase the transmission capacity for west-to-east power flows, thereby further supporting economic development in the area.

Routing and Right-of-Way

The Company did not consider any routing alternatives for its proposed transmission line since, if approved, the line would be located entirely on existing rights-of-way. Thus, Dominion Virginia Power was not required, in accordance with § 56-46.1 C of the Code, to demonstrate that existing rights-of-way could not adequately serve its needs. Similarly, § 56-259 C of the Code is inapplicable to this proceeding because the Company seeks no additional easements associated with the proposed project.

Scenic Assets and Historic Districts

We find that the proposed project will have a minimal impact on scenic assets and historic districts consistent with § 56-46.1 B of the Code. As is discussed previously, the proposed rebuilt line will be located in existing rights-of-way. Due to the fact that the proposed project will be constructed along the same route as the existing line, adverse impacts on scenic assets and historic districts in the region will be minimized as required by § 56-46.1 B of the Code.

Environmental Impact

Under §§ 56-46.1 A and B of the Code, the Commission is required to consider the proposed project's impact on the environment and to establish such conditions as may be desirable or necessary to minimize adverse environmental impacts. The statute further provides that the Commission shall receive, and give consideration to, all reports that relate to the proposed project by state agencies concerned with environmental protection.

We find that there are no adverse environmental impacts that would prevent the construction or operation of the proposed project. The DEQ Report, as well as the DEQ Supplement prepared by the Company as part of its Application, supports a finding that the Company's proposed route reasonably minimizes adverse environmental impacts, provided that the Company complies with the DEQ recommendations.⁹ We therefore find that, as a condition to our approval herein, the Company must comply with all of DEQ's recommendations as provided in the DEQ Report.

We further find that the proposed project does not represent a hazard to human health or safety. There is no evidence in this case that the project represents a public health or safety hazard.

Accordingly, IT IS ORDERED THAT:

- (1) The Company is authorized to construct and operate the proposed Lexington-Cloverdale 500 kV transmission line, which runs approximately 7.4 miles from the Company's Lexington Substation to a point of interconnection with a 500 kV transmission line owned by APCo, on the route proposed in the Company's Application, subject to the findings and conditions imposed herein. The Company also is authorized to perform necessary construction and installations at the Lexington Substation as set forth in the Company's Application.

⁹ The DEQ recommendations are listed above and are discussed in the DEQ Report.

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(2) Pursuant to §§ 56-46.1, 56-265.2, and related provisions of Title 56 of the Code, the Company's request for a certificate of public convenience and necessity to construct and operate the proposed Lexington-Cloverdale 500 kV transmission line and to perform necessary construction work at the Lexington Substation is granted as provided for herein, subject to the requirements set forth in this Final Order.

(3) Pursuant to the Utility Facilities Act,¹⁰ the Company is issued the following certificates of public convenience and necessity:

Certificate No. ET-107i, which authorizes Virginia Electric and Power Company under the Utility Facilities Act to operate certificated transmission lines and facilities in Rockbridge County, all as shown on the map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUE-2012-00046, cancels Certificate No. ET-107h, issued to Virginia Electric and Power Company.

(4) The Commission's Division of Energy Regulation forthwith shall provide the Company copies of the certificates issued in Ordering Paragraph (3) with the detailed map attached.

(5) The transmission line and associated substation work approved herein must be constructed and in service by May 1, 2014, provided, however, the Company is granted leave to apply for an extension for good cause shown.

(6) As there is nothing further to come before the Commission, this matter is dismissed and the papers filed herein shall be placed in the file for ended causes.

¹⁰ Va. Code Ann. § 56-265.1 *et seq.* (Supp. 2011).

**CASE NO. PUE-2012-00047
OCTOBER 15, 2012**

PETITION OF
COLCHESTER UTILITIES, INC.,

For finding that Transfers Act approval is not required in connection with its indirect change of control

JOINT PETITION OF
HIGHSTAR CAPITAL II PRISM FUND, L.P.,
HIGHSTAR CAPITAL FUND II, L.P.,
HYDRO STAR INTERCO LLC,
AMERICAN GENERAL LIFE INSURANCE COMPANY,
HYDRO STAR, LLC,
CORIX UTILITIES (ILLINOIS) LLC,
and
COLCHESTER UTILITIES, INC.

For approval under the Utility Transfers Act

ORDER

On April 17, 2012, Colchester Utilities, Inc. ("Colchester"), filed a petition ("Petition") with the State Corporation Commission ("Commission"), which requests that the Commission find that approval under Chapter 5 of Title 56 ("Utility Transfers Act") of the Code of Virginia ("Code") is not required for the indirect change of control of Colchester. Alternatively, Highstar Capital II Prism Fund, L.P., Highstar Capital Fund II, L.P., Hydro Star Interco LLC, American General Life Insurance Company, Hydro Star, LLC ("Hydro Star"), Corix Utilities (Illinois) LLC ("Corix Utilities"), and Colchester seek Commission approval of the indirect change of control of Colchester pursuant to the Utility Transfers Act ("Joint Petition").

Colchester owns facilities that provides sewerage services to the residential subdivision known as Harborview located in Fairfax County, Virginia (the "County"). Colchester does not bill the residents of the subdivision; rather, it sends one bill to the County and the County bills the residents for the sewerage service based upon the County's rates. It is understood by Colchester that the County charges the residents of Harborview the same rate as it charges other similarly situated residents of the County for sewerage service. Colchester does not hold a certificate of public convenience and necessity ("CPCN") and is not organized as a public service corporation and, therefore, its rates and services are not regulated by the Commission.

Colchester is a direct, wholly owned subsidiary of Utilities, Inc. ("Utilities"). Utilities is an Illinois corporation that is a holding company for approximately 75 operating subsidiaries that provide water and/or waste water services to approximately 290,000 customer equivalents in 15 states. In Virginia, Utilities also owns Massanutten Public Service Corporation, a Virginia public utility company that provides water and waste water service to the Massanutten ski resort area. Over the past decade, Utilities has experienced two changes of control. The first occurred in 2001 and the second in 2005.

Hydro Star is a limited liability company organized in the state of Delaware that is engaged in the acquisition and ownership of water and waste water related infrastructure businesses. Hydro Star is the direct parent company of Hydro Star Holdings Corporation ("HS Holdings"). HS Holdings also is a Delaware corporation and is the sole shareholder of Utilities.

Highstar Capital II Prism Fund, L.P., Highstar Capital Fund II, L.P., Hydro Star Interco LLC, and American General Life Insurance Company (collectively, the "Sellers") are the controlling members of Hydro Star and, therefore, have ultimate ownership of Colchester.

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Corix Utilities is a Delaware limited liability company and was created for the purpose of entering into the proposed transaction described below. All of the outstanding membership interests of Corix Utilities are held by a second tier subsidiary of Corix Infrastructure Inc. ("Corix"), a Canadian company that, together with its subsidiaries, is referred to as the "Corix Group." The Corix Group is engaged in various water, waste water, energy, utility, and utility service operations.

The primary owners of the Corix Group are certain affiliates of British Columbia Investment Management Corporation ("BC Investment") and CAI Capital Management Inc. ("CAI Capital"). BC Investment manages over \$90 billion in a globally diversified portfolio of investments on behalf of various pension funds and other investors. CAI Capital is a private equity fund with over \$1.3 billion in North American investments.

The Sellers and Corix Utilities have entered into an agreement whereby the Sellers will sell all of their membership interests of Hydro Star to Corix Utilities. After the transaction is consummated, Corix Utilities will own Hydro Star and will, therefore, acquire indirect control of Colchester. After the proposed transfer, Colchester will continue to own the assets that serve the Harborview subdivision. The County will continue to be Colchester's only customer, and the County will still establish rates. Colchester will remain a direct subsidiary of Utilities. The petitioners request that the Commission find approval of the proposed change of control is not subject to the Utility Transfers Act or, alternatively, request approval of the change of control.

The petitioners represent that the Corix Group's business strategy is to expand its utility infrastructure footprint in North America, particularly in the United States. By acquiring Utilities, the Corix Group will add approximately 75 systems and almost 300,000 customers to their United States' operations. For the Sellers, the proposed transfer allows them to sell their ownership interests of Utilities to a large company with experience in the water and waste water service business.

The petitioners represent that the proposed transfer will have no adverse impact on rates. Customers will continue to be billed by the County at the County's rates. Colchester does not currently set customers rates and will not after the proposed transaction. The petitioners further represent that the proposed transfer will have no effect on the quality of service. It is anticipated that there will be no change in the management, customer service staffing, and local area staff of Colchester. The petitioners state that after the proposed transfer, Colchester will receive the same support from Utilities it currently receives.

NOW THE COMMISSION, upon consideration of this matter and having been advised by the Commission Staff, is of the opinion and makes the following findings. We find that the proposed transfer of indirect control of Colchester is subject to the Utility Transfers Act and prior approval should be received before consummating such transfer. We further find that the prior transfers of indirect control of Colchester that were a result of the changes in ownership of Utilities that occurred in 2001 and 2005 also were subject to the Utility Transfers Act. For purposes of the Utility Transfers Act, a public utility is defined as "any [emphasis added] company which owns or operates facilities within the Commonwealth for the . . . furnishing of sewerage facilities or water." Section 56-88.1 of the Code states that "[n]o person, whether acting alone or in concert with others, shall, directly or indirectly, acquire or dispose of control of . . . [a] public utility within the meaning of this chapter . . . without the prior approval of the Commission." The proposed and prior changes of indirect control of Colchester constitute a public utility change of control that is subject to the provisions of § 56-88 *et seq.* of the Code. We remind the petitioners to be cognizant of the Utility Transfers Act's broad application in the future.

Based on the information provided in the Joint Petition and the fact that Colchester solely provides service to a governmental entity and holds no CPCN, we find that Colchester's previous changes in control have not impaired or jeopardized the provision of adequate service to the public at just and reasonable rates. The petitioners' statutory violations of the Utility Transfers Act do not appear deliberate as evidenced by their request in this case. After the proposed transfer, Colchester will continue to be owned by Utilities and is expected to retain its current management. The rates for the residents of Harborview will still be set by the County. The County and residents of Harborview should not see any change in their service quality. Therefore, we find that the proposed transfer of control, along with the two previous transfers, should be approved.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to §§ 56-88.1 and 56-90 of the Code, the petitioners are hereby granted approval of the proposed indirect transfer of control of Colchester and the transfers of control that occurred in 2001 and 2005, as described herein.
- (2) The petitioners shall file a Report of Action ("Report") with the Commission in its Document Control Center within ninety (90) days after completion of the transaction. The Report shall include the date of the transaction and all legal documentation supporting the transaction. The Report shall also include a comprehensive description of Colchesters' 2001 and 2005 changes of control and any and all legal documentation related to the 2001 and 2005 transfers.
- (3) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2012-00048
OCTOBER 15, 2012**

JOINT PETITION OF
HIGHSTAR CAPITAL II PRISM FUND, L.P.,
HIGHSTAR CAPITAL FUND II, L.P.,
HYDRO STAR INTERCO LLC,
AMERICAN GENERAL LIFE INSURANCE COMPANY,
HYDRO STAR, LLC,
MASSANUTTEN PUBLIC SERVICE CORPORATION,
and
CORIX UTILITIES (ILLINOIS) LLC

For approval under the Utility Transfers Act, Va. Code Sections 56-88 *et seq.*

ORDER GRANTING APPROVAL

On April 17, 2012, Highstar Capital II Prism Fund, L.P., Highstar Capital Fund II, L.P., Hydro Star Interco LLC, American General Life Insurance Company, Hydro Star, LLC ("Hydro Star"), Massanutten Public Service Corporation ("MPSC"), and Corix Utilities (Illinois) LLC ("Corix Utilities") filed a Joint Petition with the State Corporation Commission ("Commission"), pursuant to Chapter 5 of Title 56 of the Code of Virginia ("Code"), for approval of the transfer of indirect ownership of MPSC.

MPSC is a Virginia public service company that provides water and waste water utility services to approximately 2,100 residential and business customers in Rockingham County, Virginia. MPSC is a direct, wholly owned subsidiary of Utilities, Inc. ("Utilities"). Utilities is an Illinois corporation that is a holding company for approximately 75 operating subsidiaries that provide water and/or waste water services to approximately 290,000 customer equivalents in 15 states.

Hydro Star is a limited liability company organized in the state of Delaware that is engaged in the acquisition and ownership of water and waste water related infrastructure businesses. Hydro Star is the direct parent company of Hydro Star Holdings Corporation ("HS Holdings"). HS Holdings also is a Delaware corporation and is the sole shareholder of Utilities.

Highstar Capital II Prism Fund, L.P., Highstar Capital Fund II, L.P., Hydro Star Interco LLC, and American General Life Insurance Company (collectively, the "Sellers") are the controlling members of Hydro Star and, therefore, have ultimate ownership of MPSC.

Corix Utilities is a Delaware limited liability company and was created for the purpose of entering into the proposed transaction described below. All of the outstanding membership interests of Corix Utilities are held by a second tier subsidiary of Corix Infrastructure Inc. ("Corix"), a Canadian company that, together with its subsidiaries, is referred to as the "Corix Group." The Corix Group is engaged in various water, waste water, energy, utility, and utility service operations.

The primary owners of the Corix Group are certain affiliates of British Columbia Investment Management Corporation ("BC Investment") and CAI Capital Management Inc. ("CAI Capital"). BC Investment manages over \$90 billion in a globally diversified portfolio of investments on behalf of various pension funds and other investors. CAI Capital is a private equity fund with over \$1.3 billion in North American investments.

The Sellers and Corix Utilities have entered into an agreement whereby the Sellers will sell all of their membership interests of Hydro Star to Corix Utilities. After the transaction is consummated, Corix Utilities will own Hydro Star and, therefore, acquire indirect control of MPSC. After the proposed transfer, MPSC will remain the utility provider of water and waste water service in Virginia. MPSC will continue to be a direct subsidiary of Utilities.

The petitioners represent that the Corix Group's business strategy is to expand its utility infrastructure footprint in North America, particularly in the United States. By acquiring Utilities, the Corix Group will add approximately 75 systems and almost 300,000 customers to their United States operations. For the Sellers, the proposed transfer allows them to sell their ownership interests of Utilities to a large company with experience in the water and waste water service business.

The petitioners represent that the proposed transfer will have no adverse impact on rates. They state that after the transfer, MPSC customers will continue to receive service at the rates that are on file with the Commission. The petitioners further represent that the proposed transfer will have no effect on the quality of service. It is anticipated that there will be no change in the management, customer service staffing, and local operation personnel of MPSC. The number of employees and the day-to-day operation of MPSC should not be affected by the proposed transfer.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the transfer of indirect control of MPSC will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates and, therefore, should be approved.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to §§ 56-88.1 and 56-90 of the Code, the petitioners are hereby granted approval of the indirect transfer of control of MPSC, as described herein.
- (2) The petitioners shall file a Report of Action ("Report") with the Commission in its Document Control Center within ninety (90) days after completion of the transaction. The Report shall include the date of the transaction and all legal documentation supporting the transaction.
- (3) The approval granted herein shall have no ratemaking implications. Specifically, it will not guarantee the recovery of any costs directly or indirectly related to the transfer.

- (4) MPSC shall ensure that:
 - (a) The quality of service in MPSC's service territory shall not deteriorate due to a lack of maintenance or capital investment;
 - (b) The quality of service in the MPSC service territory shall not deteriorate due to a reduction in the number of employees providing services; and
 - (c) A high degree of cooperation with the Commission Staff is maintained; and
 - (d) All actions necessary to ensure MPSC's timely response to Staff inquiries with regard to its provision of service in Virginia are taken.
- (5) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2012-00049
AUGUST 21, 2012**

APPLICATION OF
ATMOS ENERGY CORPORATION

For approval of a SAVE Plan and Rider pursuant to Virginia Code §§ 56-603 *et seq.*

ORDER APPROVING SAVE PLAN AND RIDER

On April 20, 2012, Atmos Energy Corporation ("Atmos" or "Company") filed its application with the State Corporation Commission ("Commission") for approval to implement a plan and rider pursuant to Chapter 26 of Title 56 of the Code of Virginia ("Code") §§ 56-603 *et seq.* — Steps to Advance Virginia's Energy Plan ("SAVE") Act ("Application").¹ Accompanying the Application were the direct testimony and exhibits of Michael H. Ellis and Christopher A. Felan. In its Application, the Company stated that it intends to spend approximately \$1.8 million annually, with the total investment over the three-year term (2012-2015) of its plan ("SAVE Plan") capped at \$5.5 million.² Recovery would be through a rider ("SAVE Rider") on customers' bills authorized by the SAVE Act.

As Atmos discussed in its Application, the SAVE Act provides for the recovery of the costs of replacing gas utility infrastructure to enhance system safety and reliability and reduce or have the potential to reduce greenhouse gas emissions. The Company represented that the replacement of the SAVE eligible infrastructure would not increase revenues by directly connecting such infrastructure replacements to new customers and that the replacements would be limited to replacements commenced after April 1, 2012.³ The Company further stated that the eligible infrastructure replacements were not included in Atmos' rate base used in its most recent rate case.⁴ The projects proposed in the Company's Application are the replacement of first generation plastic mains and service lines, bare steel mains, and bare steel service lines.⁵ The Company proposed that the monthly SAVE Rider would take effect with bills rendered on and after October 1, 2012, and be effective through September 30, 2015.⁶

The Company stated that the Infrastructure Reliability and Replacement Adjustment ("IRRA"), the SAVE Rider, would consist of two components: (1) Infrastructure Replacement Current Rate ("IRCR") and (2) the Infrastructure Replacement Reconciliation Rate ("IRRR").⁷ The Company explained that:

The IRRR is an annual true-up that will be calculated annually based on the prior year's actual cost of service using the same calculations and formulas as used to calculate the proposed IRCR. . . .

Atmos proposes to allocate the revenue requirement to the current rate schedules based on the proportionate customer charge revenue established in the Company's most recently filed Annual Informational Filing. By utilizing the most recently Commission-approved cost allocation methodology, Atmos will ensure that the same ratio of costs are recovered from each rate schedule as determined appropriate by the Commission. In addition, allocating each year's total . . . revenue requirement on a prospective basis will help the Company ensure that appropriate cost causation principles are followed under the Plan and no undue cross subsidies arise between rate classes⁸

¹ As provided by § 56-604 B of the Code, the Commission shall approve or deny the Company's Application within 180 days.

² Ex. 1 at 2.

³ Ex. 4 at 2; Ex. 3 at 8.

⁴ Ex. 3 at 3, 8.

⁵ *Id.*

⁶ Ex. 1 at 5; Ex. 4 at 2.

⁷ Ex. 1 at 4.

⁸ *Id.*; Ex. 4 at 7.

The Company stated that by February 1 of each year from 2014 through 2016, it will file the "IRRR true-up rates for each year that the IRRA will be in effect"⁹

On May 14, 2012, the Commission issued an Order for Notice and Hearing that, among other things: (1) docketed this proceeding; (2) required public notice of the Application; (3) established procedures for participation in this matter; (4) required the Staff of the Commission ("Staff") to investigate the Application and file testimony on its findings; (5) scheduled a public hearing on the Application; and (6) appointed a Hearing Examiner to conduct all further proceedings in this matter on behalf of the Commission and to file a final report. The Commission did not receive any notices of participation in this matter.

On July 18, 2012, Atmos and the Staff (collectively, "Stipulating Participants") filed a Joint Motion to Accept Stipulation ("Motion") and included the proposed stipulation ("Stipulation") as an attachment. In the Motion, the Stipulating Participants represented that the Stipulation resolves all issues and is prudent and reasonable.¹⁰ The Stipulation provides, among other things, that:

. . . .

4. [T]he Company [should] be allowed to spend up to 10% above or below the projected annual level of \$1.8 million in any given year, not to exceed total SAVE Plan spending of \$5.5 million. Should annual expenditures exceed the 10% limit or if total expenditures exceed \$5.5 million, the Company may request an amendment to its SAVE Plan.
5. After each year that the IRRA is billed, the Company will reconcile the actual SAVE Plan costs and the actual IRRA collections. The Company will either collect or refund any differences through the IRRR.
6. The Company accepts Staff witness Welsh's recommended revenue requirement of \$100,632 for the initial year of the IRRA to begin on October 1, 2012.
7. [T]he appropriate rate design is based on volumetric charges

. . . .

9. The IRCR and the IRRR will be shown as a single line item on the customer bill and labeled as "All Applicable Riders."
- 10 [T]he IRCR will terminate on September 30, 2015, but that the Company shall file for the Commission's approval to collect or refund through the IRRR any remaining difference between the allowable SAVE Plan costs and recoveries as of that date.¹¹

The Stipulating Participants stated that the Stipulation represents a settlement and shall not be used as precedent.¹²

On August 8, 2012, the Report of A. Ann Berkebile, Hearing Examiner ("Hearing Examiner's Report" or "Report"), was filed. In her Report, the Hearing Examiner summarized the history and record in this case and recommended that the Commission enter an order that: (1) adopts the findings contained in the Report and the recommendations set forth in the Stipulation; (2) approves the Company's proposed SAVE Plan, as amended by the Stipulation; (3) grants the Company a SAVE Rider designed to recover a total revenue requirement of \$100,632 in the first year of the Plan; and (4) dismisses this case from the Commission's docket of active cases and passes the papers in the record to the file for ended causes.¹³ Specifically, the Hearing Examiner found that the Company demonstrated that its proposed SAVE Plan, as modified by the Stipulation, is prudent and reasonable and that the Stipulation "offers a reasonable and just resolution to all of the issues in this case" and should be adopted.¹⁴

NOW THE COMMISSION, having considered this matter, is of the opinion and finds that the Hearing Examiner's Report should be adopted and that the Company's SAVE Plan and Rider satisfy the statutory provisions of the SAVE Act and should, therefore, be approved in accordance with the terms of the Stipulation.

Accordingly, IT IS ORDERED THAT:

- (1) The SAVE Plan, as permitted by § 56-603 *et seq.* of the Code, is hereby approved as set forth in this Order Approving SAVE Plan and Rider.

⁹ Ex. 1 at 4.

¹⁰ Motion at 2.

¹¹ Ex. 7 at 2-3.

¹² *Id.* at 3.

¹³ Hearing Examiner's Report at 10.

¹⁴ *Id.* at 9.

(2) The SAVE Rider, as permitted by § 56-603 *et seq.* of the Code, is approved as set forth in this Order Approving SAVE Plan and Rider, and rates consistent with this Order shall become effective commencing with bills rendered on and after October 1, 2012.

(3) The findings and recommendations of the August 8, 2012 Hearing Examiner's Report are hereby adopted.

(4) The Stipulation between Atmos and the Staff is hereby adopted and made part of this Order Approving SAVE Plan and Rider.

(5) Atmos shall forthwith file with the Clerk of the Commission and with the Commission's Divisions of Energy Regulation and Utility Accounting and Finance, in accordance with this Order, revised rate schedules and terms and conditions of service for the SAVE Rider, with workpapers supporting the total revenue requirement and rates, all of which shall reflect the findings and requirements set forth in this Order Approving SAVE Plan and Rider. The Clerk of the Commission shall retain such filing for public inspection in person and on the Commission's website: <http://www.sec.virginia.gov/case>.

(6) At least thirty (30) days prior to the specific filings required as part of the SAVE Plan, as approved by the Commission in this Order Approving SAVE Plan and Rider, the Company shall provide information related to such filings to the Staff, upon request.

(7) This matter is hereby dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. PUE-2012-00050
MAY 10, 2012**

APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY

To revise its fuel factor pursuant to § 56-249.6 of the Code of Virginia

ORDER ESTABLISHING 2012-2013 FUEL FACTOR PROCEEDING

On May 2, 2012, Virginia Electric and Power Company ("Dominion Virginia Power" or "Company") filed with the State Corporation Commission ("Commission") its application ("Application"), written testimony, and exhibits requesting to decrease its fuel factor rate from 3.289 cents per kilowatt-hour ("¢/kWh") to 2.706¢/kWh, effective for usage on and after July 1, 2012. With its Application, Dominion Virginia Power also filed a Motion for Protective Order, along with a proposed protective order, requesting that the Commission establish procedures designed to protect from public disclosure the Company's confidential and extraordinarily sensitive information.

The Company's proposed total fuel factor, Fuel Charge Rider A, consists of both a current and prior period factor. Fuel Charge Rider A's proposed current period factor of 2.589¢/kWh is designed to recover the Company's estimated Virginia jurisdictional fuel expenses of approximately \$1.7 billion for the period July 1, 2012, through June 30, 2013.¹ Fuel Charge Rider A's proposed prior period factor of 0.117¢/kWh is designed to recover approximately \$78.3 million in estimated Virginia jurisdictional fuel expenses, which represents the net of: (1) a projected \$196.1 million over-recovery balance associated with recovery of fuel expenses incurred for the period July 1, 2011, through June 30, 2012; and (2) a projected under-recovery balance of \$274.4 million associated with the recovery of fuel expenses incurred for the period July 1, 2010, through June 30, 2011, under the mitigation proposal approved by the Commission in the Company's 2011 fuel factor proceeding, Case No. PUE-2011-00045.² According to the Company's Application, the Company experienced an over-recovery during the July 1, 2011 – June 30, 2012 fuel period that was influenced primarily by lower than expected commodity and power prices and by unusually mild weather conditions.³

In total, the proposed fuel factor represents a 0.583¢/kWh decrease from the fuel factor rate presently in effect (3.289¢/kWh), as approved in Case No. PUE-2011-00045.⁴ According to the Company, its proposal would result in an annual fuel revenue reduction of approximately \$388.8 million when applied to the Company's projected kWh sales.⁵ The proposed fuel factor would decrease the average weighted monthly bill of a typical residential customer using 1,000 kWh of electricity by \$5.83, or approximately 5.2%.⁶

NOW THE COMMISSION, having considered the Application, is of the opinion and finds that this matter should be docketed; that public notice and an opportunity for participation in this proceeding should be given; that the Company's proposed fuel rate decrease for usage on and after July 1, 2012, shall be placed into effect on an interim basis; and that a hearing should be scheduled on the Application.

¹ Application at 2.

² *Id.* In Case No. PUE-2011-00045, the Company projected an under-recovery balance of \$433.5 million associated with the July 1, 2010 – June 30, 2011 fuel period. To mitigate the impact of this deferred under-recovery balance, the Company proposed, and the Commission approved, recovery of the deferred balance over two years (July 1, 2011 through June 30, 2013), rather than one year. *Application of Virginia Electric and Power Company, To revise its fuel factor pursuant to § 56-249.6 of the Code of Virginia*, Case No. PUE-2011-00045, 2011 S.C.C. Ann. Rept. 498, Order Establishing Fuel Factor at 1, 4-5 (June 27, 2011).

³ Direct Testimony of Fred G. Wood, III, at 2-4.

⁴ Application at 2.

⁵ *Id.*

⁶ Direct Testimony of Edward J. Anderson at 5.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed and assigned Case No. PUE-2012-00050.
- (2) Pursuant to § 12.1-31 of the Code of Virginia and 5 VAC 5-20-120, *Procedure before hearing examiners*, of the Commission's Rules of Practice and Procedure ("Rules of Practice"), 5 VAC 5-20-10 *et seq.*, the Commission assigns a Hearing Examiner to rule on any discovery matter that may arise in this proceeding, including the Company's Motion for Protective Order.
- (3) For usage on and after July 1, 2012, the Company shall place into effect on an interim basis a fuel factor of 2.706¢/kWh.
- (4) A public hearing shall be convened on September 6, 2012, at 10 a.m. in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, to receive the testimony of public witnesses and evidence offered by the Company, respondents, and the Commission's Staff ("Staff") on the Company's Application. Any person desiring to offer testimony at the public hearing concerning the Application need only appear in the Commission's second floor courtroom at 9:45 a.m. on the day of the hearing and identify himself or herself to the Commission's Bailiff.
- (5) The Company shall forthwith make copies of the public versions of its Application, prefiled testimony, and exhibits available for public inspection during regular business hours at all Company offices in the Commonwealth of Virginia. Interested persons also may review a copy of the public version of Dominion Virginia Power's Application in the Commission's Document Control Center, located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5 p.m., Monday through Friday, excluding holidays. Interested persons also may request a copy of the same, at no charge, by written request to counsel for Dominion Virginia Power, Mark O. Webb, Esquire, or William H. Baxter, II, Esquire, Dominion Resources Services, Inc., 120 Tredegar Street, Richmond, Virginia 23219. Dominion Virginia Power shall make a copy available on an electronic basis upon request. In addition, unofficial copies of the public version of the Company's Application, Commission orders entered in this docket, the Commission's Rules of Practice, as well as other information concerning the Commission and the statutes it administers, may be viewed on the Commission's website at <http://www.scc.virginia.gov/case>.
- (6) On or before June 4, 2012, Dominion Virginia Power shall cause a copy of the following notice to be published as display advertising (not classified) on one (1) occasion in newspapers of general circulation throughout the Company's service territory in the Commonwealth of Virginia:

NOTICE TO THE PUBLIC OF
VIRGINIA ELECTRIC AND POWER COMPANY'S
REQUEST TO DECREASE ITS FUEL FACTOR
CASE NO. PUE-2012-00050

On May 2, 2012, Virginia Electric and Power Company ("Dominion Virginia Power" or "Company") filed with the State Corporation Commission ("Commission") its application ("Application"), written testimony, and exhibits requesting to decrease its fuel factor rate from 3.289 cents per kilowatt-hour ("¢/kWh") to 2.706¢/kWh, effective for usage on and after July 1, 2012.

The Company's proposed total fuel factor, Fuel Charge Rider A, consists of both a current and prior period factor. Fuel Charge Rider A's proposed current period factor of 2.589¢/kWh is designed to recover the Company's estimated Virginia jurisdictional fuel expenses of approximately \$1.7 billion for the period July 1, 2012, through June 30, 2013. Fuel Charge Rider A's proposed prior period factor of 0.117¢/kWh is designed to recover approximately \$78.3 million in estimated Virginia jurisdictional fuel expenses, which represents the net of: (1) a projected \$196.1 million over-recovery balance associated with recovery of fuel expenses incurred for the period July 1, 2011, through June 30, 2012; and (2) a projected under-recovery balance of \$274.4 million associated with the recovery of fuel expenses incurred for the period July 1, 2010, through June 30, 2011, under the mitigation proposal approved by the Commission in the Company's 2011 fuel factor proceeding, Case No. PUE-2011-00045. According to the Company's Application, the Company experienced an over-recovery during the July 1, 2011 – June 30, 2012 fuel period that was influenced primarily by lower than expected commodity and power prices and by unusually mild weather conditions.

In total, the proposed fuel factor represents a 0.583¢/kWh decrease from the fuel factor rate presently in effect (3.289¢/kWh), as approved in Case No. PUE-2011-00045. According to the Company, its proposal would result in an annual fuel revenue reduction of approximately \$388.8 million when applied to the Company's projected kWh sales. The proposed fuel factor would decrease the average weighted monthly bill of a typical residential customer using 1,000 kWh of electricity by \$5.83, or approximately 5.2%.

The Commission entered an Order Establishing 2012-2013 Fuel Factor Proceeding ("Order") that, among other things, scheduled a public hearing to commence at 10 a.m. on September 6, 2012, in the Commission's second floor courtroom in the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, to receive testimony from members of the public and evidence related to the Application. Any person desiring to testify as a public witness at the hearing should appear in the Commission's second floor courtroom at 9:45 a.m. on the day of the hearing and identify himself or herself to the Commission's Bailiff. Individuals with disabilities who require an accommodation to participate in the hearing should contact the Commission at least seven (7) days before the scheduled hearing at 1-800-552-7945 (voice) or 1-804-371-9206 (TDD).

The public version of the Company's Application, prefiled testimony, and exhibits is available for public inspection during regular business hours at all of the Company's offices in the Commonwealth of Virginia. A copy of the public version of the Company's Application also may be obtained by written request to counsel for Dominion Virginia Power, Mark O. Webb, Esquire, or William H. Baxter, II, Esquire, Dominion

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Resources Services, Inc., 120 Tredegar Street, Richmond, Virginia 23219. Dominion Virginia Power shall make a copy available on an electronic basis upon request.

Interested persons also may review a copy of the public version of the Company's Application in the Commission's Document Control Center, located on the First Floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5 p.m., Monday through Friday, excluding holidays. In addition, unofficial copies of the Application, Commission orders entered in this docket, the Commission's Rules of Practice and Procedure ("Rules of Practice"), as well as other information concerning the Commission and the statutes it administers, may be viewed on the Commission's website: <http://www.scc.virginia.gov/case>.

On or before August 31, 2012, any person desiring to file written comments on the Company's Application shall file such comments with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Any person desiring to file comments electronically may do so, on or before August 31, 2012, by following the instructions found at the Commission's website: <http://www.scc.virginia.gov/case>. Compact discs or any other form of electronic storage medium may not be filed with the comments. All comments shall refer to Case No. PUE-2012-00050.

On or before July 24, 2012, any interested person may participate as a respondent in this proceeding by filing a notice of participation. If not filed electronically, an original and fifteen (15) copies of the notice of participation shall be filed with the Clerk of the Commission at the address set forth above and shall simultaneously be served on counsel to the Company at counsel's address set forth above. Pursuant to Rule 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. All filings shall refer to Case No. PUE-2012-00050. Interested persons should obtain a copy of the Commission's Order for further details on participation as a respondent.

On or before July 24, 2012, each respondent may file with the Clerk of the Commission, and serve on the Commission's Staff, the Company, and all other respondents, any testimony and exhibits by which the respondent expects to establish its case. If not filed electronically, an original and fifteen (15) copies of such testimony and exhibits shall be submitted to the Clerk of the Commission at the address set forth above. In all filings, the respondent shall comply with the Commission's Rules of Practice, including: 5 VAC 5-20-140, *Filing and service*; 5 VAC 5-20-150, *Copies and format*; and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUE-2012-00050.

VIRGINIA ELECTRIC AND POWER COMPANY

(7) On or before June 4, 2012, the Company shall serve a copy of this Order on the chairman of the board of supervisors and county attorney of each county and upon the mayor or manager of every city and town (or upon equivalent officials in counties, towns, and cities having alternate forms of government) in which the Company provides service in the Commonwealth of Virginia. Service shall be made by either personal delivery or first class mail to the customary place of business or residence of the person served.

(8) At the commencement of the hearing scheduled herein, the Company shall provide proof of service and notice as required in this Order.

(9) On or before August 31, 2012, any person desiring to file written comments on the Company's Application shall file such comments with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Any person desiring to file comments electronically may do so, on or before August 31, 2012, by following the instructions found at the Commission's website: <http://www.scc.virginia.gov/case>. Compact discs or any other form of electronic storage medium may not be filed with the comments. All comments shall refer to Case No. PUE-2012-00050.

(10) On or before July 24, 2012, any interested person may participate as a respondent in this proceeding by filing a notice of participation. If not filed electronically, an original and fifteen (15) copies of the notice of participation shall be filed with the Clerk of the Commission at the address set out in Ordering Paragraph (9) above and shall simultaneously serve a copy of the notice of participation on counsel to the Company at the address set forth in Ordering Paragraph (5) above. Pursuant to Rule 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be represented by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. Interested persons shall refer in all of their filed papers to Case No. PUE-2012-00050.

(11) Within three (3) business days of receipt of a notice of participation as a respondent, the Company shall serve upon each respondent a copy of this Order, a copy of the Application, and all materials filed by the Company with the Commission, unless these materials have already been provided to the respondent.

(12) On or before July 24, 2012, each respondent may file with the Clerk of the Commission and serve on the Staff, the Company, and all other respondents, any testimony and exhibits by which the respondent expects to establish its case. If not filed electronically, an original and fifteen (15) copies of such testimony and exhibits shall be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (9) above. In all filings, the respondent shall comply with the Commission's Rules of Practice, including: 5 VAC 5-20-140, *Filing and service*; 5 VAC 5-20-150, *Copies and format*; and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUE-2012-00050.

(13) The Staff shall investigate the Company's Application. On or before August 7, 2012, the Staff shall file with the Clerk of the Commission an original and fifteen (15) copies of the Staff's testimony and exhibits regarding the Application and shall promptly serve a copy on counsel to the Company and all respondents.

(14) On or before August 23, 2012, the Company shall file with the Clerk of the Commission any rebuttal testimony and exhibits that it expects to offer and shall simultaneously serve a copy on the Staff and all respondents. If not filed electronically, an original and fifteen copies of such rebuttal testimony and exhibits shall be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (9) above.

(15) The Company and all respondents shall respond to written interrogatories within five (5) business days after receipt of the same. Except as modified above, discovery shall be in accordance with Part IV of the Commission's Rules of Practice.

(16) This proceeding shall be continued generally.

**CASE NO. PUE-2012-00050
SEPTEMBER 19, 2012**

APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY

To revise its fuel factor pursuant to § 56-249.6 of the Code of Virginia

ORDER ESTABLISHING FUEL FACTOR

On May 2, 2012, Virginia Electric and Power Company ("Dominion Virginia Power" or "Company") filed with the State Corporation Commission ("Commission") its application ("Application"), written testimony, and exhibits requesting to decrease its fuel factor rate from 3.289 cents per kilowatt-hour (" ¢/kWh ") to 2.706 ¢/kWh , effective for usage on and after July 1, 2012. The proposed fuel factor represents a .583 ¢/kWh decrease from the fuel factor rate approved in the Company's 2011 fuel factor proceeding, Case No. PUE-2011-00045.¹ According to the Company, its proposal would result in an annual fuel revenue reduction of approximately \$388.8 million when applied to the Company's projected kWh sales.²

The Company's proposed total fuel factor, Fuel Charge Rider A, consists of both a current and prior period factor. Fuel Charge Rider A's proposed current period factor of 2.589 ¢/kWh is designed to recover the Company's estimated Virginia jurisdictional fuel expenses of approximately \$1.7 billion for the period July 1, 2012, through June 30, 2013.³ Fuel Charge Rider A's proposed prior period factor of 0.117 ¢/kWh is designed to recover approximately \$78.3 million in estimated Virginia jurisdictional fuel expenses, which represents a net of: (1) a projected \$196.1 million over-recovery balance associated with recovery of fuel expenses incurred for the period of July 1, 2011, through June 30, 2012; and (2) a projected under-recovery balance of \$274.4 million associated with the recovery of fuel expenses incurred for the period July 1, 2010, through June 30, 2011 under the mitigation proposal approved by the Commission in Case No. PUE-2011-00045.⁴ According to the Company's Application, the Company experienced an over-recovery during July 1, 2011 - June 30, 2012 fuel period that was influenced primarily by lower than expected commodity and power prices and by unusually mild weather conditions.⁵

The Application did not propose any modifications to the Commission's Definitional Framework of Fuel Expenses for Dominion Virginia Power.

On May 10, 2012, the Commission entered an Order Establishing 2012-2013 Fuel Factor Proceeding that, among other things: (1) established a procedural schedule for this matter; (2) required the Company to provide public notice of its Application; (3) scheduled a public hearing on the Application; and (4) directed that the Company's proposed fuel rate decrease for usage on and after July 1, 2012, shall be placed into effect on an interim basis.

The Virginia Committee for Fair Utility Rates ("Committee") and the Office of the Attorney General's Division of Consumer Counsel ("Consumer Counsel") filed notices of participation in this case.

The Commission convened a public evidentiary hearing on September 6, 2012. Dominion Virginia Power, the Committee, Consumer Counsel, and the Commission's Staff ("Staff") participated in the hearing. The Commission received into evidence the pre-filed testimony from witnesses for the Company and Staff.⁶ All parties and Staff either supported or did not oppose the Company's proposed fuel factor rate. No public witnesses appeared at the hearing.

¹ *Application of Virginia Electric and Power Company, To revise its fuel factor pursuant to § 56-249.6 of the Code of Virginia*, Case No. PUE-2011-00045, 2011 S.C.C. Ann. Rept. 489, Order Establishing Fuel Factor (June 27, 2011) ("2011 Fuel Factor Order").

² Ex. 2 (Application) at 2.

³ *Id.*

⁴ *Id.* In Case No. PUE-2011-00045, the Company projected an under-recovery balance of \$433.5 million associated with the July 1, 2010 - June 30, 2011 fuel period. To mitigate the impact of this deferred under-recovery balance, the Company proposed, and the Commission approved, recovery of the deferred balance over two years (July 1, 2011 through June 30, 2013), rather than one year. *2011 Fuel Factor Order*, 2011 S.C.C. Ann. Rept. at 499-500.

⁵ Ex. 3 (Wood direct) at 2-4. As explained by the Company, "[a]ll other factors held constant, mild weather will reduce fuel commodity and lower prices, as well as the marginal cost of generating energy." *Id.* at 4.

⁶ Proof of public notice of the Application was also received into the record. Ex. 1.

NOW THE COMMISSION, having considered this matter, is of the opinion and finds that Dominion Virginia Power's fuel factor approved herein shall be 2.706¢/kWh for usage on and after July 1, 2012.

Pursuant to § 56-249.6 of the Code of Virginia, Dominion Virginia Power is statutorily entitled to recover its prudently incurred fuel costs. Indeed, in describing this statutory provision over 20 years ago, the Commission explained that the fuel factor permits *dollar for dollar* recovery of prudently incurred fuel costs.⁷ As also explained in prior fuel cases, approval of a fuel factor herein does not represent ultimate approval of the Company's actual fuel expenses. An audit and investigation of the Company's actual booked fuel costs, among other things, is conducted by the Staff after the close of the fuel year. The Commission subsequently determines what are, in fact, reasonable, prudent and, therefore, allowable fuel expenses and credits, as well as the Company's recover position as of the end of the audit period. For example, the Commission has previously described this review as follows:

Should the Commission find in its Final Audit Order (1) that any component of the Company's actual fuel expenses or credits has been inappropriately included or excluded, or (2) that the Company has filed to make every reasonable effort to minimize fuel cost or has made decisions resulting in unreasonable fuel costs, the Company's recovery position will be adjusted. This adjustment will be reflected in the recovery position of the Company's next fuel factor. We reiterate that no finding in this order is final, as this matter is continued generally, pending Staff's audit of actual fuel expenses.⁸

Likewise, while we find that the fuel factor approved herein shall be implemented for usage on and after July 1, 2012, no finding in this Order Establishing Fuel Factor is final, as this matter is continued generally, pending audit and investigation of the Company's actual fuel expenses.

Accordingly, IT IS ORDERED THAT:

- (1) The Company's fuel factor shall be 2.706¢/kWh for usage on and after July 1, 2012.
- (2) The Company's Fuel Charge Rider A, as approved herein, is accepted for filing and shall become effective for usage on and after July 1, 2012.
- (3) This case is continued generally.

⁷ *Commonwealth of Virginia, ex rel., State Corp. Comm'n, Ex Parte: In the matter of establishing Commission policy regarding rate treatment of purchased power capacity charges by electric utilities and cooperatives*, Case No. PUE-1988-00052, 1988 S.C.C. Ann. Rept. 346, 347 (Nov. 10, 1988) (describing the "fuel factor" as "a statutory adjustment mechanism through which all prudently incurred energy costs are recovered, *dollar for dollar*" (emphasis added)). See also *Application of Kentucky Utils. Co., t/a Old Dominion Power Co., To revise its fuel factor pursuant to Virginia Code § 56-249.6*, Case No. PUE-1994-00043, 1995 S.C.C. Ann. Rept. 309, 310 (Jan. 6, 1995) ("*Kentucky Utils.*") (explaining that the "fuel factor mechanism . . . gives the Company *dollar for dollar* recovery for allowable fuel expenses" (emphasis added)).

⁸ *Kentucky Utils.*, 1995 S.C.C. Ann. Rept. at 311.

**CASE NO. PUE-2012-00051
JUNE 21, 2012**

APPLICATION OF
APPALACHIAN POWER COMPANY

To revise its fuel factor pursuant to § 56-249.6 of the Code of Virginia

ORDER ESTABLISHING FUEL FACTOR

On April 24, 2012, Appalachian Power Company ("APCo" or "Company") filed an application ("Application") pursuant to § 56-249.6 of the Code of Virginia ("Code") with the State Corporation Commission ("Commission") seeking an increase in its fuel factor from 2.197 cents per kilowatt-hour ("kWh") to 2.953 cents per kWh, effective for service rendered on and after June 5, 2012.¹ APCo's proposed fuel factor includes both a prior period factor and an in-period factor. The Company's proposed prior period fuel factor increase, from 0.144 cents per kWh to 0.307 cents per kWh, is designed to recover an anticipated under-recovery in the Company's deferred fuel balance.² The Company's proposed in-period fuel factor increase, from 2.053 cents per kWh to 2.646 cents per kWh, is designed to recover APCo's estimated Virginia jurisdictional fuel expenses for the period June 1, 2012, through August 31, 2013.³

The Company's Application reflects a fuel cost under-recovery balance of approximately \$95 million, estimated as of May 2012, as well as an in-period projected increase for the fifteen month period ending August 2013 of approximately \$86 million.⁴ Thus, for the fifteen month forecast

¹ Ex. 2 (Application) at 1.

² *Id.*

³ See *id.*; Ex. 6 (Simmons direct) at 5.

⁴ Ex. 3 (Bosta direct) at 3.

period, the aggregate increase would be about \$181 million, or approximately \$145 million on an annual basis.⁵ However, in an attempt to mitigate the customer impact of the revenue increase in this case, the Company has proposed to recover the \$95 million estimated under-recovery balance over a twenty-four month period rather than the fifteen month forecast period. According to the Company, this proposed mitigation measure, along with the in-period increase, would result in an annual increase of approximately \$117 million, and would result in an increase in APCo's fuel factor to the 2.953 cents per kWh proposed by the Company (rather than an increase to a "full" fuel factor amount of 3.138 cents per kWh).⁶ The proposed fuel factor, after accounting for the proposed mitigation measure, would increase the monthly bill of a typical residential customer using 1,000 kWh of electricity by \$7.56 per month, or approximately 7.2%.⁷

On April 27, 2012, the Commission entered an Order Establishing 2012-2013 Fuel Factor Proceeding that, among other things, established a procedural schedule for this matter; required the Company to provide public notice of its Application; and scheduled a public hearing on the Application for June 13, 2012.

The following parties filed notices of participation in this case: the Old Dominion Committee for Fair Utility Rates ("Committee"); the VML/VACo APCo Steering Committee ("Steering Committee"); Steel Dynamics, Inc. ("SDI"); Wal-Mart Stores East, LP and Sam's East, Inc. ("Wal-Mart"); and the Office of the Attorney General's Division of Consumer Counsel ("Consumer Counsel"). The Commission received thirty (30) written comments on the Application.

The Commission convened a public hearing in Richmond on June 13, 2012, to receive public comments and evidence on the Company's Application. Delegates Donald W. Merricks and Anne B. Crockett-Stark testified on behalf of their constituents. The following participated in the hearing: APCo; the Committee; the Steering Committee; SDI; Wal-Mart; Consumer Counsel; and the Commission Staff.

APCo presented the direct testimony of William A. Bosta, Jeffrey D. LaFleur, Jason T. Rusk, Jennifer S. McLavy, Garry H. Simmons, and the rebuttal testimony of William A. Bosta. The Committee presented the direct testimony of Stephen J. Baron. The Consumer Counsel presented the direct testimony of Scott Norwood. Wal-Mart presented the direct testimony of Steve W. Chriss. The Commission Staff presented the direct testimony of Thomas E. Lamm and Patrick W. Carr. SDI and the Steering Committee did not present any witnesses during the hearing.

APCo's witnesses on direct testified in support of the Company's proposed 2.953 cents per kWh fuel factor, which is composed of a prior period factor of 0.307 cents per kWh and an in-period factor of 2.646 cents per kWh. According to Company witness Bosta, the prior period factor is designed to recover the Company's estimated deferred fuel balance of approximately \$95 million as of May 2012, which is comprised of approximately \$45 million of unrecovered fuel costs and approximately \$50 million of non-incremental costs associated with the Company's Camp Grove, Fowler Ridge, Grand Ridge, and Beech Ridge wind purchased power agreements.⁸ As a mitigation measure, the Company proposed to recover its unrecovered fuel costs and non-incremental purchased power wind costs over a twenty-four month period, rather than a fifteen month period, in order to reduce the impact of the Company's fuel factor on ratepayers.⁹

The proposed increase in the Company's in-period factor is attributable to the inclusion of the Company's non-incremental purchased power wind costs, a decline in the Company's off-system sales margins, and an increase in the Company's coal costs projected during the fifteen month forecast period ending August 2013.¹⁰

Committee witness Baron recommended that the Company's Definitional Framework of Fuel Expenses be modified to exclude the imputed capacity costs of the Company's wind purchased power agreements.¹¹ Under Mr. Baron's proposal, the Company's imputed capacity costs would be removed from the fuel factor and recovered in the Company's future base rate proceedings.¹² Mr. Baron's proposal would reduce the Company's proposed fuel factor from 2.953 cents per kWh to 2.847 cents per kWh.¹³ Mr. Baron's proposal was supported by counsel for SDI and the Steering Committee.

Wal-Mart witness Chriss recommended that the Company's mitigation proposal, which would recover APCo's deferred fuel balance over a twenty-four month period, rather than the fifteen month forecast period, be accepted by the Commission.¹⁴

Consumer Counsel witness Norwood presented testimony supporting the Company's proposed fuel factor. However, Mr. Norwood expressed concern over the limited workpapers provided by APCo and, as a result, his inability to verify the reasonableness of the Company's off-system sales margins

⁵ *Id.*

⁶ *Id.* at 3-4, 13.

⁷ *Id.* at 14.

⁸ *Id.* at 4-5.

⁹ Ex. 2 (Application) at 2, Ex. 3 (Bosta direct) at 3-4.

¹⁰ *Id.* at 5.

¹¹ Ex. 10 (Baron direct) at 6.

¹² *Id.*

¹³ *Id.* at 14.

¹⁴ Ex. 8 (Chriss direct) at 4-5.

for the prior period.¹⁵ He, therefore, recommended that the Commission Staff, as part of its next fuel audit, verify the Company's off-system sales margin calculation and its compliance with the Company's Definitional Framework of Fuel Expenses.¹⁶

The Consumer Counsel also opposed the Committee's recommendation to amend the Definitional Framework of Fuel Expenses. The Consumer Counsel cited several reasons why the Committee's recommendation should not be accepted, including: (1) the Committee's proposal represents only a selective change to the existing energy based allocation of costs and revenues that are collected through the fuel factor, and, if the Commission adopts the Committee's proposal, it should also change the current energy based allocation of capacity revenues associated with off-system sales so there is an equitable and consistent reallocation of all amounts collected through the fuel factor; (2) acceptance of the Committee's proposal would create a complicated, administrative quagmire because the Committee does not address how the imputed capacity component would be determined and trued up in base rates; and (3) the proposal appears to constitute retroactive ratemaking if the Company's Definitional Framework of Fuel Expenses is modified and then applied to imputed capacity costs that were incurred as far back as 2008.

Staff witness Lamm investigated the Company's Application and testified in support of the Company's proposed fuel factor. He found that "the Company's projected fuel expenses for the forecast period and the resulting proposed fuel factor are generally reasonable for the purpose of establishing the fuel factor and consistent with the Commission's Standards for Fuel Cost Projections of Electric Utilities...."¹⁷ In addition, "given the significant rate impact of the level of projected fuel expenses in this proceeding, the Staff believes the Company's proposed mitigation measure is reasonable."¹⁸ Staff witness Carr also noted that the mitigation proposal, if approved by the Commission, could "result in marginally higher rate base balances in APCo's 2013 biennial review's earnings test and, potentially, the going-forward rate case aspect of the review."¹⁹

Company witness Bosta filed rebuttal testimony responding to the direct testimony of the parties and Commission Staff. Mr. Bosta did not oppose Consumer Counsel's recommendation that the Commission Staff perform a focused audit of the Company's off-system sales margins in its next fuel audit. He testified that "[t]he Company's books and records are open to review in fuel proceedings and audits to validate its actual fuel costs," including the Company's off-system sales margins.²⁰ However, Mr. Bosta opposed the Committee's recommendation that the Company's Definitional Framework of Fuel Expenses be modified and a portion of the Company's non-incremental wind purchased power costs be recovered through base rates. Mr. Bosta claimed the Committee's proposal is contrary to the recovery mechanism approved by the Commission for its purchased power wind costs in Case No. PUE-2011-00034,²¹ it would split the recovery of its wind purchased power costs into three separate categories (and three separate rate proceedings with three different allocation methodologies), and it would possibly require "an assessment of each APCo purchased power agreement to determine whether a capacity component exists or an imputed capacity cost can be calculated."²²

NOW THE COMMISSION, having considered this matter, is of the opinion and finds that APCo's fuel factor approved herein shall be 2.953 cents per kWh for service rendered on and after June 22, 2012.

Based on the record herein, we find that the Company's projected fuel expenses for the forecast period and the resulting proposed fuel factor are reasonable for the purpose of establishing the Company's fuel factor. We further find that, given the significant rate impact of the level of projected fuel expenses in the proceeding, the Company's proposed mitigation measure to recover its deferred fuel balance over a twenty-four month period is reasonable. However, as noted in Staff witness Carr's direct testimony, depending on future rate treatment, the mitigation measure we approve herein may cause higher rate base balances in APCo's 2013 biennial review's earning test and, possibly, the Company's going-forward rates. Thus, any issues related to the Company's mitigation measure, and its impact on the Company's earnings test and going-forward rates, will be addressed in the Company's 2013 and subsequent biennial reviews. Further, our approval of APCo's proposed mitigation measure is limited to the facts of this case and does not represent precedent for approval of similar mitigation measures in future cases.

Next, in approving the Company's proposed fuel factor, we find that the Committee's proposal to modify the Company's Definitional Framework of Fuel Expenses, and to recover a portion of the Company's non-incremental purchased power wind costs through base rates, should not be accepted at this time. We continue to find that it is reasonable to treat the non-incremental purchased power wind costs as fuel costs recoverable through APCo's fuel factor consistent with our decision in Case No. PUE-2011-00034.²³ In addition, as explained by Company witness Bosta, acceptance of the Committee's recommendation would create three separate rate proceedings for the recovery of the Company's purchased power wind costs (and establish three different rate proceedings and three different allocation methods for the recovery of the Company's purchased power wind costs)²⁴ and the recommendation could potentially

¹⁵ Ex. 9 (Norwood direct) at 5 and 18-21.

¹⁶ *Id.* at 5 and 21.

¹⁷ Ex. 11 (Lamm direct) at 13.

¹⁸ *Id.* at 13-14.

¹⁹ Ex. 12 (Carr direct) at 1-2.

²⁰ Ex. 13 (Bosta rebuttal) at 5.

²¹ *Petition of Appalachian Power Company, For approval of a rate adjustment clause, RPS-RAC, to recover the incremental costs of participation in the Virginia renewable energy portfolio standard program, pursuant to Va. Code §§ 56-585.1 A 5 d and 56-585.2 E*, Case No. PUE-2011-00034, 2011 S.C.C. Ann. Rept. 471 (Nov. 3, 2011) (hereafter referred to as "APCo RPS RAC").

²² Ex. 13 (Bosta rebuttal) at 5-9.

²³ See APCo RPS RAC.

²⁴ Under the Committee's proposal: (1) the incremental costs of the wind contracts, pursuant to § 56-585.2 E of the Code of Virginia, would be allocated to all customer classes, except the Company's large industrial customers, on a demand basis; (2) the non-incremental costs recovered under the fuel factor would be allocated on an energy basis to all customers; and (3) the remaining non-incremental costs recovered in base rates would be allocated on a demand basis to all customers, including the Company's large industrial customers.

impact the recovery of costs for the Company's non-wind purchased power agreements.²⁵ We also agree with the Consumer Counsel that there are too many unanswered questions surrounding the Committee's recommendation to accept it at the present time.

We further emphasize that our decision to allow the recovery of the non-incremental costs associated with the Beech Ridge and Grand Ridge purchased power wind contracts in APCo's fuel factor should not be deemed to represent our approval of these contracts for cost recovery in any future proceeding. In Case No. PUE-2009-00102, we found "that entering into the Beech Ridge and Grand Ridge [purchased power wind agreements] ... does not satisfy the statutory requirement to fulfill the remaining deficit [of the Company's renewable energy portfolio standard program] in a prudent manner."²⁶ Our decision on the prudence of the Company entering into the Beech Ridge and Grand Ridge purchased power wind contracts remains unchanged. However, we also recognize that the power purchased under the contracts has been used to serve Virginia customers without any cost recovery since the initial operation of the contracts in 2009.²⁷ Under these circumstances, we find that the non-incremental costs of the Beech Ridge and Grand Ridge agreements represent a reasonable proxy for the costs that the Company would have incurred to purchase replacement power had the agreements not been in place.

Finally, we accept the Consumer Counsel's recommendation and hereby direct our Staff to conduct an in-depth audit of the Company's off-system sales margins in the Staff's next fuel audit to verify the accuracy of the Company's off-system sales margins and their conformance with the Company's Definitional Framework of Fuel Expenses. As explained in prior fuel cases, approval of the fuel factor herein does not represent ultimate approval of the Company's actual fuel expenses. An audit and investigation of the Company's actual booked fuel expenses and off-system sales margins, among other things, will be conducted by the Staff after the close of the fuel year. The Commission subsequently determines what are, in fact, prudent and, therefore, allowable fuel expenses, as well as the Company's recovery position at the end of the audit period. For example, the Commission has previously described this review as follows:

Should the Commission find in its Final Audit Order (1) that any component of the Company's actual fuel expenses or credits has been inappropriately included or excluded, or (2) that the Company has failed to make every reasonable effort to minimize fuel cost or has made decisions resulting in unreasonable fuel cost, the Company's recovery position will be adjusted. This adjustment will be reflected in the recovery position of the Company's next fuel factor. We reiterate that no finding in this order is final, as this matter is continued generally, pending Staff's audit of actual fuel expenses.²⁸

Thus, no finding in this Order Establishing Fuel Factor is final, including the Company's off-system sales margins calculated by the Company, and this matter is continued generally pending an audit and investigation of the Company's actual fuel expenses.

Accordingly, IT IS ORDERED THAT:

- (1) The Company's fuel factor shall be 2.953 cents per kWh for service rendered on and after June 22, 2012.
- (2) This case is continued generally.

²⁵ Ex. 13 (Bosta rebuttal) at 8-9.

²⁶ *Application of Appalachian Power Company, For approval pursuant to Va. Code § 56-585.2 of purchase power agreements as part of its participation in the Virginia renewable energy portfolio standard program*, Case No. PUE-2009-00102, 2010 S.C.C. Ann. Rept. 395, 399, Order Denying Approval (June 2, 2010).

²⁷ See Ex. 11 (Lamm direct) at 6.

²⁸ *Application of Kentucky Utilities Company, t/a Old Dominion Power Company, To revise its fuel factor pursuant to Virginia Code § 56-249.6*, Case No. PUE-1994-00043, Order Establishing 1994/95 Fuel Factor, 1995 S.C.C. Ann. Rept. 309, 311 (Jan. 6, 1995).

CASE NO. PUE-2012-00052 AUGUST 2, 2012

APPLICATION OF VIRGINIA ELECTRIC AND POWER COMPANY

For approval of a rate adjustment clause pursuant to § 56-585.1 A 4 of the Code of Virginia

FINAL ORDER

On May 2, 2012, Virginia Electric and Power Company ("Dominion Virginia Power" or "Company") submitted an application to the State Corporation Commission ("Commission") pursuant to § 56-585.1 A 4 ("Subsection A 4") of the Code of Virginia ("Code") for approval of a rate adjustment clause ("RAC") designated as Rider T1 ("Application"). Subsection A 4 allows Virginia's investor-owned electric utilities to recover, with Commission approval, certain transmission-related costs through a RAC. This Code section further deems to be prudent the "costs for transmission services provided to the utility by the regional transmission entity of which the utility is a member" and "costs charged to the utility that are associated with demand response programs approved by the Federal Energy Regulatory Commission and administered by the regional transmission entity of which the utility is a member."

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Dominion Virginia Power seeks to recover its Subsection A 4 costs through a combination of base rates and a new increment/decrement RAC, designated as Rider T1.¹ The Company asserts that Rider T1 is designed to recover the increment/decrement between revenues produced from the Commission-approved 2011 Rider T, now combined with base rates,² and the new revenue requirement developed from the Company's Subsection A 4 costs for the rate year.³

Specifically, the Company has proposed a Rider T1 that, if approved, would produce a revenue requirement for the rate year of \$372,900,596. This represents an annual revenue decrease of \$99,556,568.⁴ The Company's proposed Rider T1 would be effective for usage during the rate year of September 1, 2012, through August 31, 2013.⁵ The Company does not propose for Rider T1 any changes from the cost allocation and rate design methodologies previously approved for Rider T.⁶

On May 9, 2012, the Commission issued an Order for Notice and Hearing that, *inter alia*, established a procedural schedule for this case, and directed the Company to provide public notice of its Application. This Order also directed the assignment of a Hearing Examiner to conduct further proceedings in this matter on behalf of the Commission, including: (i) ruling on the Company's Motion for Protective Order, (ii) filing a final report containing the Hearing Examiner's options for the Commission's consideration for implementing remaining issues associated with the combining of the 2011 Rider T with the Company's costs, revenues, and investments as required by § 56-585.1 A 3 of the Code ("Subsection A 3"), and (iii) setting forth findings and recommendations on other remaining issues in this case.

The following parties filed notices of participation in this proceeding: the Office of the Attorney General, Division of Consumer Counsel ("Consumer Counsel"); the Virginia Committee for Fair Utility Rates ("Virginia Committee"); and MeadWestvaco Corporation ("MeadWestvaco"). On June 15, 2012, the Commission Staff ("Staff") filed the testimonies and exhibits of its witnesses. The Company subsequently filed the testimony and exhibits of its rebuttal witness on June 20, 2012. No other testimony or exhibits were pre-filed in this case.

Alexander F. Skirpan, Jr., Senior Hearing Examiner, convened an evidentiary hearing in this docket on June 25, 2012. Hearing participants included the Company, Consumer Counsel, and the Staff. Neither MeadWestvaco nor the Virginia Committee participated in the hearing. Thereafter, on July 10, 2012, the Hearing Examiner's report in this matter ("Report") was filed with the Clerk of the Commission. The Company and MeadWestvaco filed comments concerning the Report on July 17, 2012.⁷

The Report, *inter alia*, identified the combination of former Rider T revenues into base rates as part of the Company's recent biennial review, and the recovery of those revenues as well as future transmission revenues qualifying for Subsection A 4 treatment, as the central issues presented by the evidentiary record in this docket. In particular, the Report stated that the principal issue for determination by the Commission in this docket is whether "combination" of former Rider T revenues should be accomplished as proposed by the Company in its Application (and as proposed by the Staff), or through some alternative methodology, such as the method identified and described by the Staff in its pre-filed testimony.

As summarized in the Report, the Company proposed to "implement Subsection A 3, so as to retain deferred accounting and dollar-for-dollar recovery of all Subsection A 4 costs, by continuing to identify and track separately both Subsection A 4 base rate revenues and revenues produced by the Subsection A 4 RAC."⁸ As stated in the Report, the net result of such an approach in this case results in the implementation of a Rider T1 (to become effective September 1, 2012) that produces a revenue requirement decrement of \$99,556,568.⁹

¹ The Commission has previously approved the recovery of Subsection A 4 costs through a RAC designated as Rider T in: Application of Virginia Electric and Power Company, For approval of rate adjustment clause pursuant to § 56-585.1 A 4 of the Code of Virginia, Case No. PUE-2009-00018, 2009 S.C.C. Ann. Rept. 422, Final Order (June 29, 2009) ("2009 Rider T Case"); Application of Virginia Electric and Power Company, For approval to revise its Rider T rate adjustment clause pursuant to § 56-585.1 A 4 of the Code of Virginia, Case No. PUE-2010-00006, 2010 S.C.C. Ann. Rept. 449, Final Order (June 29, 2010) ("2010 Rider T Case"); and Application of Virginia Electric and Power Company, For approval of rate adjustment clause pursuant to § 56-585.1 A 4 of the Code of Virginia, Case No. PUE-2011-00044, 2011 S.C.C. Ann. Rept. 496, Final Order (July 19, 2011) ("2011 Rider T Case").

² Consistent with the Commission's November 30, 2011 Final Order in the Company's first biennial review, *Application of Virginia Electric and Power Company, For a 2011 biennial review of the rates, terms, and conditions for the provision of generation, distribution, and transmission services pursuant to § 56-585.1 A of the Code of Virginia*, Case No. PUE-2011-00027, 2011 S.C.C. Ann. Rept. 456, Final Order (Nov. 30, 2011), and § 56-585.1 A 3 of the Code, Dominion Virginia Power combined its existing 2011 Rider T rates into the Electricity Supply Service portion of base rates. The Company states in its Application that, to implement § 56-585.1 A 3 for purposes of this proceeding, it will continue to identify and track separately the revenues of the existing Rider T, thus preserving deferral accounting and dollar-for-dollar recovery of all qualifying costs as previously approved by the Commission.

³ Application at 10. The Company proposes the implementation of Rider T1 to distinguish this RAC from previous stand-alone Rider T RACs approved by the Commission in the 2009 Rider T Case, 2010 Rider T Case, and 2011 Rider T Case. *Id.*

⁴ *Id.* at 11. The Company's 2011 Rider T rates were designed to recover an annual revenue requirement of \$466.4 million for costs projected to be incurred during the period September 1, 2011, through August 31, 2012. *Id.* at 7-8.

⁵ *Id.* at 1, 10.

⁶ *Id.* at 11.

⁷ The Staff filed correspondence with the Clerk of the Commission on July 17, 2012, advising that it did not intend to file comments concerning the Report.

⁸ Report at 13.

⁹ *Id.*

The Report further states that the alternative "combining" methodology furnished by the Staff would "end[] deferral accounting and dollar-for-dollar recovery of transmission costs that are now combined with base rates. Under this methodology, Rider T1 would include projected transmission costs for projects that were not in former Rider T RACs and combined with base rates."¹⁰ As noted in the Report, this alternative methodology was calculated by the Staff to produce a Rider T1 revenue requirement increase of \$17,459,331.¹¹

The Hearing Examiner concluded that while the Company's proposed implementation of Subsection A 3 with respect to Subsection A 4 RACs "is unopposed in this case and is supported by both the Company and Staff [,]"¹² the alternative furnished by the Staff "provides a workable method for applying a statutory interpretation of Subsection A 3 that treats 'combined' in regard to Subsection A 4 transmission costs the same as Subsection A 5 and 6 costs."¹³

The Company's comments concerning the Report generally reiterated legal argument made at the hearing's conclusion with respect to the Subsection A 3 methodology to be implemented in this case. MeadWestvaco's comments stated, in sum, that "these transmission related costs should continue to be recovered on a dollar for dollar basis with deferral accounting and that the Commission should approve the requested \$99 million credit to customers through [R]ider T1."¹⁴

NOW THE COMMISSION, having considered this matter, is of the opinion and finds in this proceeding that Rider T1 is approved in the amount proposed by the Company and the Staff.¹⁵

Accordingly, IT IS ORDERED THAT:

(1) The Company's Application is granted as set forth herein.

(2) Within thirty (30) days from the date of this Final Order, the Company shall file with the Clerk of the Commission and with the Commission's Divisions of Energy Regulation and Utility Accounting and Finance, Rider T1, with supporting work papers, that reflects the findings and requirements set forth herein.

(3) Rider T1 as approved herein shall become effective for service rendered on and after September 1, 2012.

(4) This matter is dismissed.

CHRISTIE, Commissioner, concurs:

I concur in the result of this Order, which is a workable result not precluded by applicable statutes that are in conflict.

When the text of each is given its plain meaning, Subsection A 3 and § 56-585.1 A 8 ("Subsection A 8") of the Code of Virginia are in conflict in relation to Subsection A 4. Subsection A 4 allows a utility to request a RAC for the recovery of "transmission" costs, which we previously approved as Rider T.

Since Dominion Virginia Power's first biennial review resulted in credits to customers' bills, Subsection A 3 requires the Commission to combine such RACs with the utility's costs, revenues and investments. Subsection A 3 further mandates that "after such [RACs] are combined as herein specified, they shall thereafter be considered part of the utility's costs, revenues, and investments for the purposes of future *biennial review* proceedings."¹⁶ Subsection A 8, however, does not include "transmission" costs, revenues and investments in the earnings review required in biennial review proceedings. Specifically, Subsection A 8 directs the Commission to analyze the utility's "fair combined rate of return on both its *generation and distribution* services."¹⁷ There is no reference to "transmission" services in Subsection A 8 in this regard, which thus creates but does not answer the question of how transmission revenues, costs and investments are supposed to be properly considered in a biennial review proceeding specifically devoted to generation and distribution.

The conflict created in the Virginia Electric Utility Regulation Act ("Act")¹⁸ is therefore apparent: Subsection A 3 requires the Commission to combine the Subsection A 4 "transmission" RAC for purposes of future biennial review proceedings, but Subsection A 8 does not include "transmission"

¹⁰ *Id.* at 14.

¹¹ *Id.*

¹² *Id.* at 17.

¹³ *Id.* at 19.

¹⁴ Comments of MeadWestvaco Corporation at 1.

¹⁵ We reject, however, the Company's argument that such result is mandated by the filed rate doctrine. As noted by the Hearing Examiner, "[n]o one has suggested that the recovery of transmission costs in base rates, without any type of RAC, is a violation of the filed rate doctrine where base rates are set to reflect full recovery of transmission costs." Report at 18.

¹⁶ Emphasis added.

¹⁷ Va. Code § 56-585.1 A 8 (i), (ii), and (iii) (emphasis added).

¹⁸ Chapter 23 (§ 56-576 *et seq.*) of Title 56 of the Code.

services in the biennial review proceeding's earnings analysis. Thus, Subsections A 3 and A 8 can each be reasonably read to negate the other with regard to Subsection A 4 RACs.

Therefore, I find that the practical approach recommended by the Staff (and supported by the Company) for the Subsection A 4 "transmission" RAC (*i.e.*, Rider T1) is reasonable, not precluded by the statutes in conflict, and should be approved.

DIMITRI, Commissioner, concurs:

I concur in the result for purposes of continuing the RAC deferral in the instant proceeding. For purposes of longer term implementation of § 56-585.1 of the Code and related provisions of the Act, however, this approach is not directed by Subsection A 3. Subsection A 3 clearly requires the Commission to "combine such [RAC] with the utility's costs, revenues and investments," and directs that "after such [RACs] are combined as herein specified, they shall thereafter be considered part of the utility's costs, revenues, and investments for the purposes of future biennial review proceedings." Thus, today's action does not predetermine how the ongoing requirements of Subsection A 3 must be implemented in future proceedings for current or subsequent RACs.

Indeed, the Act does not require deferred accounting – or recovery through a RAC – of *any* transmission costs, and continued deferred accounting of certain RAC-related transmission costs and revenues at some point may undermine the statute's direction to combine costs, revenues, and investments. Subsection A 3 directs that the transmission costs and revenues be combined with other base rates *for the purposes of future biennial reviews*.¹⁹ Although Subsection A 8 does not reference transmission, the direct language of Subsection A 3 expressly provides that the Subsection A 4 transmission cost and revenue data will be contained in biennial reviews. I agree, however, that further clarity would be useful in resolving any question as to how such cost and revenue data must be treated "for the purposes of future biennial review proceedings." I do not agree that Subsections A 3 and A 8 are necessarily in conflict, but the difference in language creates some ambiguity.

As a matter of equity and fairness to both the utility and its customers, the approach taken in this Order appears to be reasonable, and the Commission has the authority, I believe, to take this approach at this time. The Company proposed the credit here based on its acknowledgement of lower costs for transmission services during the time when these rates will be in effect – so, under today's Order, customers are protected from paying rates in excess of costs, while at the same time the Company recovers its costs. Further, the level of transmission costs included in base rates in the amount of \$466.4 million at this time, without adjustment, does not represent a going level of transmission costs for purposes of inclusion in base rates,²⁰ and there would be complexities in fully merging costs into base rates at this time. It should be noted, however, that the actions we take here could potentially affect other aspects of ratemaking, including the biennial review process.

Today's ruling allowing continued deferral at this time is appropriate under the unique circumstances here and does not portend, nor does it need to, a precedent-setting, longer term implementation of the provisions of Subsection A 3. In the future, the ongoing treatment of transmission costs and revenues included previously in a RAC will rest upon the requirements of the Act. Such determinations must be made in future proceedings for the full implementation of § 56-585.1 of the Code and related provisions of the Act, judged on the particular facts and circumstances attendant thereto.

JAGDMANN, Commissioner, concurs:

I concur in the result, which gives meaning to Subsections A 3, A 4, and A 8. Dominion Virginia Power has exercised its right, under the plain language of Subsection A 4, to recover its federally-approved transmission costs through a RAC. Subsection A 4 requires the Commission to permit recovery of charges for both "new and existing transmission facilities" as part of the transmission RAC. Thus, unlike other RACs that must be combined with base rates under Subsection A 3,²¹ transmission RACs must necessarily commingle both past and present transmission project investment. This cost recovery requirement for transmission facilities under Subsection A 4, however, is lost if transmission RACs are not separately tracked after being combined with other costs and revenues under Subsection A 3. As a result, today's Order combines the transmission RAC as required by Subsection A 3, while at the same time complying with the unique requirements of a Subsection A 4 transmission RAC.

In addition, Subsection A 8 does not include "transmission" in the earnings analysis that must be performed in each biennial review. Accordingly, the treatment afforded the Subsection A 4 transmission RAC herein permits the Commission to isolate "generation and distribution services" as required by the Subsection A 8 earnings review.

In short, the result of today's Order gives meaning to all of the relevant statutory provisions of Subsections A 3, A 4, and A 8.²²

¹⁹ If a utility does not request a Subsection A 4 RAC, then transmission costs are otherwise included in base rates from the start – and thus "combined" in the first instance with the utility's other costs, revenues and investments absent an order of the Commission under Subsection A 3. Section 56-585.1 A of the Act explicitly states that the Commission "shall conduct biennial reviews of the rates, terms and conditions for the provision of generation, distribution and transmission services" (emphasis added).

²⁰ This amount was added to base rates because of the requirements of Subsection A 3. It includes a projected annual level for the twelve month period ended August 31, 2012, a true-up for 2010, and an update amount for the eight month period ended August 31, 2011.

²¹ See Va. Code §§ 56-585.1 A 5 and 6.

²² See, e.g., *Northampton County Bd. of Zoning Appeals v. Eastern Shore Dev. Corp.*, 277 Va. 198, 202, 671 S.E.2d 160, 162 (2009) ("It is the duty of the Court to read legislative enactments to give meaning to all the words used. We cannot read them 'to render any words meaningless.'" (citations omitted)).

**CASE NO. PUE-2012-00053
MAY 22, 2012**

APPLICATION OF
SOUTHSIDE ELECTRIC COOPERATIVE

For authority to refinance long-term debt

ORDER GRANTING AUTHORITY

On April 26, 2012, Southside Electric Cooperative ("Applicant") filed an application with the Virginia State Corporation Commission ("Commission") under Chapter 3¹ of Title 56 of the Code of Virginia requesting authority to refinance long-term debt. Applicant has paid the requisite fee of \$250.

Applicant requests authority to refinance up to \$15,825,931 of its 5% fixed interest rated debt currently outstanding with the Rural Utilities Services. Applicant will refinance the debt with the National Rural Utilities Cooperative Finance Corporation. The new debt is structured as 24 notes with maturities ranging from one to 24 years, with each note carrying a different interest rate. The interest rates on the new debt range from fixed rates of 1.8% to 4.60%, with a composite interest rate of 4.25%. It is anticipated that interest expense will be reduced by approximately \$4.6 million over the life of the new debt.

NOW THE COMMISSION, upon consideration of the application and having been advised by its Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest.

Accordingly, IT IS ORDERED THAT:

- (1) Applicant is hereby authorized to refinance up to \$15,825,931 of its long-term debt, under the terms and conditions and for the purposes set forth in the application.
- (2) Within thirty (30) days of the date of the refinance of funds, Applicant shall file with the Commission's Division of Utility Accounting and Finance a Report of Action, which shall include the amount of the refinance, the term of the new debt, and the interest rates associated with the new debt.
- (3) The authority granted herein shall have no implications for ratemaking purposes.
- (4) There appearing nothing further to be done in this matter, it is hereby dismissed.

¹ Va. Code § 56-55 *et seq.*

**CASE NO. PUE-2012-00055
SEPTEMBER 26, 2012**

APPLICATION OF
DALE SERVICE CORPORATION

For an Annual Informational Filing

ORDER ADOPTING RECOMMENDATIONS AND CLOSING PROCEEDING

On April 26, 2012, Dale Service Corporation ("Dale Service" or "Company") filed its application for an Annual Informational Filing ("AIF") for the year ending December 31, 2011, with the Clerk of the State Corporation Commission ("Commission"). On July 25, 2012, the Staff of the Commission ("Staff") filed its Report on Dale Service's AIF. That Report included both financial and accounting analyses.

In concluding the Staff Report, the Staff noted that its analyses yielded fully adjusted revenues of \$10,704,156; net income of \$819,770; and a DSC ratio of 1.29. Therefore, in accordance with the Stipulation and Final Order in the Company's most recent rate case,¹ the Staff recommended reducing revenues by \$311,685, effective July 1, 2012, in order to produce a DSC ratio not in excess of 1.20.²

On July 31, 2012, Dale Service filed comments to the Staff Report accepting the Staff's adjustments, with one exception. The Company disagreed with the Staff's adjustment of sludge removal costs where the Staff assumed an average amount of sludge removal of 748 tons per month. The Company maintained that its original estimate of 901 tons per month was appropriate and therefore recommended that its full adjustment be reinstated. This change would result in a reduction in rates for the rate year of \$246,334 (\$311,685 Staff recommendation less \$65,351 for increased sludge removal costs). Additionally, the Company proposed a one-time credit to be applied to customer bills rendered in October 2012 instead of changing its rates by a small amount each quarter to reflect the \$246,334 reduction in rates.

¹ *Application of Dale Service Company, For an expedited increase in rates*, Case No. PUE-2009-00040, 2010 S.C.C. Ann. Rept. 327, Final Order (Jan. 19, 2010).

² *Id.* at 7.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

On August 14, 2012, the Staff responded to Dale Service's July 31, 2012 comments ("Staff Response"). The Staff stated that it did not believe that the Company's estimate of monthly sludge amounts results in an expense level that is reasonably predicted to occur, as required by § 56-235.2 of the Code of Virginia. The Staff did, however, propose an alternative methodology for determining sludge removal costs for 2012 that incorporates the actual costs incurred by the Company for the first half of 2012 and projected costs for the second half of 2012. The Staff's proposed methodology results in a total projected sludge disposal expense for 2012 of approximately \$551,100, which is approximately \$9,000 more than Staff's original recommendation in the Staff Report and \$56,500 less than the Company's proposed amount of \$607,600.

The Staff also noted that, while it is not opposed to a one-time customer credit to correct any over-billings prior to the implementation of the new rates, the Staff did not recommend a one-time credit in lieu of reducing its rates. The Staff, therefore, recommended that the Company's rates be reduced by \$303,184 (to produce the 1.20 DSC), effective July 1, 2012, and that a one-time credit be issued to correct any over-billings made from July 1, 2012, until the revised rates are put into place.

On September 11, 2012, Dale Service replied to the Staff Response, indicating that it would accept the Staff's cost of service set forth in the Staff Response and start initiating the reduction in rates with the October 2012 billing and would also apply any credit for over-billing in July 2012 to the October 2012 billing.

NOW THE COMMISSION, upon consideration of the matter, is of the opinion and finds that the Staff's recommendations and revisions to the Company's cost of service, including the Staff Report and Staff Response are reasonable and should be adopted, and that the captioned application should be dismissed from the Commission's docket of active cases.

Accordingly, IT IS ORDERED THAT:

(1) Consistent with the findings made herein, the Staff's recommendations in its July 25, 2012 Report and its August 14, 2012 letter, including the Staff's accounting and earnings adjustments, are hereby adopted.

(2) Dale Service Corporation shall reduce its rates by \$303,184, effective July 1, 2012, beginning with the October 2012 quarterly billing.

(3) The Company shall issue a one-time credit for any over-billings made between July 1, 2012, and the date of entry of this Order. The credit for any over-billings should be allocated among the Company's customer classes in accordance with the methodology proposed in the Company's comments filed on September 11, 2012, in this docket.

(4) Within sixty (60) days of the date of this Order, the Company shall file with the Commission's Division of Energy Regulation tariff sheets reflecting the new rates.

(5) There being nothing further to be done herein, this case shall be dismissed from the Commission's docket of active proceedings, and the papers filed herein shall be placed in the Commission's files for ended causes.

**CASE NO. PUE-2012-00056
MAY 16, 2012**

APPLICATION OF
NORTHERN NECK ELECTRIC COOPERATIVE

For authority to incur additional long-term debt

ORDER GRANTING AUTHORITY

On April 27, 2012, Northern Neck Electric Cooperative ("NNEC" or "Applicant") filed an application with the State Corporation Commission ("Commission") under Chapter 3 of Title 56 of the Code of Virginia ("Code") for authority to borrow up to \$14,337,000 in long-term debt from the Federal Financing Bank ("FFB"). Applicant has paid the requisite fee of \$25.

Applicant represents that the long-term debt is needed to finance NNEC's current three-year construction work plan approved by the Rural Utilities Service ("RUS") that began in October of 2011. The NNEC Board of Directors approved the RUS loan request on October 21, 2011, and RUS approved the loan application on March 31, 2012. The FFB loan will be guaranteed by RUS. NNEC expects the loan maturity to be 35 years.

Applicant states that the FFB loan can be drawdown over the next few years, and the interest rate will be determined at the time of the draw and will be the yield on a comparable maturity United States Treasury bond plus 1/8% per annum.

NOW THE COMMISSION, upon consideration of the application and having been advised by its Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest.

Accordingly, IT IS ORDERED THAT:

(1) Applicant is hereby authorized to borrow up to \$14,337,000 in long-term debt from the FFB all in the manner, under the terms and conditions, and for the purposes set forth in the application.

(2) Within thirty (30) days of the date of any advance of funds from FFB, Applicant shall file with the Commission's Division of Utility Accounting and Finance a Report which shall include the date of the drawdown, the amount of the advance, the interest rate selected, the interest rate maturity, and the amount of remaining authority available to be borrowed.

- (3) Approval of this application shall have no implications for ratemaking purposes.
- (4) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUE-2012-00057
SEPTEMBER 28, 2012**

APPLICATION OF
COLUMBIA GAS OF VIRGINIA, INC.

For an Annual Informational Filing

ORDER ADOPTING RECOMMENDATIONS AND CLOSING PROCEEDING

On April 30, 2012, Columbia Gas of Virginia, Inc. ("Columbia" or "Company"), filed its application for an Annual Informational Filing ("AIF"), including financial and operating data for Columbia and NiSource Inc., for the test year ending December 31, 2011, with the Clerk of the State Corporation Commission ("Commission").

On July 30, 2012, the Staff of the Commission ("Staff") filed its report ("Staff Report") on Columbia's AIF. The Staff Report included both financial and accounting analyses and concluded that the Company earned a 10.10% return on equity ("ROE") in its Earnings Test, which equals the mid-point in the 9.6% to 10.6% authorized range of ROE approved in the Company's most recent rate case.¹ Additionally, the Staff Report indicated that Columbia's fully adjusted ROE is 10.52%, which also falls within the authorized range of ROE. Therefore, the Staff recommended no action relating to base rates be taken at this time.² Staff also recommended that Columbia be allowed regulatory asset treatment for certain environmental clean-up costs and that regulatory asset treatment for certain post-employment benefit costs be denied.³

On August 28, 2012, the Company filed a letter indicating that while it "does not necessarily agree with some elements of the Staff's Report, or with all of Staff's proposed adjustments," it would not "address the propriety of those proposed adjustments at this time." However, the Company stated that its "decision not to challenge" portions of the Staff's proposed adjustments "should not be construed as acquiescence to Staff's positions" and, further, that it reserved the right to "take issue with any or all" of the Staff's proposed adjustments "in future proceedings before the Commission."

NOW THE COMMISSION, upon consideration of the matter, is of the opinion and finds that the Staff's recommendations and revisions to the Company's cost of service included in the July 30, 2012 Staff Report that were specifically agreed to by the Company in its August 28, 2012 response are reasonable and should be adopted; that the remainder of the Staff's proposed adjustments may be addressed in future proceedings before the Commission; that no action on the Company's rates should be taken at this time; and that the captioned application should be dismissed from the Commission's docket of active cases.

Accordingly, IT IS ORDERED THAT:

- (1) Consistent with the findings made herein, the Staff's recommendations in its July 30, 2012 Report specifically agreed to by the Company are hereby adopted. The remaining adjustments recommended by the Staff may be addressed in future proceedings before the Commission.
- (2) No action shall be taken on the Company's rates at this time.
- (3) There being nothing further to be done herein, this case shall be dismissed from the Commission's docket of active proceedings, and the papers filed herein shall be placed in the Commission's files for ended causes.

¹ *Application of Columbia Gas of Virginia, Inc., For authority to increase rates and charges and to revise the terms and conditions applicable to gas service*, Case No. PUE-2010-00017, 2010 S.C.C. Ann. Rept. 475, Final Order (Dec. 17, 2010).

² Report at 14.

³ Report at 13.

**CASE NO. PUE-2012-00058
JUNE 20, 2012**

APPLICATION OF
DECA ENERGY INC.

For a license to conduct business as a competitive service provider for natural gas

ORDER GRANTING LICENSE

On May 3, 2012, Deca Energy Inc. ("Deca" or "Company") filed an application with the State Corporation Commission ("Commission") for a license to act as a competitive service provider for natural gas service pursuant to § 56-235.8 F of the Code of Virginia ("Application"). This Application seeks authority to serve residential, commercial and industrial customers in the service territory of Washington Gas Light Company ("WGL"). The Company attested that it would abide by all applicable regulations of the Commission as required by 20 VAC 5-312-40 B of the Commission's Rules Governing Retail Access to Competitive Energy Services ("Retail Access Rules").

On May 16, 2012, the Commission issued an Order for Notice and Comment ("Order") which docketed the Application, required that notice of the Application be given to WGL, permitted interested persons to file comments on the Application, and required the Commission's Staff to analyze the reasonableness of the Application and present its findings in a Staff Report. The Company filed proof of service of the Order on May 29, 2010. No comments were received on Deca's Application.

Public and confidential versions of the Staff Report were filed on June 8, 2012, addressing Deca's fitness to conduct business as a competitive service provider for natural gas service. The Staff Report summarized Deca's proposal and evaluated the Company's financial condition and technical fitness. Based on its review of the Application, Staff recommended that Deca be granted a license to conduct business as a competitive service provider of natural gas service to residential, commercial and industrial customers in the service territory of WGL upon proof of a surety bond or other acceptable means of financial security in the amount of Ten Thousand Dollars (\$10,000). By letter filed June 12, 2012, Deca stated its agreement with the Staff Report and delivered a surety bond in the recommended amount to the Commission's Division of Utility Accounting and Finance. No other comments were filed in the proceeding.

NOW UPON CONSIDERATION of the Application, the Staff Report, the applicable law, and the Retail Access Rules, the Commission is of the opinion and finds that Deca's request for a license to conduct business as a competitive service provider of natural gas service should be granted subject to the conditions set forth below and that this case should be continued to accommodate the consideration of any subsequent amendments or modifications to the license granted herein.

Accordingly, IT IS ORDERED THAT:

- (1) Deca is hereby granted License No. G-32 to be a competitive service provider of natural gas service to residential, commercial and industrial customers in WGL's service territory. This license to act as a competitive service provider is granted subject to the provisions of the Retail Access Rules, this Order, and other applicable statutes.
- (2) This license is not valid authority for the provision of any product or service not identified within the license itself.
- (3) This case shall remain open for consideration of any subsequent amendments or modifications to this license.

**CASE NO. PUE-2012-00059
AUGUST 13, 2012**

APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY,
and
VIRGINIA POWER SERVICES, LLC

For approval of a Revised Affiliate Agreement pursuant to Chapter 4 of Title 56 of the Code of Virginia

ORDER GRANTING APPROVAL

On May 14, 2012, Virginia Electric and Power Company ("DVP" or the "Company") and Virginia Power Services, LLC ("VPS"), filed an application ("Application") with the State Corporation Commission ("Commission") pursuant to Chapter 4 of Title 56 of the Code of Virginia ("Code")¹ and Ordering Paragraph (10) of the Commission's March 9, 2011 Order Granting Approval in Case No. PUE-2010-00144,² for approval of a revised Inter-Company Credit Agreement ("Revised ICA") between DVP and VPS.

The Commission initially approved an Inter-Company Credit Agreement ("Initial ICA") between DVP and VPS's predecessor company, Virginia Power Services, Inc ("VPSI"), in Case No. PUA-1997-00007.³ In that case, DVP represented that VPSI was created to facilitate the efficient utilization of DVP's resources and expertise to provide unregulated services to third parties while segregating such activities from the Company's regulated electric utility operations. The Initial ICA funded VPSI's sole subsidiary, Virginia Power Nuclear Services Company ("VPN").

In 1998, DVP received approval of two affiliate arrangements involving the creation and operation of Virginia Power Energy Marketing, Inc. ("VPEM"), and Virginia Power Services Energy Corp., Inc. ("VPSE").⁴ In Case No. PUA-1998-00037, the Commission approved an agreement under which VPSE agreed to provide fuel and risk management services to DVP. In Case No. PUA-1998-00038, the Commission approved an agreement under which DVP agreed to transfer certain other fuel-related contracts and natural gas and oil inventories to VPEM, and VPEM agreed to assume all rights and obligations under those fuel-related contracts.

¹ Va. Code § 56-76 *et seq.*

² *Application of Virginia Electric and Power Company and Dominion Resources Services, Inc., For approval of a Revised Services Agreement under Chapter 4 of Title 56 of the Code of Virginia*, Case No. PUE-2010-00144, 2011 S.C.C. Ann. Rept. 410, Order Granting Approval (Mar. 9, 2011).

³ *See Application of Virginia Electric and Power Company, For approval of transactions with an affiliate*, Case No. PUA-1997-00007, 1997 S.C.C. Ann. Rept. 181, Order Granting Approval (Sept. 3, 1997).

⁴ *See Application of Virginia Electric and Power Company, For approval of affiliate transactions with Virginia Power Services Energy Corp., Inc.*, Case No. PUA-1998-00037, 1999 S.C.C. Ann. Rept. 146, Order Granting Approval (Jan. 28, 1999); and *Application of Virginia Electric and Power Company, For approval of affiliate transactions with Virginia Power Energy Marketing, Inc.*, Case No. PUA-1998-00038, 1999 S.C.C. Ann. Rept. 148, Order Granting Approval (Jan. 28, 1999).

In Case No. PUA-1998-00039, the Commission approved a \$200 million Inter-Company Credit Agreement between DVP and VPSI ("Operative ICA"), to fund VPN's and VPSE's activities on behalf of DVP. The interest rate on the Operative ICA was priced to reflect DVP's effective cost of short-term debt. The Operative ICA contained no expiration date. In Case No. PUE-2005-00099, the Commission authorized certain technical amendments to the Operative ICA, which primarily reflected the conversion of VPSI from a Virginia general business corporation to VPS, a Virginia limited liability company.

In the current Application, the Company states that VPS acts as the conduit by which DVP finances the operations of two of VPS's subsidiaries, VPN and VPSE. The Company represents that VPN and VPSE are not organized to be financially self-sufficient and require continued funding to remain viable entities. According to the Company, the Revised ICA will permit DVP to supply funding to VPS that will, in turn, be made available to VPN and VPSE. The Company represents that VPSE specifically requires such financing in order to transact for the fuel management services provided pursuant to the Revised Fuel Management Agreement proposed by DVP in Case No. PUE-2012-00060.⁵

The Company represents in its Application that since the Initial ICA was approved, VPS's financing needs have been such that it has exceeded the \$200 million limit set by the Commission in Case No. PUA-1998-00039 and has had to borrow at times from the Dominion Resources, Inc. money pool. The Company also represents that VPSE's financing needs are expected to increase in the future due to DVP's addition of new natural gas burning units to its generating fleet.

Therefore, the Company is proposing to increase from \$200 million to \$400 million the aggregate maximum limit of the Revised ICA. The proposed interest rate for the Revised ICA loans will be based on the effective weighted average rate of interest on DVP's outstanding commercial paper and/or revolving credit borrowings. If DVP has no outstanding borrowings on the date of the loan, the interest rate will be the Federal Funds' effective rate of interest quoted daily by the Federal Reserve Bank of New York. The Company has proposed that the Revised ICA be effective for a period of five years beginning January 1, 2013.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that approval of the Revised ICA is in the public interest and should be approved. However, we find that the duration of our approval of the Revised ICA should be limited to two years, and we direct that the use of the Revised ICA should be limited solely to the funding of activities that are undertaken by VPN and VPSE on behalf of DVP.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to § 56-77 of the Code, DVP and VPS are hereby granted approval to enter into the Revised ICA for two years, beginning January 1, 2013, subject to the limitations and requirements set forth herein.

(2) Aggregate borrowing under the Revised ICA shall not exceed \$400 million, under the terms and conditions and for the purposes set forth in the Application. The use of the Revised ICA shall be limited solely to the funding of activities that are undertaken by VPN and VPSE on behalf of DVP.

(3) The approval granted herein shall have no ratemaking implications. Specifically, the approval granted herein shall not guarantee the recovery of any costs directly or indirectly related to the Revised ICA.

(4) Separate Commission approval shall be required for any changes in the terms and conditions of the Revised ICA, including any successors or assignees.

(5) The approval granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code hereafter.

(6) The Commission reserves the right to examine the books and records of any affiliate in connection with approval granted herein whether or not such affiliate is regulated by this Commission.

(7) DVP shall file, within sixty (60) days of the end of each calendar quarter beginning in 2013, a quarterly Report of Action that includes a schedule of daily outstanding Revised ICA borrowings separately listing the borrower (VPN or VPSE), the corresponding interest rate charged, the purpose of the loan(s), and any other fees, terms, or conditions of the financing.

(8) DVP shall include all transactions under the Revised ICA in its Annual Report of Affiliate Transactions ("ARAT") submitted to the Commission's Director of the Division of Utility Accounting and Finance ("UAF Director") on or before May 1 of each year, which deadline may be extended administratively by the Commission's UAF Director.

(9) In the event that any rate filings are not based on a calendar year, then DVP shall include the affiliate information contained in its ARAT in such filings.

(10) There appearing nothing further to be done in this case, it hereby is dismissed.

⁵ Application of Virginia Electric and Power Company, Virginia Power Services Energy Corp., Inc., and Virginia Power Energy Marketing, Inc., For approval of Revised Affiliate Fuel Agreements under Chapter 4 of Title 56 of the Code of Virginia, Case No. PUE-2012-00060, Doc. Con. Cen. No. 120520209, Application (May 14, 2012).

**CASE NO. PUE-2012-00060
AUGUST 13, 2012**

APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY,
VIRGINIA POWER SERVICES ENERGY CORP., INC.,
and
VIRGINIA POWER ENERGY MARKETING, INC.

For approval of a Revised Affiliate Fuel Agreement pursuant to Chapter 4 of Title 56 of the Code of Virginia

ORDER GRANTING APPROVAL

On May 14, 2012, Virginia Electric and Power Company ("DVP" or "Company"), Virginia Power Services Energy Corp., Inc. ("VPSE"), and Virginia Power Energy Marketing, Inc. ("VPEM") (collectively, "Applicants"), filed an application ("Application") with the State Corporation Commission ("Commission"), pursuant to Chapter 4 of Title 56 of the Code of Virginia ("Code")¹ and Ordering Paragraph (10) of the Commission's March 9, 2011 Order Granting Approval in Case No. PUE-2010-00144,² requesting approval of certain revisions to the Company's Fuel Management Agreement that governs the provision of fuel services and related affiliate transactions previously approved by the Commission in Case No. PUA-1998-00037,³ as amended in Case No. PUE-2005-00099.⁴

Specifically, the Applicants are requesting approval to implement a revised Fuel Management Agreement between the Company and VPSE with a proposed effective date of January 1, 2013 (the "Revised Fuel Management Agreement"). In addition, the Applicants submitted two other revised agreements as part of the instant Application to provide greater transparency in how the Revised Fuel Management Agreement will operate: (1) a revised Fuel Agency and Service Agreement exclusively for natural gas transactions between VPSE and VPEM (the "Fuel Agency and Procurement Agreement for Natural Gas"); and (2) a revised Fuel Agency and Service Agreement exclusively for oil transactions between VPSE and VPEM (the "Fuel Agency and Procurement Agreement for Oil") (collectively, the "Fuel Agency and Procurement Agreements"). The Revised Fuel Management Agreement and the Fuel Agency and Procurement Agreements are referred to herein collectively as the "Revised Affiliate Fuel Services Agreements."

The Applicants plan to bifurcate the current Operative Fuel Agency Agreement into two separate agreements, one for the purchase, sale, storage and transportation of natural gas and a similar one for oil (the Fuel Agency and Procurement Agreement for Natural Gas and the Fuel Agency and Procurement Agreement for Oil, respectively). The Applicants state that the Company has not previously sought Commission approval of the Operative Fuel Agency Agreement between VPSE and VPEM, nor is it seeking approval of the Fuel Agency and Procurement Agreements in the present proceeding, arguing that neither party to these particular agreements is a public service company and, therefore, Commission approval is not explicitly required under the Affiliates Act. However, as is noted above, the Applicants presented the Fuel Agency and Procurement Agreements with the instant Application for purposes of transparency and consistency with respect to the arrangements underlying the Revised Fuel Management Agreement between the Company and VPSE.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that at this time, based on the representations of the Applicants, the Revised Fuel Management Agreement appears to be in the public interest and should, therefore, be approved for a two (2)-year period subject to the requirements set forth below. We share the concerns expressed by both the Staff and the Applicants regarding the transparency of transactions under this structure. Therefore, we will initiate a separate docket to investigate the reasonableness of the structure proposed by the Applicants.

¹ Va. Code § 56-76 *et seq.* (the "Affiliates Act"). Notably, § 56-80 of the Code states that the Commission shall have continuing supervisory control over the terms and conditions of certain contracts and arrangements so far as necessary to protect and promote the public interest.

² *Application of Virginia Electric and Power Company and Dominion Resources Services, Inc., For approval of a Revised Services Agreement under Chapter 4 of Title 56 of the Code of Virginia*, Case No. PUE-2010-00144, 2011 S.C.C. Ann. Rept. 410, Order Granting Approval (Mar. 9, 2011) ("PUE-2010-00144 Order"). Ordering Paragraph (10) states, in part, that: "DVP shall file ... for approval under the Affiliates Act ... all revised Virginia Power Energy Marketing agreements with DVP between May 1, 2012, and May 15, 2012. This will ensure that these agreements continue to be in the public interest." *Id.* at 412. The Applicants state that the instant Application was filed in compliance with this Commission directive.

³ *See Application of Virginia Electric and Power Company, For approval of affiliate transactions with Virginia Power Services Energy Corp., Inc.*, Case No. PUA-1998-00037, 1999 S.C.C. Ann. Rept. 146, Order Granting Approval (Jan. 28, 1999). In Case No. PUA-1998-00037, the Commission approved an agreement (the "Operative Fuel Management Agreement") under which VPSE agreed to provide fuel and risk management services to DVP, including the purchase, sale, storage and transportation of natural gas, oil, gasoline, diesel fuel, and miscellaneous fuel through VPEM as VPSE's exclusive agent pursuant to a Fuel Agency and Service Agreement between VPSE and VPEM (the "Operative Fuel Agency Agreement"). The Applicants represent that the Operative Fuel Agency Agreement did not require Commission approval under the Affiliates Act because neither party to the agreement, VPSE or VPEM, was a public service company.

⁴ *See Application of Virginia Electric and Power Company, Dominion Resources, Inc., Virginia Power Services, Inc., Virginia Power Services Energy Corp., Inc., and Virginia Power Energy Marketing, Inc., For approval of the transfer of Virginia Power Energy Marketing, Inc., from Virginia Electric and Power Company to Dominion Resources, Inc., and for approval of technical changes to previously approved affiliate agreements, or alternatively, an exemption from the filing and prior approval requirements of the Affiliates Act pursuant to Chapter 4, Title 56 of the Code of Virginia*, Case No. PUE-2005-00099, 2005 S.C.C. Ann. Rept. 491, Order Granting Approval (Dec. 21, 2005). In Case No. PUE-2005-00099, the Commission approved, among other things, an amendment to the Operative Fuel Management Agreement to reflect the relocation of VPEM from an indirect subsidiary of DVP to a direct wholly owned subsidiary of Dominion Resources, Inc. ("DRI").

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to § 56-77 of the Code, the Company and VPSE are hereby granted approval to enter into the Revised Fuel Management Agreement, subject to the requirements set forth herein.

(2) The Revised Fuel Management Agreement shall be effective as of January 1, 2013, and shall extend for two (2) years from the effective date. Should DVP and VPSE wish to continue operating under the Revised Fuel Management Agreement after the two (2)-year period of authorization, subsequent Commission approval shall be required.

(3) Approval of the Revised Fuel Management Agreement shall be limited to the specific transactions identified in the Revised Fuel Management Agreement. Should DVP and VPSE wish to enter into additional transactions, other than those specifically approved in this case, separate Commission approval shall be required.

(4) Separate Commission approval shall be required for any changes in the terms and conditions of the Revised Fuel Management Agreement, including successors and assigns.

(5) The approval granted herein shall have no ratemaking implications. Specifically, it will not guarantee the recovery of any costs directly or indirectly related to the Revised Fuel Management Agreement.

(6) The approval granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code hereafter.

(7) The Commission reserves the right to examine the books, records, and other related documents of any affiliate, whether or not such affiliate is regulated by this Commission.

(8) DVP shall file with the Commission a signed and executed copy of the Revised Fuel Management Agreement approved herein within thirty (30) days of the date of this Order Granting Approval.

(9) DVP shall include all transactions under the Revised Fuel Management Agreement in its Annual Report of Affiliate Transactions ("ARAT") submitted to the Commission's Director of Utility Accounting and Finance ("UAF Director") on or before May 1 of each year, which deadline may be extended administratively by the Commission's UAF Director. In addition to the information currently provided, all transactions under the Revised Fuel Management Agreement shall be reported as follows:

- (a) By Case Number in which the transactions were approved;
- (b) Description of each transaction and the specific service(s) provided;
- (c) Transactions by month;
- (d) Dollar amount charged for each transaction; and
- (e) FERC account in which each transaction is booked.

(10) In the event that rate filings are not based on a calendar year, then DVP shall include the affiliate information contained in its ARAT in such filings.

(11) There appearing nothing further to be done in this case, it is hereby dismissed.

**CASE NO. PUE-2012-00061
AUGUST 13, 2012**

APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY
and
VIRGINIA POWER ENERGY MARKETING, INC.

For approval of Revised Fuel Purchase, Sale and Services Agreement pursuant to Chapter 4 of Title 56 of the Code of Virginia

ORDER GRANTING APPROVAL

On May 14, 2012, Virginia Electric and Power Company ("DVP" or the "Company") and Virginia Power Energy Marketing, Inc. ("VPEM") (collectively, "Applicants"),¹ filed an application ("Application") with the State Corporation Commission ("Commission"), pursuant to Chapter 4 of Title 56 of the Code of Virginia ("Code")² and Ordering Paragraph (10) of the Commission's March 9, 2011 Order Granting Approval in Case No.

¹ DVP and VPEM are both direct wholly owned subsidiaries of Dominion Resources, Inc. ("DRI"), a "holding company" as defined in the Public Utility Holding Company Act of 2005 that is subject to regulation as such by the Federal Energy Regulatory Commission ("FERC").

² Va. Code § 56-76 *et seq.* (the "Affiliates Act").

PUE-2010-00144.³ In the Application, the Applicants are requesting approval of a Revised Fuel Purchase, Sale and Services Agreement (the "Revised Agreement") for affiliate transactions regarding the purchase and sale of "Fuel," as well as the "Transportation" of Fuel and "Emission Reduction Products" (referred to herein as "ERP"), as those terms are defined in the Revised Agreement,⁴ with a proposed effective date of January 1, 2013. The Applicants represent that the Revised Agreement is based on the currently operative Fuel Purchase, Sale and Services Agreement between DVP and VPEM (the "Operative Agreement"), which the Commission approved as being in the public interest, subject to certain conditions and reporting requirements, in Case No. PUE-2006-00067.⁵

The Applicants state that the Revised Agreement is substantially similar to the Operative Agreement. However, while the Operative Agreement does not discuss specific types of Fuel (*i.e.*, it relates to coal, but not to specific types of coal, such as Central Appalachian coal ("CAPP") or Northern Appalachian coal ("NAPP")), it was proposed in 2006 at a time when CAPP prices had risen dramatically, which provided opportunities for DVP to purchase lower-priced international coal from VPEM for consumption at DVP's coal-fired power stations. Since 2006, however, CAPP prices have fallen. Recognizing that coal, like other fuel commodities, is subject to transient (and potentially sudden) price swings, the Applicants seek to expand the scope of the Revised Agreement so that it applies to the purchase and sale of all types of coal used at DVP's facilities, regardless of whether the coal at issue is CAPP, NAPP, or internationally (or other non-traditionally) sourced coal.

The Revised Agreement makes several modifications to the Operative Agreement. First, the Revised Agreement includes a new provision that provides for reimbursement of third-party liquidated damages. Specifically, Article 2, Section 2.4 of the Revised Agreement, states that if "a Party (Non-Performing Party) is unable to perform its obligations to the other Party (Performing Party) and the Performing Party is subject to penalties or liquidated damages, the Non-Performing Party shall promptly reimburse the Performing Party for costs incurred due to non-performance." A similar new provision for Transportation services is also proposed in Article 3, Section 3.3 of the Revised Agreement.

Second, pursuant to Article 3, Section 3.1 of the Operative Agreement, VPEM can sell Transportation services, without any mark-up, to DVP. Similarly, the Revised Agreement continues these transactions, but also allows DVP to sell Transportation services to VPEM, which the Applicants state will provide additional operational flexibility and accommodate those instances when DVP may be able to sell unutilized Transportation services to VPEM, thus reducing DVP's Transportation expenses and the amount of liquidated damages that DVP might otherwise owe a third-party transporter absent this provision.

Third, the Operative Agreement currently has a term of one (1) year, and automatically renews on a month-to-month basis unless and until either DVP or VPEM provides sixty (60) days' advance written notice of termination to the other party. To be consistent with the duration of other DVP affiliate agreements that the Commission has recently approved,⁶ the Applicants propose that the Revised Agreement commence on January 1, 2013, and remain in effect, unless terminated earlier pursuant to its terms, for a period of five (5) years.

Finally, the Applicants are adding a new definition in Exhibit A, Article 1 to the Revised Agreement for ERP,⁷ and are revising the existing definition of "Transportation" in Exhibit A, Article 1, to include the transportation of such ERP. The Applicants state that this new definition recognizes that Transportation services for ERP are needed in addition to those for Fuel since both are consumed at DVP's power stations. As such, Article 3 of the Revised Agreement applies not only to Fuel, but also to ERP.

The Applicants represent that transactions under the Revised Agreement will continue to be evaluated on a one-time basis prior to execution for compliance with the LCM standard (for VPEM's sales to DVP), or the HCM standard (for DVP's sales to VPEM). To the extent that the Applicants enter into a transaction whereby VPEM provides Transportation services to DVP, and VPEM uses the services of another DRI affiliate, the Applicants represent

³ *Application of Virginia Electric and Power Company and Dominion Resources Services, Inc., For approval of a Revised Services Agreement under Chapter 4 of Title 56 of the Code of Virginia*, Case No. PUE-2010-00144, 2011 S.C.C. Ann. Rept. 410, Order Granting Approval (Mar. 9, 2011) ("PUE-2010-00144 Order"). Ordering Paragraph (10) states, in part, that: "DVP shall file ... for approval under the Affiliates Act ... all revised Virginia Power Energy Marketing agreements with DVP between May 1, 2012, and May 15, 2012. This will ensure that these agreements continue to be in the public interest." *Id.* at 412. The Applicants state that the instant Application was filed in compliance with this Commission directive.

⁴ "Fuel" is defined as "any fuel (including but not limited to coal, wood and wood chips), excluding natural or enriched uranium, natural gas, No. 2 and No. 6 fuel oil, gasoline and diesel fuel that can be utilized to generate power in DVP's power plants." ERPs are defined as "products that are injected before or after combustion to reduce emissions at the stations. These products include, but are not limited to: Lime, Limestone, Processed Limestone, Ammonia, Urea, Powdered Activated Carbon, DSI [dry sorbent injection], and Calcium Bromide." "Transportation" is defined as "transportation via rail, truck, barge, or vessel, including any terminaling, storage, handling, loading or other associated services or any other means by which Fuel or [ERP] is moved or is deemed to move." *See* Exhibit A (General Terms and Conditions), Article 1 (Definitions) of the Revised Agreement.

⁵ *Petition of Virginia Electric and Power Company and Virginia Power Energy Marketing, Inc., For approval of a Fuel Purchase, Sale and Services Agreement pursuant to Chapter 4 of Title 56 of the Code of Virginia*, Case No. PUE-2006-00067, 2006 S.C.C. Ann. Rept. 451, Order Granting Approval (Aug. 7, 2006) ("PUE-2006-00067 Order"). In Ordering Paragraph (6) of the PUE-2006-00067 Order, the Commission ordered DVP and VPEM to file quarterly reports of all fuel purchases and sales under the Operative Agreement, breaking down such transactions into various components, in order to demonstrate or confirm that such transactions occurred in accordance with the Commission's higher of cost or market ("HCM") standard or lower of cost or market ("LCM") standard. *Id.* at 453.

⁶ *See, e.g.*, PUE-2010-00144 Order, *supra* n.3.

⁷ *See* definition of ERPs, *supra* n.4.

that the services of that affiliate will be charged to DVP at the LCM.⁸ Transportation services involving third parties will continue to be provided at cost with no mark-up from VPEM under the Revised Agreement.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the above-described Revised Agreement is in the public interest and should, therefore, be approved subject to the requirements set forth below.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to § 56-77 of the Code, the Applicants are hereby granted approval to enter into the Revised Agreement, subject to the requirements set forth herein.

(2) The Revised Agreement shall be effective as of January 1, 2013, and shall extend for five (5) years from the effective date. Should the Applicants wish to continue operating under the Revised Agreement after the five (5)-year period of authorization, subsequent Commission approval shall be required.

(3) Approval of the Revised Agreement shall be limited to the specific transactions identified in the Revised Agreement. Should the Applicants wish to enter into additional transactions, other than those specifically approved in this case, separate Commission approval shall be required.

(4) Separate Commission approval shall be required for any changes in the terms and conditions of the Revised Agreement, including successors and assigns.

(5) The approval granted herein shall have no ratemaking implications. Specifically, it will not guarantee the recovery of any costs directly or indirectly related to the Revised Agreement.

(6) The approval granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code hereafter.

(7) The Commission reserves the right to examine the books and records of any affiliate in connection with the approval granted herein, whether or not such affiliate is regulated by this Commission.

(8) The approval granted herein shall supersede the approval granted in Case No. PUE-2006-00067.

(9) DVP shall file with the Commission a signed and executed copy of the Revised Agreement approved herein within thirty (30) days of the date of this Order Granting Approval.

(10) DVP shall include all transactions under the Revised Agreement in its Annual Report of Affiliate Transactions ("ARAT") submitted to the Commission's Director of Utility Accounting and Finance ("UAF Director") on or before May 1 of each year, which deadline may be extended administratively by the Commission's UAF Director. In addition to the information currently provided, all transactions under the Revised Agreement shall be reported as follows:

- (a) By Case Number in which the transactions were approved;
- (b) Identify the specific affiliate(s) involved in each transaction;
- (c) Description of each transaction and the specific service(s) provided;
- (d) Transactions by month;
- (e) Dollar amount charged for each transaction per affiliate, per month; and
- (f) FERC account in which each transaction is booked.

(11) DVP shall no longer be required to file quarterly reports with the Commission as ordered in Ordering Paragraph (6) of the PUE-2006-00067 Order. Instead, beginning May 1, 2013, DVP shall provide as an attachment to its ARAT an annual report containing the following information related to the Revised Agreement:

- (a) All Fuel purchases and sales by DVP from or to VPEM pursuant to the Revised Agreement;
- (b) The quantity of Fuel purchased or sold;
- (c) The delivered price charged to DVP by VPEM, or charged to VPEM by DVP, broken down by components (*i.e.*, Fuel, Transportation, ERPs, taxes, etc.);
- (d) The corresponding market price;
- (e) The third-party that provided such market price, and demonstration that DVP purchased Fuel from VPEM at the LCM or that DVP sold Fuel to VPEM at the HCM; and
- (f) In the event that VPEM provides Transportation services to the Company and VPEM uses the services of another DRI affiliate, including but not limited to DETCo or Brayton Point, DVP should provide the following information: (i) the specific affiliate providing the service; (ii) the specific service the affiliate will be providing; (iii) the cost of such service; and (iv) the calculation of such charges with supporting detail, which demonstrates that DVP received said services at the LCM.

⁸ In an Amendment to their Petition in Case No. PUE-2006-00067, the Company and VPEM identified three (3) DRI affiliates that could be involved in VPEM's provision of Transportation services to DVP under the Operative Agreement: Dominion Terminal Associates, Dominion Energy Terminal Company, Inc. ("DETCo"), and Dominion Energy Brayton Point, LLC ("Brayton Point"). The Applicants note in the instant Application that two (2) of these affiliates, DETCo and Brayton Point, could potentially be involved in VPEM's provision of Transportation services to DVP under the Revised Agreement.

(12) In the event that rate filings are not based on a calendar year, then DVP shall include the affiliate information contained in its ARAT in such filings.

(13) There appearing nothing further to be done in this case, it is hereby dismissed.

**CASE NO. PUE-2012-00062
OCTOBER 10, 2012**

APPLICATION OF
SUNSET BAY UTILITIES, INC.

For approval to expand certificated service area

ORDER EXTENDING SERVICE AREA

On May 8, 2012, Sunset Bay Utilities, Inc. ("Sunset Bay" or the "Company") filed a revised Application, in which it seeks to amend its Certificate of Public Convenience and Necessity ("CPCN") in order to expand its present wastewater service area in Chincoteague, Virginia. Under a CPCN issued in 2007, Sunset Bay provides sewerage service to a residential community on Chincoteague Island known as Sunset Bay. The Company proposes to expand this service territory to include customers within the Town of Chincoteague ("Town" or "Town of Chincoteague"), outside of Sunset Bay property (the "External Customers"), to the extent the Company has sufficient capacity to do so.

According to the Application, there is no public service authority or public service corporation providing sewerage service within the Town of Chincoteague.¹ Due to failures of onsite wastewater treatment systems within the Town, the Town of Chincoteague requested emergency assistance from Sunset Bay.² To accommodate the Town's request, Sunset Bay seeks to expand its current service area to accommodate the External Customers.

On June 21, 2012, the Commission issued an Order for Notice and Comment in this proceeding that, among other things, required that public notice should be given and that interested persons should be provided with an opportunity to comment and request a hearing. The Commission received no comments or requests for hearing. On October 3, 2012, the Commission Staff stated that it is not opposed to the Company's request.

NOW THE COMMISSION, having considered this matter, is of the opinion and finds that given the emergency conditions described by the Company, Sunset Bay's request to extend its certificated service territory should be granted.

Accordingly, IT IS ORDERED THAT:

(1) Certificate No. S-95 shall be cancelled and reissued as Certificate No. S-95a, authorizing Sunset Bay to provide wastewater service to the subdivision of Sunset Bay and the Town of Chincoteague.

(2) Sunset Bay's service area outside the Sunset Bay subdivision shall be non-exclusive, in the event the Town of Chincoteague or other service provider seeks approval to provide such service.

(3) Sunset Bay shall file tariffs within ninety (90) days with the Commission's Division of Energy Regulation reflecting the rates for service set forth in its Application.

(4) There being nothing further to be done, this case shall be closed, and the papers herein shall be placed in the file for ended causes.

¹ Application at 1.

² See, Letter from Chincoteague Town Council, attached to the Application as Exhibit A.

**CASE NO. PUE-2012-00063
JUNE 1, 2012**

APPLICATION OF
SHENANDOAH VALLEY ELECTRIC COOPERATIVE

For authority to refinance long-term debt

ORDER GRANTING AUTHORITY

On May 14, 2012, Shenandoah Valley Electric Cooperative ("Applicant") filed an application with the State Corporation Commission ("Commission") under Chapter 3¹ of Title 56 of the Code of Virginia requesting authority to refinance long-term debt. The Applicant has paid the requisite fee of \$250.

¹ Va. Code § 56-55 *et seq.*

The Applicant requests authority to refinance up to \$10,114,399 of its 5% fixed interest rate debt currently outstanding with the Rural Utilities Services. The Applicant will refinance the debt with the National Rural Utilities Cooperative Finance Corporation. The new debt is structured as a single note with twelve advances of differing maturities ranging from one to twelve years. The interest rates on the corresponding advances are expected to range from fixed rates of 1.8% for the one-year advance to 3.95% for the twelve-year advance. The composite effective rate for all advances is estimated to be less than 3.3%. It is anticipated that the Applicant's interest expense will be reduced by approximately \$1.6 million over the life of the new debt.

NOW THE COMMISSION, upon consideration of the application and having been advised by its Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest.

Accordingly, IT IS ORDERED THAT:

- (1) The Applicant is hereby authorized to refinance up to \$10,114,399 of its long-term debt, under the terms and conditions and for the purposes set forth in the application.
- (2) Within thirty (30) days of the date of the refinance of funds, the Applicant shall file with the Commission's Division of Utility Accounting and Finance a Report of Action, which shall include the amount of the refinance, the term of the new debt, and the interest rates associated with the new debt.
- (3) The authority granted herein shall have no implications for ratemaking purposes.
- (4) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUE-2012-00066
OCTOBER 26, 2012**

APPLICATION OF
BARC ELECTRIC COOPERATIVE

For approval of a reconnection charge and the elimination of several rate schedules

FINAL ORDER

On July 11, 2012,¹ BARC Electric Cooperative ("BARC" or the "Cooperative") filed an application and supporting documents with the State Corporation Commission ("Commission") pursuant to §§ 56-231.33, 56-231.34, 56-236, and 56-585.3 of the Code of Virginia, requesting approval to revise its tariffs to, among other things, implement a reconnection charge and to eliminate several rate schedules ("Application").²

Specifically, BARC requests approval to amend Rate Schedules A-U and B-U of the Cooperative's tariffs to add a provision allowing the Cooperative to assess a reconnection charge to customers who voluntarily request disconnection and reconnection of electric service within a consecutive 365-day period.³ According to BARC, the proposed reconnection charge would be equal to: (1) the number of months during which service is disconnected times the Consumer Delivery Charge ("CDC"); and (2) other applicable service charges according to the Cooperative's terms and conditions.⁴

In support of its request, the Cooperative states that its cost of service study revealed that a number of BARC's customers intentionally request disconnection and reconnection of service within a consecutive 365-day period, typically when the customer's premises are unoccupied, to avoid paying the monthly CDC.⁵ Consequently, while the Cooperative continues to maintain the service drop and metering facilities on the customer's premises, the Cooperative fails to recover its costs.⁶ BARC represents that this practice results in an under-recovery of the Cooperative's cost of service and potentially creates a subsidy between customers who pay the monthly CDC and those who choose not to by periodically disconnecting and reconnecting service.⁷ As such, BARC seeks to implement a reconnection charge to recover these costs from the specific members disconnecting and reconnecting service within a consecutive 365-day period, rather than from the general membership.⁸

¹ BARC initially filed an application for the same revisions pursuant to Title 56 of the Code on May 25, 2012. However, the Commission Staff filed a Memorandum of Incompleteness dated June 7, 2012, stating that the application should have been filed pursuant to 20 VAC 5-200-21, *Rules governing streamlined rate proceedings and general rate proceedings for electric cooperatives subject to the State Corporation Commission's rate jurisdiction*.

² Application at 2, 8.

³ *Id.*

⁴ *Id.* at 5.

⁵ *Id.* at 4.

⁶ *Id.*

⁷ *Id.* The Cooperative represents that neither its CDC nor its energy delivery charges include any additional margin to compensate the Cooperative for customers who avoid paying their applicable CDC.

⁸ *Id.*

BARC also requests the elimination of Rate Schedules A-U-RA, B-U-RA, LP-2-U, LP-2-U-RA, SKI-U, and SKI-U-RA from its tariffs.⁹ In support of its request, the Cooperative states that no member of the Cooperative has requested service under schedules specifically designed for large power accounts (Rate Schedules LP-2-U and SKI-U) since they were instituted in 2000.¹⁰ With respect to its retail access schedules (Rate Schedules A-U-RA, B-U-RA, LP-2-U-RA, and SKI-U-RA), the Cooperative no longer believes these schedules are necessary in light of re-regulation that occurred in Virginia in 2009.¹¹ As part of its Application, BARC also included an updated Rate Schedule QF to reflect the latest wholesale supplier rates.¹²

The Cooperative requests that the proposed reconnection charge and other changes proposed in its Application become effective upon Commission approval and acceptance of final tariffs.¹³

On August 3, 2012, the Commission entered its Order For Notice and Comment ("Order") in this proceeding that, among other things, directed the Cooperative to provide notice of its Application; provided an opportunity for interested persons to comment or request a hearing on the Cooperative's Application; and directed the Staff of the State Corporation Commission ("Staff") to investigate the Application and file a report ("Staff Report"). The Commission received two comments opposing the Cooperative's proposed reconnection charge.

On October 5, 2012, BARC filed its Motion for Leave to File Proof of Notice and Service Out of Time ("Motion") stating that the Cooperative had timely published notice of its Application in the September issue of *Cooperative Living* magazine but was not able to obtain proof of publication until October 3, 2012, five days after the deadline for submitting proof of notice pursuant to the Commission's Order.¹⁴ BARC also represents that, in a failed attempt to comply with Ordering Paragraph (6) of the Commission's Order, it inadvertently sent copies of the notice, and not copies of the full Order, to public officials.¹⁵ BARC indicates that in a good faith effort to comply with the Commission's Order, a copy of the full Order was sent to public officials on October 2, 2012.¹⁶

Through its Motion, BARC requests that the Commission: (1) partially waive the requirements of the Commission's Order to the extent a copy of the full Order was not timely served on public officials; (2) extend the time for filing proof of notice and service prescribed in the Commission's Order to October 5, 2012; and (3) partially waive Rule 5 VAC 5-20-230 of the Commission's Rules of Practice and Procedure to the extent BARC's request for extension was not filed in advance of the date the action sought to be extended was due.¹⁷

In support of its Motion, BARC asserts that: (1) because notice was timely published and served no party should be prejudiced or adversely affected by granting the Motion and accepting the Cooperative's proof of notice and service out of time; (2) accepting the Cooperative's proof of notice and service should not adversely affect the time for the Commission to complete its review of this proceeding; and (3) accepting the Cooperative's proof of notice and service out of time would best serve the ends of justice.¹⁸

Also filed on October 5, 2012, was Staff Report on the Application. Regarding BARC's proposed reconnection charge, the Staff stated that the proposed charge is similar to measures this Commission has approved to address the issue of seasonal disconnections for five other cooperatives in the Commonwealth.¹⁹ After investigating the financial impact of the proposed reconnection charge on the Cooperative's margins and times interest earned ratio and working with the Cooperative to address several ambiguities contained in the Cooperative's Rate Schedules A-U and B-U and terms and conditions, the Staff concluded that the Cooperative's proposed reconnection charge, as revised, is reasonable.

The Staff first clarifies in its Staff Report that the "other applicable service charges" that would comprise the second component of the Cooperative's reconnection charge would include: (1) an \$80 (during working hours) Reconnection Charge;²⁰ and (2) possibly a \$5 Membership Fee and/or a security deposit if the original Membership Fee and/or security deposit has been refunded or credited to an outstanding account balance.²¹

⁹ *Id.* at 6, 8.

¹⁰ *Id.* at 5-6.

¹¹ *Id.* at 6.

¹² *Id.*

¹³ *Id.* at 6, 8.

¹⁴ Motion at 2. BARC included proof of notice in Appendix A to the Motion.

¹⁵ *Id.*

¹⁶ *Id.* BARC included an affidavit describing the events; a list of the public officials served; copies of both cover letters sent to public officials; and a copy of the Commission's Order, in Appendix B to the Motion.

¹⁷ *Id.* at 2-3.

¹⁸ *Id.* at 3.

¹⁹ Staff Report at 6-8.

²⁰ *Id.* at 11. As noted in the Staff Report, BARC stated that all reconnections of customers who voluntarily disconnect will be scheduled during working hours. This Reconnection Charge also replaces the Service Connection Fee for seasonal customers who voluntarily disconnect service.

²¹ *Id.* at 5, n.3. The charges and fees are set forth in Schedule F of BARC's terms and conditions.

Staff also identified an ambiguity with respect to the Cooperative's terminology for the proposed reconnection charge. As referenced above, there already is a "Reconnection Charge" in Schedule F of the Cooperative's terms and conditions. This "Reconnection Charge" currently is applicable to involuntary disconnections and is designed to recover labor and administrative costs associated with working a reconnection. The Staff concluded that BARC's proposal to make this "Reconnection Charge" applicable to both voluntary and involuntary disconnections is reasonable.²² The Staff also concluded that the Cooperative's proposal to rename the proposed seasonal reconnection charge the "Avoided Consumer Delivery Charge" is reasonable.²³

The Staff further identified ambiguities in the Cooperative's rate schedules and terms and conditions related to disconnections and reconnections that may occur within a 365-day period due to acts of God rather than from true seasonal disconnections. The Staff concluded that BARC's revised language to address this concern also was reasonable.²⁴ To clarify all of these suggested revisions, the Staff included several appendices to the Staff Report that reflect how these proposed revisions would appear in the Cooperative's rate schedules and terms and conditions.

In addition, the Staff concluded that BARC's proposed elimination of Rate Schedules A-U-RA, B-U-RA, LP-2-U, LP-2-U-RA, SKI-U, and SKI-U-RA is reasonable as these schedules remain unused.²⁵ However, the Staff recommended that BARC be required to file appropriate rate schedules accommodating large power accounts if the Cooperative receives requests for such service in the future.²⁶ Regarding BARC's proposed updated wholesale supplier rates, the Staff recommended that these adjustments also be approved.²⁷

On October 11, 2012, BARC filed its response to the Staff Report stating that the Cooperative finds no reason to dispute or further respond to the findings and recommendations of the Staff Report.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that BARC's Application for approval of a reconnection charge and the elimination of several rate schedules, subject to the revisions included in the Staff Report, should be approved. We also find that BARC's updated wholesale supplier rates should be approved. Finally, we find that BARC's Motion should be approved and accept the Cooperative's proof of notice and service out of time.

Accordingly, IT IS ORDERED THAT:

(1) BARC's proposed Avoided Consumer Delivery Charge, subject to the revisions discussed herein and included in the Staff Report, is approved.

(2) BARC's proposed elimination of Rate Schedules A-U-RA, B-U-RA, LP-2-U, LP-2-U-RA, SKI-U, and SKI-U-RA, subject to the revisions included in the Staff Report, is approved.

(3) If BARC receives a request for large power service in the future, the Cooperative shall file appropriate rate schedules with the Commission to accommodate such a request.

(4) BARC's updated wholesale supplier rates in Rate Schedule QF are approved.

(5) BARC shall file revised rate schedules and terms and conditions reflecting the new Avoided Consumer Delivery Charge; the elimination of Rate Schedules A-U-RA, B-U-RA, LP-2-U, LP-2-U-RA, SKI-U, and SKI-U-RA; and its updated wholesale supplier rates in Rate Schedule QF as soon as practicable.

(6) The Avoided Consumer Delivery Charge; elimination of Rate Schedules A-U-RA, B-U-RA, LP-2-U, LP-2-U-RA, SKI-U, and SKI-U-RA; and adjustments to Rate Schedule QF as approved herein shall become effective thirty (30) days after the date of this Final Order.

(7) BARC's Motion for Leave to File Proof of Notice and Service Out of Time is granted.

(8) This case is dismissed, and the papers filed herein shall be placed in the file for ended causes.

²² *Id.* at 8, Appendix B, Appendix C.

²³ *Id.* at 8-9, Appendix D.

²⁴ *Id.* at 9, Appendix C, Appendix D.

²⁵ *Id.* at 14-16. Should the Commission approve BARC's proposed elimination of these schedules, the Staff recommended that BARC revise the Cooperative's terms and conditions to reflect the deletion of these schedules. *Id.* at 15-16, n.14, Appendix A.

²⁶ *Id.* at 15.

²⁷ *Id.* at 16, 17.

**CASE NO. PUE-2012-00070
AUGUST 21, 2012**

NOTIFICATION OF
MAGNUM HUNTER PRODUCTION, INC.

To furnish natural gas service in Lee County, Virginia

ORDER DISMISSING PROCEEDING

On June 6, 2012, Magnum Hunter Production, Inc. ("Magnum" or "Company"), notified the State Corporation Commission ("Commission"), pursuant to § 56-265.4:5 of the Code of Virginia ("Code"), of its intent to provide natural gas service to Hinkle Contracting Company, LLC, at the Ewing Asphalt Plant ("Ewing facility") located in Lee County, Virginia.

On June 11, 2012, the Staff of the Commission filed a memorandum advising that the Ewing facility was not located within a territory for which a certificate of public convenience and necessity ("CPCN") has been granted or within any area, territory, or jurisdiction served by a municipal corporation that provided gas distribution service as of January 1, 1992.

On June 14, 2012, the Commission entered an Order Docketing Proceeding and Providing for Notice ("Order for Notice") to all Virginia public utilities providing natural gas service of Magnum's plans to furnish gas service to the Ewing facility. The public utilities were advised that they could file an application with the Commission to provide natural gas service within the area identified in Magnum's notification documents within sixty (60) days of the entry of the Order for Notice. The Commission found that the Ewing facility was not located within a territory for which a CPCN has been granted or within any area, territory, or jurisdiction served by a municipal corporation that provided gas distribution service as of January 1, 1992.

The sixty-day time frame since the entry of the Order for Notice has now elapsed, and no jurisdictional public utility has filed an application to provide natural gas service within the area identified in the captioned notification.

NOW THE COMMISSION, upon consideration of the foregoing, is of the opinion and finds that Magnum has satisfied the requirements of §§ 56-265.1(b)(4) and 56-265.4:5 of the Code and that there being nothing further to be done herein, this matter should be dismissed.

Accordingly, IT IS ORDERED THAT this matter shall be dismissed from the Commission's docket of active proceedings and the papers filed herein made a part of the Commission's file for ended causes.

**CASE NO. PUE-2012-00073
AUGUST 6, 2012**

APPLICATION OF
COLUMBIA GAS OF VIRGINIA, INC.

For approval to modify allocation bases in a service agreement between Columbia Gas of Virginia, Inc., and NiSource Corporate Services Company

ORDER GRANTING APPROVAL

On June 25, 2012, Columbia Gas of Virginia, Inc. ("CGV") filed an application with the State Corporation Commission ("Commission") requesting approval to modify certain allocation bases in its previously approved service agreement ("Agreement")¹ with NiSource Corporate Services Company ("NCSC") pursuant to Chapter 4 of Title 56 of the Code of Virginia ("Code") ("Application").²

CGV is a Virginia public service corporation that provides natural gas local distribution service to approximately 250,000 residential, commercial, and industrial customers located in Central and Southern Virginia, the Piedmont region, most of the Shenandoah Valley, portions of Northern and Western Virginia, and the Hampton Roads region.

NCSC operates as a centralized service company subject to the jurisdiction of the Federal Energy Regulatory Commission pursuant to 18 C.F.R. §§ 366 *et seq.* of the Public Utility Holding Company Act of 2005. NCSC provides corporate, administrative, and technical support services ("Corporate Services") to NiSource, Inc. ("NiSource"), and its subsidiaries, including CGV.

In the Application, CGV requests approval to modify its Agreement with NCSC by adding two new activity-based allocation bases and modifying an existing allocation basis, effective January 1, 2013. The remainder of the Agreement would be unchanged. CGV further requests that the

¹ See *Application of Columbia Gas of Virginia, Inc. For approval of a Service Agreement, as amended, between Columbia Gas of Virginia, Inc., and NiSource Corporate Services Company pursuant to Chapter 4 of Title 56 of the Code of Virginia*, Case No. PUE-2009-00063, 2009 S.C.C. Ann. Rept. 495, Order Granting Approval (Sept. 25, 2009) (hereafter referred to as "PUE-2009-00063 Order"); and *Application of Columbia Gas of Virginia, Inc. For approval to modify the application of an allocation factor in a service agreement between Columbia Gas of Virginia, Inc., and NiSource Corporate Services Company pursuant to Chapter 4 of Title 56 of the Code of Virginia*, Case No. PUE-2010-00037, 2010 S.C.C. Ann. Rept. 497, Order Granting Approval (July 9, 2010) (hereafter referred to as "PUE-2010-00037 Order").

² Va. Code § 56-76 *et seq.*

Commission approve the application as in the public interest without the necessity of a public hearing and that the Commission grant such further relief as may be necessary and appropriate.

CGV represents that NCSC, in consultation with the NiSource business units, has determined that greater precision in the assignment and allocation of Corporate Services costs can be achieved by: (i) adding the Basis 3 – Number of Meters Serviced [new] allocation basis; (ii) adding the Basis 4 – Number of Accounts Payable Invoices Processed [new] allocation basis; and (iii) modifying the Basis 20 – Service Company Billings (Direct and Allocated) Costs [modified] allocation basis, to the approved allocation bases listed in Exhibit A to the Agreement. According to CGV, the two new allocation bases and modified existing allocation basis are expected to have a modest positive impact on its going forward cost of service.

NOW THE COMMISSION, upon consideration of this matter and having been advised by its Staff, is of the opinion and finds that the above-described modifications to the Agreement are in the public interest and should be approved subject to the requirements recommended in Staff's Action Brief filed contemporaneously with this Order.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to § 56-77 of the Code, CGV is hereby granted approval to modify its Agreement with NCSC subject to the requirements set forth herein.

(2) The regulatory, pricing, and reporting requirements previously adopted in the PUE-2009-00063 Order and the PUE-2010-00037 Order shall remain in effect for the modified Agreement.³

(3) CGV shall report the quantitative impact of the allocation basis modifications each year in its Annual Report of Affiliate Transactions until the modified Agreement is due for new approval in 2014.

(4) Commission approval shall be required for any changes in the terms and conditions of the modified Agreement, including any changes in allocation methodologies affecting CGV and successors or assignees.

(5) The approval granted in this case shall have no ratemaking implications. Specifically, the approval granted in this case shall not guarantee the recovery of any costs directly or indirectly related to the modified Agreement.

(6) The approval granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code hereafter.

(7) The Commission reserves the right to examine the books and records of any affiliate in connection with the approval granted herein whether or not such affiliate is regulated by this Commission.

(8) There appearing nothing further to be done in this case, it is hereby dismissed.

³ The regulatory, pricing, and reporting requirements include: (i) limiting approval to a five year period; (ii) disallowance of the Miscellaneous Services category; (iii) requiring separate approval to add new Corporate Services; (iv) requiring separate approval for NCSC to engage affiliated third parties to provide Corporate Services to CGV; (v) requiring lower-of-cost or market pricing of Corporate Services; (vi) requiring separate approval for any changes in the terms and conditions of the Agreement, including changes in allocation methodologies; (vii) no ratemaking implications for the affiliate agreement approval; (viii) approving certain off-system gas supply management ("GSM") activities; (ix) limiting approved asset management activities; (x) specifying the accounting for GSM activities; (xi) requiring CGV to demonstrate policies, procedures, and controls that protect against GSM self-dealing, preferential, or discriminatory activities; (xii) specifying GSM pricing guidelines; and (xiii) various annual reporting requirements.

**CASE NO. PUE-2012-00074
OCTOBER 23, 2012**

APPLICATION OF
WASHINGTON GAS LIGHT COMPANY

For approval of an extension of time to provide computation to Staff for 2012 weather normalization adjustment

ORDER CLOSING PROCEEDING

On July 2, 2012, Washington Gas Light Company ("WGL" or "Company") filed an application ("Application") with the State Corporation Commission ("Commission") requesting an extension of time until July 16, 2012, to provide the Staff of the Commission ("Commission Staff" or "Staff") with the computation of the Company's 2012 Weather Normalization Adjustment ("WNA").¹ On July 5, 2012, the Commission issued an Order Granting Application which directed the Company to file its 2012 WNA computation with the Commission Staff on or before July 16, 2012.

On July 16, 2012, WGL filed its 2012 WNA computation with the Commission Staff. Since there appears nothing further to be done in this proceeding, we find that this proceeding should be closed.

Accordingly, IT IS ORDERED THAT this proceeding be closed and the papers herein placed in the file for ended causes.

¹ General Service Provision No. 28 of the Company's tariff, Va. S.C.C. No. 9, requires the Company to submit its WNA computation to the Commission Staff by July 1 of each year.

**CASE NO. PUE-2012-00076
OCTOBER 18, 2012**

APPLICATION OF
SOUTHWESTERN VIRGINIA GAS COMPANY

For an expedited increase in rates

ORDER FOR NOTICE AND HEARING

On September 14, 2012, Southwestern Virginia Gas Company ("SWVG" or "Company") filed a completed application with the State Corporation Commission ("Commission") for an expedited increase in rates ("Application") and direct testimony, exhibits, and schedules as prescribed by the Commission's Rules Governing Utility Rate Applications and Annual Informational Filings, 20 VAC 5-201-10 *et seq.* ("Rate Case Rules"). SWVG seeks to increase its annual revenues by \$222,475, an increase of approximately 2.7%. SWVG states that the rate of return earned by the Company for the 12 months ended June 30, 2012, was below the overall rate of return allowed by the Commission in the Company's last rate case.¹ The Company requests that the increase in rates be allowed to go into effect for bills rendered on and after November 30, 2012.

On October 5, 2012, the Commission's Staff ("Staff") filed an Interim Report, in which it concluded that "it is appropriate to place the Company's proposed rates into effect on an interim basis for services rendered on or after November 30, 2012, subject to refunds on completion of the required hearing and final order."²

In its Application, SWVG also requests a waiver pursuant to 20 VAC 5-200-30 A 11 for reporting information for Southwestern Virginia Energy Industries, Ltd. (the "Parent"), and consolidated information of the Parent and the Company as required in Schedules 1, 2, 6, and 7. In support of its request, SWVG states that: (1) the Parent historically has never contributed to the raising of capital for the Company; (2) the Parent has historically never assisted the Company in raising capital either by guaranteeing debt or in any other manner securing the Company's obligations; (3) the Parent is a closely held corporation and not traded publicly; and (4) the Parent does not have financial statements prepared for public distribution.³

The Company further requests a waiver of the requirement to prepare a jurisdictional cost of service study – Schedules 40 A and B. SWVG states that it serves very few governmental non-jurisdictional customers; in fact, the Company states that the only non-jurisdictional customers – government offices and schools – represent about 1.2% of the Company's customers and 2.9% of its gas throughput. According to SWVG, these non-jurisdictional customers pay for service on the basis of Commission-approved rates; thus, the Company asserts that there is virtually no impact on the per customer cost of service and no economic justification to expend money, time, and effort to create a non-jurisdictional cost study.

NOW THE COMMISSION, upon consideration of the Company's Application, is of the opinion and finds that this matter should be docketed, that notice of the Application should be given to the public, that a Hearing Examiner should be assigned to conduct all further proceedings in this matter on behalf of the Commission, and that a procedural schedule should be established as prescribed herein. We further find that SWVG's request regarding its Parent and the consolidated information of the Parent and the Company otherwise required in Rate Case Rules Schedules 1, 2, 6, and 7, as well as the requested waiver regarding the preparation and submission of a jurisdictional cost of service study are reasonable and should be granted.

Accordingly, IT IS ORDERED THAT:

- (1) The Company's Application for an expedited increase in rates is docketed and assigned Case No. PUE-2012-00076.
- (2) SWVG is granted a waiver of the requirement to report information for Southwestern Virginia Energy Industries, Ltd., its Parent, or consolidated information for the Parent and the Company as would otherwise be required in the Rate Case Rules Schedules 1, 2, 6, and 7.
- (3) The Company's requested waiver of the Rate Case Rules requiring the preparation and submission of a jurisdictional cost of service study as required by Rate Case Rules Schedules 40 A and B is hereby granted.
- (4) SWVG may put its proposed rates into effect on an interim basis subject to refund for bills rendered on and after November 30, 2012.
- (5) As provided by § 12.1-31 of the Code of Virginia and 5 VAC 5-20-120, *Procedure before hearing examiners*, of the Commission's Rules of Practice and Procedure, 5 VAC 5-20-10 *et seq.* ("Rules of Practice"), a Hearing Examiner hereby is appointed to conduct all further proceedings in this matter on behalf of the Commission and to file a final report herein.
- (6) A public hearing on the Application shall be held at 10 a.m. on May 2, 2013, in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, to receive into the record the testimony of public witnesses and the evidence of SWVG, any respondents, and the Staff. Public witnesses desiring to testify at the hearing concerning this Application need only appear in the Commission's Second Floor Courtroom in the Tyler Building at the address set forth above prior to 9:45 a.m. on the day of the hearing and contact the Commission's Bailiff.

¹ *Application of Southwestern Virginia Gas Company, For approval of an expedited increase in rates*, Case No. PUE-2006-00103, 2007 S.C.C. Ann. Rept. 357, Final Order (July 30, 2007).

² Interim Report at 2. Although the Interim Report concluded that it was appropriate to place the Company's proposed rates into effect for *service* rendered on or after November 30, 2012, SWVG requested that its proposed increase in rates be allowed to go into effect for *bills* rendered on and after November 30, 2012. We find that SWVG should be allowed to put its proposed rates into effect on an interim basis subject to refund for bills rendered on and after November 30, 2012, and grant the Company authority to do so herein.

³ Application at 2.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

(7) SWVG shall forthwith make a copy of its Application; a copy of the public versions of all testimony, exhibits, and schedules filed with the Application; and a copy of this Order for Notice and Hearing available for public inspection during regular business hours at its business office at 208 Lester Street, Martinsville, Virginia 24112. The Company also shall provide, at no charge, a copy of the Application and the public versions of all testimony, exhibits, and schedules filed with the Application upon written request to counsel for SWVG, Richard D. Gary, Esquire, Hunton & Williams, LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074. If acceptable to the requesting individual, the Company may provide the Application, with or without attachments, by electronic means. In addition, interested persons may review copies of the Application and related documents in the Commission's Document Control Center, located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5 p.m. on regular business days, or download unofficial copies from the Commission's website at: <http://www.scc.virginia.gov/case>.

(8) On or before November 16, 2012, the Company shall publish once as display advertising (not classified) the following notice in newspapers of general circulation throughout its Virginia service territory:

NOTICE TO THE PUBLIC OF AN
APPLICATION BY SOUTHWESTERN
VIRGINIA GAS COMPANY FOR AN
EXPEDITED INCREASE IN RATES
CASE NO. PUE-2012-00076

On September 14, 2012, Southwestern Virginia Gas Company ("SWVG" or "Company") filed with the State Corporation Commission ("Commission") an application for an expedited increase in rates ("Application"). SWVG seeks to increase its annual revenues by \$222,475, or approximately 2.7%. SWVG's increase in rates will take effect, on an expedited basis and subject to refund, for bills rendered on and after November 30, 2012.

Interested persons are encouraged to review the Application and supporting documents for the details of these and other proposals. While the total revenue that may be approved by the Commission is limited to the amount produced by the Company's proposed rates, TAKE NOTICE that the Commission may approve revenues and adopt rates, fees, charges, tariff revisions, and terms and conditions of service that differ from those appearing in the Company's Application and supporting documents and may apportion revenues among customer classes and/or design rates in a manner differing from that shown in the Company's Application and supporting documents.

The Company also requests a waiver pursuant to 20 VAC 5-200-30 A 11 of the Commission's Rules Governing Utility Rate Applications and Annual Informational Filings for reporting information for Southwestern Virginia Energy Industries, Ltd. (the "Parent"), and consolidated information of the Parent and the Company as required in Schedules 1, 2, 6, and 7. SWVG further requests a waiver of the requirement to prepare a jurisdictional cost of service study – Schedules 40 A and B, since the Company serves very few governmental non-jurisdictional customers.

The Commission has entered an Order for Notice and Hearing that, among other things, schedules a hearing on the Company's Application, assigns a Hearing Examiner to this proceeding, and permits SWVG to implement its proposed rate increase on an interim basis, subject to modification and refund, effective for bills rendered on and after November 30, 2012.

A public hearing on the Company's Application shall be held at 10 a.m. on May 2, 2013, in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, to receive into the record the testimony of public witnesses and the evidence of SWVG, any respondents, and the Commission Staff. Any person desiring to testify as a public witness should appear at the hearing location fifteen (15) minutes before the starting time on the day of the hearing and contact the Commission's Bailiff. Individuals with disabilities who require an accommodation to participate in the hearing should contact the Commission at least seven (7) days before the scheduled hearing date at 1-800-552-7945 (voice) or 1-804-371-9206 (TDD).

A copy of the Application; a copy of all testimony, exhibits, and schedules filed with the Application; and a copy of the Order for Notice and Hearing is available for public inspection during regular business hours at the Company's business office, 208 Lester Street, Martinsville, Virginia 24112. A copy of the Application may be obtained at no cost through written request to counsel for SWVG, Richard D. Gary, Esquire, Hunton & Williams, LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074. In addition, interested persons may review the Application and related documents in the Commission's Document Control Center, Office of the Clerk of the Commission, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5 p.m. on regular business days, or download unofficial copies from the Commission's website at: <http://www.scc.virginia.gov/case>.

Any interested person may participate as a respondent in this proceeding by filing, on or before January 7, 2013, a notice of participation. If not filed electronically, an original and fifteen (15) copies of the notice of participation shall be submitted to the Clerk of the Commission at the address set forth below. Interested parties should obtain a copy of the Commission's Order for Notice and Hearing for further details on participation as a respondent. All filings shall refer to Case No. PUE-2012-00076.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

On or before April 25, 2013, any interested person may file written comments on the Application with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Interested persons desiring to submit comments electronically may do so on or before April 25, 2013, by following the instructions found on the Commission's website at: <http://www.scc.virginia.gov/case>. All comments shall refer to Case No. PUE-2012-00076.

SOUTHWESTERN VIRGINIA GAS COMPANY

(9) On or before November 16, 2012, SWVG shall serve a copy of this Order for Notice and Hearing on the chairman of the board of supervisors and county attorney of each county and upon the mayor or manager (or equivalent official) of every city and town in which the Company provides service in the Commonwealth of Virginia. Service shall be made by first class mail to the customary place of business or residence of the person served.

(10) On or before November 30, 2012, SWVG shall file proof of publication of the notice prescribed in Ordering Paragraph (8) above and proof of service of copies of this Order for Notice and Hearing as prescribed by Ordering Paragraph (9) above, including the name, title, and address of each official served.

(11) On or before April 25, 2013, any interested person may file written comments on the Application with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Any interested person desiring to submit comments electronically may do so on or before April 25, 2013, by following the instructions found on the Commission's website at: <http://www.scc.virginia.gov/case>. Interested persons shall refer in their comments to Case No. PUE-2012-00076.

(12) Any interested person may participate as a respondent in this proceeding by filing, on or before January 7, 2013, a notice of participation. If not filed electronically, an original and fifteen (15) copies of the notice of participation shall be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (11). A copy of the notice of participation simultaneously shall be served on counsel to the Company, Richard D. Gary, Esquire, at the address set forth in Ordering Paragraph (7). Pursuant to 5 VAC 5-20-80 B, *Participation as a respondent*, of the Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be represented by counsel as required by Rule 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUE-2012-00076.

(13) Within five (5) business days of receipt of a notice of participation as a respondent as required by Ordering Paragraph (12), the Company shall serve upon the respondent a copy of this Order for Notice and Hearing, a copy of the Application, and all materials filed with the Commission unless these materials have already been provided to the respondent.

(14) On or before February 14, 2013, each respondent may file with the Clerk of the Commission and serve on the Staff, the Company, and all other respondents any testimony and exhibits by which the respondent expects to establish its case. If not filed electronically, an original and fifteen (15) copies of such testimony and exhibits shall be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (11). The respondent shall comply with the Commission's Rules of Practice, including 5 VAC 5-20-140, *Filing and service*; 5 VAC 5-20-150, *Copies and format*; and 5 VAC 5-20-240, *Prepared testimony and exhibits*.

(15) On or before March 28, 2013, the Staff shall investigate the Company's Application for an expedited increase in rates and shall file with the Clerk of the Commission an original and fifteen (15) copies of testimony and exhibits regarding its investigation of the Application.

(16) On or before April 18, 2013, the Company may file with the Clerk of the Commission any rebuttal testimony and exhibits that it expects to offer and simultaneously shall serve a copy on the Staff and all respondents. If not filed electronically, an original and fifteen (15) copies of such rebuttal testimony and exhibits shall be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (11).

(17) The Company shall respond to interrogatories and requests for data within seven (7) calendar days after the receipt of same. Except as so modified, discovery shall be in accordance with Part IV of the Rules of Practice, 5 VAC 5-20-240 *et seq.*

(18) This matter is continued generally.

**CASE NO. PUE-2012-00078
JULY 27, 2012**

APPLICATION OF
KENTUCKY UTILITIES COMPANY d/b/a OLD DOMINION POWER

For authority to issue securities and assume obligations under Chapter 3 of Title 56 of the Code of Virginia and to engage in an affiliate transaction under Chapter 4 of Title 56 of the Code of Virginia

ORDER GRANTING AUTHORITY

On July 5, 2012, Kentucky Utilities Company d/b/a Old Dominion Power Company ("KU/ODP" or the "Company")¹ filed an application with the State Corporation Commission ("Commission") for authority under Chapter 3 of Title 56 of the Code of Virginia ("Code")² to issue up to \$300 million of long-term debt in the form of First Mortgage Bonds ("FMB") from time to time through December 31, 2013; to increase the amount of its multi-year revolving line of credit ("Revolving Line of Credit") up to an additional \$100 million; and to engage in one or more interest rate hedging agreements. KU/ODP also seeks authority under Chapter 4 of Title 56 of the Code³ to engage in an affiliate transaction in connection with the proposed hedging agreements ("Application"). KU/ODP paid the requisite fee of \$250.

The Company requests authority to issue up to \$300 million of long-term debt in the form of FMB, which will be sold at various times through the remainder of 2012 and 2013, in one or more underwritten public offerings, negotiated sales, or private placement transactions utilizing the proper documentation. The price, maturity date(s), interest rate(s), and the redemption provisions and other terms and provisions of each series of FMB (including, in the event all or a portion of the FMB bear a variable rate of interest, the method for determining the interest rates) would be determined on the basis of negotiations among KU/ODP and the underwriters of other purchasers of such FMB. KU/ODP represents that it does not assign financing to any particular project or use and does not project-finance capital projects. The Company expects to incur approximately \$1.45 billion in construction costs for environmental controls and projects at its existing generation stations and for the construction of a new jointly owned generating unit during 2012 and 2013.

In addition, the Company requests authority to increase the amount of its Revolving Line of Credit by up to an additional \$100 million, in total up to \$500 million.⁴ Under KU/ODP's current Revolving Line of Credit agreement with its lenders, the Company has the opportunity to request that the maximum debt allowed under the credit facility be increased by \$100 million. Although the lenders are not obligated to do so, KU/ODP represents that it is likely the lenders will agree to do so. In the event it is unable to increase its current Revolving Line of Credit, the Company requests the authority to enter into an additional revolving credit facility in the amount of \$100 million for a term not to exceed five (5) years. KU/ODP anticipates that any new revolving credit facility would be on similar terms as its current Revolving Line of Credit. The Company represents that loan proceeds could be used to provide short-term financing for KU/ODP's general funding needs until permanent or long-term financing is arranged, or to provide new or expanded liquidity or credit support for KU/ODP's other debt.

In connection with issuing the FMB, the Company seeks authority to enter into one or more interest rate hedging agreements (including an interest rate cap, swap, collar, or similar agreement (collectively, the "Hedging Facility")) and authority to engage in an affiliate transaction in conjunction with the Hedging Facility. KU/ODP requests authority to enter into a Hedging Facility either through PPL, in which PPL would act as a pass-through entity, or directly with an outside bank or financial institution ("Counterparty"). The Hedging Facility would be an interest rate agreement designed to allow KU/ODP to either manage the risk of interest rates rising before the dates of issuance of the FMB or to actively manage and limit its exposure to variable interest rates. The advantage of using PPL as a pass-through entity is that KU/ODP would not need to negotiate the terms of an agreement independently, and it would be able to take advantage of any master agreements for hedging arrangements that PPL has or may establish. KU/ODP represents that it would not be charged or assigned any costs or expenses by PPL in connection with the Hedging Facility other than those fees charged by the third-party Counterparty, and such Hedging Facility would be on at least as favorable terms as KU/ODP could obtain on its own.

NOW THE COMMISSION, upon consideration of the Application and having been advised by its Staff, is of the opinion and finds that approval of the Application will not be detrimental to the public interest.

Accordingly, IT IS ORDERED THAT:

(1) The Company is hereby authorized to issue long-term debt in the form of First Mortgage Bonds in an amount not to exceed \$300 million, through December 31, 2013, under the terms and conditions and for the purposes set forth in the captioned Application.

(2) The Company is hereby authorized to amend its current multi-year revolving line of credit by increasing the amount of short-term debt by \$100 million, for a total amount not to exceed \$500 million or, in the alternative, to enter into one or more new revolving credit facilities with a term not to exceed five (5) years in an amount not to exceed \$100 million.

(3) The Company is authorized to enter into interest rate hedging agreements as set forth in its Application, in an amount not to exceed the notional amount of the bonds issued or anticipated to be issued.

(4) The Company is authorized to engage in an affiliate transaction with PPL as set forth in its Application, provided that any hedging agreement secured through PPL is on at least as favorable terms as the Company can obtain on its own.

¹ KU/ODP is a wholly owned subsidiary of LG&E and KU Energy, LLC, which, in turn, is a wholly owned subsidiary of PPL Corporation ("PPL").

² Va. Code § 56-55 *et seq.*

³ Va. Code § 56-76 *et seq.*

⁴ By Order Granting Authority dated October 19, 2010, in Case No. PUE-2010-00061, the Commission authorized KU/ODP to enter into one or more revolving credit facilities with one or more financial institutions in an amount not to exceed \$400 million.

(5) The Company shall file a preliminary Report of Action within ten (10) days after the issuance of any long-term debt securities and/or any hedging agreement is entered into pursuant to this Order to include the type of security or hedging agreement, the issuance date, the amount of issuance, the interest rate or yield, the maturity date, and a brief explanation of reasons for the term of maturity chosen.

(6) Within sixty (60) days after any debt securities are issued, the Company shall file with the Commission a detailed Report of Action with respect to such securities to include:

(a) The issuance date, type of security, amount issued, interest rate, date of maturity, issuance expenses realized to date, net proceeds to KU/ODP, and an updated cost benefit analysis that reflects the impact of any Hedging Facility;

(b) A summary of the specific terms and conditions of each Hedging Facility and an explanation of how it functions to lock-in the interest rate on an associated issuance of secured debt; and

(c) The cumulative principal amount of secured debt issued under the authority granted herein and the amount remaining to be issued.

(7) On or before February, 28, 2014, the Company shall file a Final Report of Action to include all details required in Ordering Paragraph (6) concerning all financing activities, including the Hedging Facility, completed pursuant to this authority. The Company also shall submit a balance sheet that reflects the capital structure following the issuance of any long-term debt. The Final Report of Action shall further provide a term sheet for the revolving credit facilities authorized in Ordering Paragraph (2), whether the current Revolving Line of Credit is amended or an additional facility is entered into, and a detailed account of all upfront line of credit fees and a summary of the actual expended and ongoing line of credit fees associated with the Revolving Lines of Credit. Further, the Final Report of Action shall provide a detailed account of all the actual expenses and fees paid to date for all secured debt issued pursuant to the authority granted herein with an explanation of any variances from the estimated expenses contained in the Financing Summary attached to the Application. Finally, the Final Report of Action should quantify the benefit of using PPL as a pass-through entity in any hedging agreements that it serves such purpose.

(8) Approval of this Application shall have no implications for ratemaking purposes.

(9) The Commission reserves the right to examine the books and records of any affiliate, whether or not such affiliate is regulated by the Commission, in connection with the authority granted herein.

(10) This matter shall be continued, subject to the continued review, audit, and appropriate directive of the Commission.

CASE NO. PUE-2012-00078 OCTOBER 11, 2012

APPLICATION OF KENTUCKY UTILITIES COMPANY d/b/a OLD DOMINION POWER COMPANY

For authority to issue securities and assume obligations under Chapter 3 of Title 56 of the Code of Virginia and to engage in an affiliate transaction under Chapter 4 of Title 56 of the Code of Virginia

ORDER EXTENDING AUTHORITY GRANTED

On July 5, 2012, Kentucky Utilities Company d/b/a Old Dominion Power Company ("KU/ODP" or the "Company") filed an application with the State Corporation Commission ("Commission") for authority under Chapter 3 of Title 56 of the Code of Virginia ("Code")¹ to, among other things, increase the amount of its existing multi-year revolving line of credit ("Revolving Line of Credit")² up to an additional \$100 million for a total amount not to exceed \$500 million.

On July 27, 2012, the Commission granted the authority that, among other things, authorized the Company to amend its current multi-year Revolving Line of Credit by increasing the amount of short-term debt by \$100 million, for a total amount not to exceed \$500 million or, in the alternative, to enter into one or more new revolving credit facilities with a term not to exceed five (5) years in an amount not to exceed \$100 million.

On September 27, 2012, KU/ODP filed a request ("Request") in which the Company stated that it had "determined it is likely that, in the future, changing market conditions and interest rates will mean that revolving credit will no longer be available on terms as favorable as found in KU/ODP's current revolving credit facility."³ The Company further represented that lenders are willing to accept revolving credit facilities with terms up to five years, with the five-year period commencing upon closing. Therefore, KU/ODP requests authority to extend its existing and previously authorized Revolving Line of Credit to five years from the closing date which will be an approximately one-year extension, but no further than through December 31, 2017.

NOW THE COMMISSION, upon consideration of KU/ODP's Request, is of the opinion and finds that the Company's Request should be granted and that the Company should be authorized to amend and extend the term of its Revolving Line of Credit through December 31, 2017.

¹ Va. Code § 56-55 *et seq.*

² By Order Extending Authority Granted dated September 27, 2011, in Case No. PUE-2010-00061, the Commission authorized KU/ODP to enter into one or more revolving credit facilities with one or more financial institutions in an amount not to exceed \$400 million through December 31, 2016.

³ Request at 1.

Accordingly, IT IS ORDERED THAT:

- (1) KU/ODP is hereby authorized to amend and extend the terms of its existing and previously authorized Revolving Line of Credit through December 31, 2017.
- (2) KU/ODP shall file a copy of the extension agreement promptly after it becomes available.
- (3) Except to the extent modified herein, all of the other provisions of the Commission's July 27, 2012 Order shall remain in full force and effect.
- (4) This matter shall remain under the continued review, audit, and appropriate directive of the Commission.

**CASE NO. PUE-2012-00079
JULY 31, 2012**

APPLICATION OF
BARC ELECTRIC COOPERATIVE

For amendment of 100% Renewable Energy Attributes Electric Service Tariff

ORDER AMENDING TARIFF

On July 5, 2012,¹ BARC Electric Cooperative ("BARC" or "Cooperative") filed an application and supporting documents ("Application") with the State Corporation Commission ("Commission") for approval of proposed amendments to its 100% Renewable Energy Attributes Electric Service Tariff, designated as Rider R ("Rider R").² Through Rider R, BARC currently offers electric energy provided 100 percent from renewable energy as a "companion rate" to its residential member-customers on a voluntary basis.

BARC's Rider R is offered pursuant to § 56-577 A 6 of the Code of Virginia ("Code"). Subdivision 56-577 A 6 of the Code deems a tariff filed by a cooperative for Commission approval a tariff offering electric energy provided 100 percent from renewable energy to one or more classes of customers "if [the tariff] provides undifferentiated electric energy and the cooperative retires a quantity of renewable energy certificates [{"RECs"}]³ equal to 100 percent of the electric energy provided pursuant to such tariff."⁴

As of July 1, 2010, § 56-577 A 6 of the Code applied only to tariffs offered to one or more classes of residential customers.⁵ As of July 1, 2012, however, § 56-577 A 6 of the Code applies to tariffs offered to one or more classes of nonresidential customers as well.⁶ As such, in the instant Application, the Cooperative seeks to amend its Rider R to offer electric energy provided 100 percent from renewable energy to all of its member-customers on a voluntary basis.⁷

Based on the Application, the Cooperative proposes to change only the Availability and Applicability section of Rider R and to update the sources of Renewable Energy to be consistent with a 2012 amendment to § 56-576 of the Code.⁸ The remaining sections of Rider R, including the Monthly Rate, Statutory Disclosures, and Termination sections, all of which were approved by the Commission in Case No. PUE-2010-00067, remain substantively the same.⁹

The Cooperative requests that the Commission waive any notice and suspension requirements so that service offered pursuant to Rider R is available as a "companion rate" to all of its member-customers on a voluntary basis effective August 1, 2012.¹⁰

¹ On July 17, 2012, the Cooperative filed revisions to correct typographical errors in its Application.

² The Commission approved BARC's Rider R in Case No. PUE-2010-00067. *Application of BARC Electric Cooperative, For approval of a 100% Renewable Energy Tariff*, 2010 S.C.C. Ann. Rept. 547, Order Approving Tariff (Dec. 17, 2010).

³ For purposes of this section of the Code, with respect to electric cooperatives, REC is defined as "a tradable commodity or instrument issued by a regional transmission entity or affiliate or successor thereof in the United States that validates the generation of electricity from renewable energy sources or that is certified under a generally recognized renewable energy certificate standard." One REC equals 1,000 kilowatt hours or one megawatt hour of electricity generated from renewable energy.

⁴ Pursuant to § 56-577 A 6 of the Code, a cooperative offering electric energy provided 100 percent from renewable energy that involves the retirement of RECs must disclose to its retail customers who express an interest in purchasing energy pursuant to such tariff: (i) that the renewable energy is comprised of the retirement of RECs; (ii) the identity of the entity providing the RECs; and (iii) the sources of renewable energy being offered.

⁵ Subdivision 56-577 A 6 of the Code does not apply unless the Cooperative files for approval of such a tariff on or after July 1, 2010.

⁶ Subdivision 56-577 A 6 of the Code does not apply unless the Cooperative files for approval of such a tariff on or after July 1, 2012.

⁷ Application at 3.

⁸ Among other things, the 2012 amendments to § 56-576 of the Code added "landfill gas" to the definition of "renewable energy."

⁹ See Exhibit A and Exhibit B of the Application.

¹⁰ Application at 3.

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NOW THE COMMISSION, upon consideration of the matter, is of the opinion and finds that no notice or suspension of rates is necessary in this proceeding and that the Cooperative's request for approval of proposed amendments to Rider R should be granted.

Accordingly, IT IS ORDERED THAT:

- (1) This case is docketed and assigned Case No. PUE-2012-00079.
- (2) The Cooperative's Application is granted.
- (3) The proposed amendments to Rider R are approved, effective for service to all member-customers rendered on and after August 1, 2012.
- (4) The Cooperative shall file its amended Rider R, incorporating the modifications proposed in its Application, with the Clerk of the Commission and with the Director of the Commission's Division of Energy Regulation within thirty (30) days of the date of this Order. The Clerk of the Commission shall retain such filing for public inspection in person and on the Commission's website: <http://www.scc.virginia.gov.case>.
- (5) This matter is dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. PUE-2012-00080
JULY 31, 2012**

APPLICATION OF
SHENANDOAH VALLEY ELECTRIC COOPERATIVE

For amendment of 100% Renewable Energy Attributes Electric Service Tariff

ORDER AMENDING TARIFF

On July 5, 2012,¹ Shenandoah Valley Electric Cooperative ("SVEC" or "Cooperative") filed an application and supporting documents ("Application") with the State Corporation Commission ("Commission") for approval of proposed amendments to its 100% Renewable Energy Attributes Electric Service Tariff, designated as Rider R ("Rider R").² Through Rider R, SVEC currently offers electric energy provided 100 percent from renewable energy as a "companion rate" to its residential member-customers on a voluntary basis.

SVEC's Rider R is offered pursuant to § 56-577 A 6 of the Code of Virginia ("Code"). Subdivision 56-577 A 6 of the Code deems a tariff filed by a cooperative for Commission approval a tariff offering electric energy provided 100 percent from renewable energy to one or more classes of customers "if [the tariff] provides undifferentiated electric energy and the cooperative retires a quantity of renewable energy certificates ["RECs"]³ equal to 100 percent of the electric energy provided pursuant to such tariff."⁴

As of July 1, 2010, § 56-577 A 6 of the Code applied only to tariffs offered to one or more classes of residential customers.⁵ As of July 1, 2012, however, § 56-577 A 6 of the Code applies to tariffs offered to one or more classes of nonresidential customers as well.⁶ As such, in the instant Application, the Cooperative seeks to amend its Rider R to offer electric energy provided 100 percent from renewable energy to all of its member-customers on a voluntary basis.⁷

Based on the Application, the Cooperative proposes to change only the Availability and Applicability section of Rider R and to update the sources of Renewable Energy to be consistent with a 2012 amendment to § 56-576 of the Code.⁸ The remaining sections of Rider R, including the Monthly

¹ On July 17, 2012, the Cooperative filed revisions to correct typographical errors in its Application.

² The Commission approved SVEC's Rider R in Case No. PUE-2010-00068. *Application of Shenandoah Valley Electric Cooperative, For approval of a 100% Renewable Energy Tariff*, 2010 S.C.C. Ann. Rept. 551, Order Approving Tariff (Dec. 17, 2010).

³ For purposes of this section of the Code, with respect to electric cooperatives, REC is defined as "a tradable commodity or instrument issued by a regional transmission entity or affiliate or successor thereof in the United States that validates the generation of electricity from renewable energy sources or that is certified under a generally recognized renewable energy certificate standard." One REC equals 1,000 kilowatt hours or one megawatt hour of electricity generated from renewable energy.

⁴ Pursuant to § 56-577 A 6 of the Code, a cooperative offering electric energy provided 100 percent from renewable energy that involves the retirement of RECs must disclose to its retail customers who express an interest in purchasing energy pursuant to such tariff: (i) that the renewable energy is comprised of the retirement of RECs; (ii) the identity of the entity providing the RECs; and (iii) the sources of renewable energy being offered.

⁵ Subdivision 56-577 A 6 of the Code does not apply unless the Cooperative files for approval of such a tariff on or after July 1, 2010.

⁶ Subdivision 56-577 A 6 of the Code does not apply unless the Cooperative files for approval of such a tariff on or after July 1, 2012.

⁷ Application at 3.

⁸ Among other things, the 2012 amendments to § 56-576 of the Code added "landfill gas" to the definition of "renewable energy."

Rate, Statutory Disclosures, and Termination sections, all of which were approved by the Commission in Case No. PUE-2010-00068, remain substantively the same.⁹

The Cooperative requests that the Commission waive any notice and suspension requirements so that service offered pursuant to Rider R is available as a "companion rate" to all of its member-customers on a voluntary basis effective August 6, 2012.¹⁰

NOW THE COMMISSION, upon consideration of the matter, is of the opinion and finds that no notice or suspension of rates is necessary in this proceeding and that the Cooperative's request for approval of proposed amendments to Rider R should be granted.

Accordingly, IT IS ORDERED THAT:

- (1) This case is docketed and assigned Case No. PUE-2012-00080.
- (2) The Cooperative's Application is granted.
- (3) The proposed amendments to Rider R are approved, effective for service to all member-customers rendered on and after August 6, 2012.

(4) The Cooperative shall file its amended Rider R, incorporating the modifications proposed in its Application, with the Clerk of the Commission and with the Director of the Commission's Division of Energy Regulation within thirty (30) days of the date of this Order. The Clerk of the Commission shall retain such filing for public inspection in person and on the Commission's website: <http://www.sec.virginia.gov/case>.

- (5) This matter is dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

⁹ See Exhibit A and Exhibit B of the Application.

¹⁰ Upon advisement of the Staff of the State Corporation Commission, the Cooperative's desired effective date is August 6, 2012.

CASE NO. PUE-2012-00081 JULY 31, 2012

APPLICATION OF NORTHERN VIRGINIA ELECTRIC COOPERATIVE

For amendment of Electric Service Backed 100% by Renewable Energy Certificates Tariff

ORDER AMENDING TARIFF

On July 6, 2012,¹ Northern Virginia Electric Cooperative ("NOVEC" or "Cooperative") filed an application and supporting documents ("Application") with the State Corporation Commission ("Commission") for approval of proposed amendments to its Electric Service Backed 100% by Renewable Energy Certificates Tariff, designated as Rider R ("Rider R").² Through Rider R, NOVEC currently offers electric energy provided 100 percent from renewable energy as a "companion rate" to its residential member-customers on a voluntary basis.

NOVEC's Rider R is offered pursuant to § 56-577 A 6 of the Code of Virginia ("Code"). Subdivision 56-577 A 6 of the Code deems a tariff filed by a cooperative for Commission approval a tariff offering electric energy provided 100 percent from renewable energy to one or more classes of customers "if [the tariff] provides undifferentiated electric energy and the cooperative retires a quantity of renewable energy certificates [{"RECs"}]³ equal to 100 percent of the electric energy provided pursuant to such tariff."⁴

As of July 1, 2010, § 56-577 A 6 of the Code applied only to tariffs offered to one or more classes of residential customers.⁵ As of July 1, 2012, however, § 56-577 A 6 of the Code applies to tariffs offered to one or more classes of nonresidential customers as well.⁶ As such, in the instant Application,

¹ On July 18, 2012, and July 24, 2012, the Cooperative filed revisions to correct typographical errors in its Application.

² The Commission approved NOVEC's Rider R in Case No. PUE-2010-00071. *Application of Northern Virginia Electric Cooperative, For approval of a 100% Renewable Energy Tariff*, 2010 S.C.C. Ann. Rept. 565, Order Approving Tariff (Dec. 17, 2010).

³ For purposes of this section of the Code, with respect to electric cooperatives, REC is defined as "a tradable commodity or instrument issued by a regional transmission entity or affiliate or successor thereof in the United States that validates the generation of electricity from renewable energy sources or that is certified under a generally recognized renewable energy certificate standard." One REC equals 1,000 kilowatt hours or one megawatt hour of electricity generated from renewable energy.

⁴ Pursuant to § 56-577 A 6 of the Code, a cooperative offering electric energy provided 100 percent from renewable energy that involves the retirement of RECs must disclose to its retail customers who express an interest in purchasing energy pursuant to such tariff: (i) that the renewable energy is comprised of the retirement of RECs; (ii) the identity of the entity providing the RECs; and (iii) the sources of renewable energy being offered.

⁵ Subdivision 56-577 A 6 of the Code does not apply unless the Cooperative files for approval of such a tariff on or after July 1, 2010.

⁶ Subdivision 56-577 A 6 of the Code does not apply unless the Cooperative files for approval of such a tariff on or after July 1, 2012.

the Cooperative seeks to amend its Rider R to offer electric energy provided 100 percent from renewable energy to all of its member-customers on a voluntary basis.⁷

Based on the Application, the Cooperative proposes to change only the Availability and Applicability section of Rider R and to update the sources of Renewable Energy to be consistent with a 2012 amendment to § 56-576 of the Code.⁸ The remaining sections of Rider R, including the Monthly Rate, Statutory Disclosures, and Termination sections, all of which were approved by the Commission in Case No. PUE-2010-00071, remain substantively the same.⁹

The Cooperative requests that the Commission waive any notice and suspension requirements so that service offered pursuant to Rider R is available as a "companion rate" to all of its member-customers on a voluntary basis effective August 6, 2012.¹⁰

NOW THE COMMISSION, upon consideration of the matter, is of the opinion and finds that no notice or suspension of rates is necessary in this proceeding and that the Cooperative's request for approval of proposed amendments to Rider R should be granted.

Accordingly, IT IS ORDERED THAT:

- (1) This case is docketed and assigned Case No. PUE-2012-00081.
- (2) The Cooperative's Application is granted.
- (3) The proposed amendments to Rider R are approved, effective for service to all member-customers rendered on and after August 6, 2012.
- (4) The Cooperative shall file its amended Rider R, incorporating the modifications proposed in its Application, with the Clerk of the Commission and with the Director of the Commission's Division of Energy Regulation within thirty (30) days of the date of this Order. The Clerk of the Commission shall retain such filing for public inspection in person and on the Commission's website: <http://www.scc.virginia.gov/case>.
- (5) This matter is dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

⁷ Application at 3.

⁸ Among other things, the 2012 amendments to § 56-576 of the Code added "landfill gas" to the definition of "renewable energy."

⁹ See Exhibit A and Exhibit B of the Application.

¹⁰ Upon advisement of the Staff of the State Corporation Commission, the Cooperative's desired effective date is August 6, 2012.

**CASE NO. PUE-2012-00082
JULY 31, 2012**

APPLICATION OF
SOUTHSIDE ELECTRIC COOPERATIVE

For amendment of Electric Service Backed 100% by Renewable Energy Certificates Tariff

ORDER AMENDING TARIFF

On July 6, 2012,¹ Southside Electric Cooperative ("SEC" or "Cooperative") filed an application and supporting documents ("Application") with the State Corporation Commission ("Commission") for approval of proposed amendments to its Electric Service Backed 100% by Renewable Energy Certificates Tariff, designated as Rider R ("Rider R").² Through Rider R, SEC currently offers electric energy provided 100 percent from renewable energy as a "companion rate" to its residential member-customers on a voluntary basis.

SEC's Rider R is offered pursuant to § 56-577 A 6 of the Code of Virginia ("Code"). Subdivision 56-577 A 6 of the Code deems a tariff filed by a cooperative for Commission approval a tariff offering electric energy provided 100 percent from renewable energy to one or more classes of customers "if

¹ On July 18, 2012, July 24, 2012, and July 26, 2012, the Cooperative filed revisions to correct typographical errors in its Application.

² The Commission approved SEC's Rider R in Case No. PUE-2010-00103. *Application of Southside Electric Cooperative, For approval of a 100% Renewable Energy Tariff*, 2010 S.C.C. Ann. Rept. 608, Order Approving Tariff (Dec. 17, 2010).

[the tariff] provides undifferentiated electric energy and the cooperative retires a quantity of renewable energy certificates [{"RECs"}]³ equal to 100 percent of the electric energy provided pursuant to such tariff."⁴

As of July 1, 2010, § 56-577 A 6 of the Code applied only to tariffs offered to one or more classes of residential customers.⁵ As of July 1, 2012, however, § 56-577 A 6 of the Code applies to tariffs offered to one or more classes of nonresidential customers as well.⁶ As such, in the instant Application, the Cooperative seeks to amend its Rider R to offer electric energy provided 100 percent from renewable energy to all of its member-customers on a voluntary basis.⁷

Based on the Application, the Cooperative proposes to change only the Availability and Applicability section of Rider R and to update the sources of Renewable Energy to be consistent with a 2012 amendment to § 56-576 of the Code.⁸ The remaining sections of Rider R, including the Monthly Rate, Statutory Disclosures, and Termination sections, all of which were approved by the Commission in Case No. PUE-2010-00103, remain substantively the same.⁹

The Cooperative requests that the Commission waive any notice and suspension requirements so that service offered pursuant to Rider R is available as a "companion rate" to all of its member-customers on a voluntary basis effective August 6, 2012.¹⁰

NOW THE COMMISSION, upon consideration of the matter, is of the opinion and finds that no notice or suspension of rates is necessary in this proceeding and that the Cooperative's request for approval of proposed amendments to Rider R should be granted.

Accordingly, IT IS ORDERED THAT:

- (1) This case is docketed and assigned Case No. PUE-2012-00082.
- (2) The Cooperative's Application is granted.
- (3) The proposed amendments to Rider R are approved, effective for service to all member-customers rendered on and after August 6, 2012.
- (4) The Cooperative shall file its amended Rider R, incorporating the modifications proposed in its Application, with the Clerk of the Commission and with the Director of the Commission's Division of Energy Regulation within thirty (30) days of the date of this Order. The Clerk of the Commission shall retain such filing for public inspection in person and on the Commission's website: <http://www.scc.virginia.gov/case>.
- (5) This matter is dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

³ For purposes of this section of the Code, with respect to electric cooperatives, REC is defined as "a tradable commodity or instrument issued by a regional transmission entity or affiliate or successor thereof in the United States that validates the generation of electricity from renewable energy sources or that is certified under a generally recognized renewable energy certificate standard." One REC equals 1,000 kilowatt hours or one megawatt hour of electricity generated from renewable energy.

⁴ Pursuant to § 56-577 A 6 of the Code, a cooperative offering electric energy provided 100 percent from renewable energy that involves the retirement of RECs must disclose to its retail customers who express an interest in purchasing energy pursuant to such tariff: (i) that the renewable energy is comprised of the retirement of RECs; (ii) the identity of the entity providing the RECs; and (iii) the sources of renewable energy being offered.

⁵ Subdivision 56-577 A 6 of the Code does not apply unless the Cooperative files for approval of such a tariff on or after July 1, 2010.

⁶ Subdivision 56-577 A 6 of the Code does not apply unless the Cooperative files for approval of such a tariff on or after July 1, 2012.

⁷ Application at 3.

⁸ Among other things, the 2012 amendments to § 56-576 of the Code added "landfill gas" to the definition of "renewable energy."

⁹ See Exhibit A and Exhibit B of the Application.

¹⁰ Upon advisement of the Staff of the State Corporation Commission, the Cooperative's desired effective date is August 6, 2012.

**CASE NO. PUE-2012-00083
JULY 31, 2012**

APPLICATION OF
PRINCE GEORGE ELECTRIC COOPERATIVE

For amendment of Electric Service Backed 100% by Renewable Energy Certificates Tariff

ORDER AMENDING TARIFF

On July 6, 2012,¹ Prince George Electric Cooperative ("PGEC" or "Cooperative") filed an application and supporting documents ("Application") with the State Corporation Commission ("Commission") for approval of proposed amendments to its Electric Service Backed 100% by Renewable Energy

¹ On July 18, 2012, the Cooperative filed revisions to correct typographical errors in its Application.

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Certificates Tariff, designated as Rider R ("Rider R").² Through Rider R, PGEC currently offers electric energy provided 100 percent from renewable energy as a "companion rate" to its residential member-customers on a voluntary basis.

PGEC's Rider R is offered pursuant to § 56-577 A 6 of the Code of Virginia ("Code"). Subdivision 56-577 A 6 of the Code deems a tariff filed by a cooperative for Commission approval a tariff offering electric energy provided 100 percent from renewable energy to one or more classes of customers "if [the tariff] provides undifferentiated electric energy and the cooperative retires a quantity of renewable energy certificates [{"RECs"}]³ equal to 100 percent of the electric energy provided pursuant to such tariff."⁴

As of July 1, 2010, § 56-577 A 6 of the Code applied only to tariffs offered to one or more classes of residential customers.⁵ As of July 1, 2012, however, § 56-577 A 6 of the Code applies to tariffs offered to one or more classes of nonresidential customers as well.⁶ As such, in the instant Application, the Cooperative seeks to amend its Rider R to offer electric energy provided 100 percent from renewable energy to all of its member-customers on a voluntary basis.⁷

Based on the Application, the Cooperative proposes to change only the Availability and Applicability section of Rider R and to update the sources of Renewable Energy to be consistent with a 2012 amendment to § 56-576 of the Code.⁸ The remaining sections of Rider R, including the Monthly Rate, Statutory Disclosures, and Termination sections, all of which were approved by the Commission in Case No. PUE-2010-00069, remain substantively the same.⁹

The Cooperative requests that the Commission waive any notice and suspension requirements so that service offered pursuant to Rider R is available as a "companion rate" to all of its member-customers on a voluntary basis effective August 6, 2012.¹⁰

NOW THE COMMISSION, upon consideration of the matter, is of the opinion and finds that no notice or suspension of rates is necessary in this proceeding and that the Cooperative's request for approval of proposed amendments to Rider R should be granted.

Accordingly, IT IS ORDERED THAT:

- (1) This case is docketed and assigned Case No. PUE-2012-00083.
- (2) The Cooperative's Application is granted.
- (3) The proposed amendments to Rider R are approved, effective for service to all member-customers rendered on and after August 6, 2012.

(4) The Cooperative shall file its amended Rider R, incorporating the modifications proposed in its Application, with the Clerk of the Commission and with the Director of the Commission's Division of Energy Regulation within thirty (30) days of the date of this Order. The Clerk of the Commission shall retain such filing for public inspection in person and on the Commission's website: <http://www.scc.virginia.gov/case>.

- (5) This matter is dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

² The Commission approved PGEC's Rider R in Case No. PUE-2010-00069. *Application of Prince George Electric Cooperative, For approval of a 100% Renewable Energy Tariff*, 2010 S.C.C. Ann. Rept. 555, Order Approving Tariff (Dec. 17, 2010).

³ For purposes of this section of the Code, with respect to electric cooperatives, REC is defined as "a tradable commodity or instrument issued by a regional transmission entity or affiliate or successor thereof in the United States that validates the generation of electricity from renewable energy sources or that is certified under a generally recognized renewable energy certificate standard." One REC equals 1,000 kilowatt hours or one megawatt hour of electricity generated from renewable energy.

⁴ Pursuant to § 56-577 A 6 of the Code, a cooperative offering electric energy provided 100 percent from renewable energy that involves the retirement of RECs must disclose to its retail customers who express an interest in purchasing energy pursuant to such tariff: (i) that the renewable energy is comprised of the retirement of RECs; (ii) the identity of the entity providing the RECs; and (iii) the sources of renewable energy being offered.

⁵ Subdivision 56-577 A 6 of the Code does not apply unless the Cooperative files for approval of such a tariff on or after July 1, 2010.

⁶ Subdivision 56-577 A 6 of the Code does not apply unless the Cooperative files for approval of such a tariff on or after July 1, 2012.

⁷ Application at 3.

⁸ Among other things, the 2012 amendments to § 56-576 of the Code added "landfill gas" to the definition of "renewable energy."

⁹ See Exhibit A and Exhibit B of the Application.

¹⁰ Application at 3.

**CASE NO. PUE-2012-00084
DECEMBER 12, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

Ex Parte: In the matter concerning rules for electricity and natural gas submetering and for energy allocation equipment at campgrounds

ORDER ADOPTING REGULATIONS

On August 6, 2012, the State Corporation Commission ("Commission") initiated a rulemaking required by Chapter 338 of the 2012 Acts of Assembly ("Acts"). Through these Acts, the Virginia General Assembly directed the Commission to promulgate regulations and standards for the installation of submetering equipment or energy allocation equipment at campgrounds for the purpose of fairly allocating the cost of electrical or natural gas consumption for each guest using such equipment.

The Commission's August 6, 2012 Order for Notice and Comment ("August 6, 2012 Order") set out proposed rules ("Proposed Rules") that had been prepared by the Staff of the Commission ("Staff") after conferring informally with representatives of electric and natural gas utilities in the Commonwealth and the Virginia Campground Association ("VCA"). The August 6, 2012 Order also provided that public notice of the Proposed Rules be given so as to afford any interested persons or entities an opportunity to comment formally on the Proposed Rules, to request a hearing thereon, or to propose modifications or supplements to the Proposed Rules.

Notice of the proceeding was published in the *Virginia Register* on August 27, 2012, and in newspapers of general circulation throughout the Commonwealth.¹ Interested persons were directed to file any comments or hearing requests on or before October 1, 2012.

Comments in this proceeding were submitted by: the VCA,² Virginia Electric and Power Company d/b/a Dominion Virginia Power ("DVP"), and Columbia Gas of Virginia, Inc. ("CGV"). The Commission did not receive a request for a hearing on the Proposed Rules.

In its comments, DVP suggested two modifications to the Proposed Rules. First, DVP recommended adding language to the definition of "Master meter" in 20 VAC 5-305-10 to provide that "[t]he Master meter is the point at which the Utility's facilities and responsibilities end."³ Second, DVP recommended that 20 VAC 5-305-20 be modified to remove the requirement that owners installing submetering or energy allocation equipment notify the utility providing electric service of the installation within ninety days of the installation.⁴

CGV stated in its comments that it is supportive of the Proposed Rules "to the extent that the Proposed Rules address the fair allocation of the cost of electrical or natural gas consumption for each customer billed through such equipment."⁵ CGV recommended additional provisions to 20 VAC 5-305-20 to "address potential safety concerns associated with the introduction of *natural gas* submetering or energy allocation equipment in the context of campgrounds and campsites."⁶ Specifically, CGV requested that the following text be included as the next to last paragraph in 20 VAC 5-305-20:

Natural gas submetering and energy allocation equipment, including related piping and materials, for which the owner is responsible shall be installed, operated and maintained by the owner in conformity with all municipal, state and federal requirements and with the National Fuel Gas Code. The nature and conditions of such equipment shall be such as not to endanger life or property. In addition, the owner shall install only such equipment as is suitable for operation with the character of gas supplied by the utility. If these conditions are violated, the utility may refuse service or discontinue service without notice until the owner conforms its equipment to the foregoing specifications.⁷

As directed by the August 6, 2012 Order, the Staff filed a report ("Staff Report") on October 15, 2012, in which the Staff reviewed the comments on the Proposed Rules. According to the Staff, DVP's modification to the definition of "Master meter" in 20 VAC 5-305-10 "goes beyond the scope of this proceeding and modifies tariffs more appropriately addressed in a biennial rate review."⁸ Regarding DVP's proposed modification to 20 VAC 5-305-20, the Staff noted that the proposed change would affect all electric utilities providing service within Virginia and, "[w]hile DVP states that it does not need notice of the installation of submetering and energy allocation equipment, other electric utilities may not share DVP's position."⁹ The Staff recommended that the Commission decline to adopt DVP's suggested modifications to the Proposed Rules.

¹ See Memoranda from Laura S. Martin of the Commission's Division of Information Resources filed in this docket on August 29, 2012, and August 30, 2012.

² The VCA's comments were supportive of the Proposed Rules and did not suggest any modifications thereto.

³ Comments of DVP at 3.

⁴ *Id.*

⁵ Comments of CGV at 1.

⁶ *Id.* (emphasis original).

⁷ *Id.* at 3.

⁸ Staff Report at 2.

⁹ *Id.* at 3.

Addressing CGV's proposed revisions, the Staff concluded that CGV's safety concerns are adequately addressed in the first sentence of the suggested revision. Staff stated that it did not object to the first sentence of CGV's modification and recommended that, if the provision is adopted, a reference to § 56-257.2 of the Code of Virginia be included, as follows:

Natural gas submetering and energy allocation equipment, including related piping and materials, for which the owner is responsible shall be installed, operated and maintained by the owner in conformity with all municipal, state and federal requirements, including but not limited to [] § 56-257.2, and with the National Fuel Gas Code.¹⁰

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the proposed regulations as revised and set forth in the Staff Report should be adopted. We further find that these regulations should be made effective as of January 1, 2013.

Accordingly, IT IS ORDERED THAT:

- (1) The Commission's Regulations regarding Rules for Electricity and Natural Gas Submetering and for Energy Allocation Equipment, 20 VAC 5-305-10 *et seq.*, are hereby adopted as shown in Appendix A to this Order and shall become effective as of January 1, 2013.
- (2) A copy of these regulations as set out in Appendix A of this Order shall be forwarded to the Registrar of Regulations for publication in the *Virginia Register*.
- (3) There being nothing further to come before the Commission, this case hereby is dismissed from the Commission's docket of active causes, and the papers filed herein shall be placed in the Commission's file for ended causes.

NOTE: A copy of Attachment A entitled "Rules for Electricity and Natural Gas Submetering and for Energy Allocation Equipment" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

¹⁰ *Id.* at 4.

**CASE NO. PUE-2012-00085
JULY 23, 2012**

APPLICATION OF
MECKLENBURG ELECTRIC COOPERATIVE

For authority to incur indebtedness

ORDER GRANTING AUTHORITY

On July 10, 2012 Mecklenburg Electric Cooperative ("Mecklenburg") filed an application with the State Corporation Commission ("Commission") under Chapter 3 of Title 56 of the Code of Virginia for authority to borrow up to \$175,000 in long-term debt. Mecklenburg has paid the requisite fee of \$25.

Mecklenburg is seeking authority to borrow \$175,000 from the United States of America under the Rural Economic Development Loan and Grant Program of the United States Department of Agriculture Rural Development Business and Cooperative Programs. Proceeds from the loan will be re-loaned to Oran Safety Glass, Inc. ("Oran"). Mecklenburg's loan will be in the form of a zero interest promissory note ("Note") and will be evidenced by its existing mortgage with the Rural Utilities Services. The term of the loan is ten years.

The loan between Mecklenburg and Oran will be made under the same terms as the Note but will be evidenced by a standby letter of credit between Mecklenburg and Oran.

THE COMMISSION, upon consideration of the application and having been advised by its Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest.

Accordingly, IT IS ORDERED THAT:

- (1) Mecklenburg is authorized to incur up to \$175,000 in debt obligations from the United States of America, under the terms and conditions and for the purposes stated in its application.
- (2) Within thirty (30) days of the date of any advance of funds, Mecklenburg shall file with the Commission's Division of Utility Accounting & Finance a report of action, which shall include the amount of the advance.
- (3) Within thirty (30) days of the date of any funds being advanced by Mecklenburg to Oran, Mecklenburg shall file with the Commission's Division of Utility Accounting & Finance a report of action, which shall include the amount of the advance.
- (4) Within ten (10) days of the date of a default by Oran under the loan agreement between it and Mecklenburg, the Cooperative shall notify the Commission's Division of Utility Accounting & Finance of said default.

- (5) The authority granted herein shall have no implications for ratemaking purposes.
- (6) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUE-2012-00086
OCTOBER 15, 2012**

APPLICATION OF
ROANOKE GAS COMPANY

For an expedited increase in rates

ORDER FOR NOTICE AND HEARING

On September 14, 2012, Roanoke Gas Company ("Roanoke Gas" or "Company") filed an application with the State Corporation Commission ("Commission") for an expedited increase in rates ("Application") together with direct testimony, exhibits, and schedules as prescribed by the Commission's Rules Governing Utility Rate Applications and Annual Informational Filings, 20 VAC 5-201-10 *et seq.* ("Rate Case Rules"). Roanoke Gas seeks to increase its annual revenues by \$1,837,452,¹ or approximately 3.5%.² The proposed increase in rates is based on a return on equity of 10.1%.³ As provided by 20 VAC 5-201-20 D of the Rate Case Rules, Roanoke Gas proposes that its increase in rates be placed into effect for service rendered on and after November 1, 2012.⁴

The Commission last granted the Company an expedited increase in rates of \$235,000 on May 2, 2012.⁵ In support of its current Application, Roanoke Gas states that its operations have not materially changed since its last rate case but that several factors have contributed to the need for rate relief, including: (i) increased operating costs for such things as the Company's employee health and other benefits; (ii) the Company's investment in non-revenue producing pipeline replacements; and (iii) the decline in residential natural gas deliveries.⁶

On October 5, 2012, the Commission Staff ("Staff") filed an interim report ("October 5, 2012 Report") on its preliminary review of the Company's Application, supporting testimony, exhibits, and schedules as required by the Commission's Rate Case Rules. The Staff concluded that the proposed adjustments in the Company's Application are consistent with adjustments previously approved by the Commission for the Company. The Staff further stated that it believes it is appropriate that the Company's proposed rates be placed into effect on an interim basis, subject to refund, for service rendered on and after November 1, 2012.⁷

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the Company filed a completed Application on September 14, 2012. The Commission further finds that public notice and an opportunity for participation in this proceeding should be given; that a hearing should be scheduled on the Company's Application; and that a Hearing Examiner should be assigned to conduct all further proceedings on behalf of the Commission, concluding with the filing of a final report containing the Hearing Examiner's findings and recommendations.

As noted, Roanoke Gas proposes that its rates take effect, subject to refund, on November 1, 2012. In support of its request for expedited rate relief, the Company advises the Commission that it has not experienced a substantial change in circumstances. Roanoke Gas proposes to use a return on equity of 10.1% in accordance with the Stipulation approved by the Commission in the Company's last rate proceeding. Further, in its October 5, 2012 Report, the Staff made a preliminary determination that the proposed adjustments in this proceeding are consistent with adjustments previously approved by the Commission for the Company.⁸ Therefore, the Commission finds that Roanoke Gas has satisfied the specific requirements of Rate Case Rule 20 VAC 5-201-20 D for placing its proposed rates into effect on November 1, 2012, subject to refund, as provided by Rate Case Rule 20 VAC 5-201 20 E.

¹ The Company's Application proposes to change the method for calculating weather normalized sales volumes for its residential, GS-1, and GS-2 customers. In the Company's last general rate case, *Application of Roanoke Gas Company, For a general increase in rates*, Case No. PUE-2002-00373, 2003 S.C.C. Ann. Rept. 392, Final Order (Jan. 7, 2003), sales volumes were normalized using monthly average heating degree days ("HDD") during the most recent 30-year period. In its current Application, the Company proposes to weather normalize sales volumes using monthly average HDDs for the five-year period ending June 30, 2012. This change in methodology increases the Company's revenue requirement by \$532,094, or from \$1,305,358 to \$1,837,452.

² Direct Testimony of John B. Williamson, III, at 2.

³ Application at 1.

⁴ *Id.* at 2.

⁵ *Application of Roanoke Gas Company, For an expedited increase in rates*, Case No. PUE-2011-00081, Doc. Cont. Cen. No. 120510108, Final Order (May 2, 2012).

⁶ Direct Testimony of John B. Williamson, III, at 1-2.

⁷ October 5, 2012 Report at 2-3.

⁸ *Id.* at 2.

Accordingly, IT IS ORDERED THAT:

- (1) The Company's Application for an expedited increase in rates is docketed and assigned Case No. PUE-2012-00086.
- (2) Roanoke Gas may place its proposed rates into effect on an interim basis, subject to refund with interest, for service rendered on and after November 1, 2012.
- (3) As provided by § 12.1-31 of the Code of Virginia and 5 VAC 5-20-120, *Procedure before hearing examiners*, of the Commission's Rules of Practice and Procedure, 5 VAC 5-20-10 *et seq.* ("Rules of Practice"), a Hearing Examiner shall be appointed to conduct all further proceedings in this matter on behalf of the Commission and to file a final report containing the Hearing Examiner's findings and recommendations.
- (4) A public hearing on the Application shall be held at 10 a.m. on March 26, 2013, in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, to receive into the record the testimony of public witnesses and the evidence of Roanoke Gas, any respondents, and the Staff. Public witnesses desiring to testify at the hearing concerning this Application need only appear in the Commission's Second Floor Courtroom in the Tyler Building at the address set forth above fifteen (15) minutes prior to the starting time on the day of the hearing and contact the Commission's Bailiff.
- (5) Roanoke Gas shall make a copy of: (i) its Application; (ii) the public versions of all testimony, exhibits, and schedules filed with its Application; and (iii) this Order for Notice and Hearing available for public inspection during regular business hours at its business office at 519 Kimball Avenue, N.E., Roanoke, Virginia 24016. The Company also shall provide, at no charge, a copy of its Application and public versions of all testimony, exhibits, and schedules filed with its Application upon written request to counsel for Roanoke Gas, Richard D. Gary, Esquire, Hunton & Williams, LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074. If acceptable to the requesting individual, the Company may provide the Application, with or without attachments, by electronic means. In addition, interested persons may review copies of the Company's Application and related documents in the Commission's Document Control Center, located on the First Floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5 p.m., on regular business days, or download unofficial copies from the Commission's website at: <http://www.sec.virginia.gov/case>.
- (6) On or before October 30, 2012, the Company shall publish once as display advertising (not classified) the following notice in newspapers of general circulation throughout its Virginia service territory:

NOTICE TO THE PUBLIC OF AN APPLICATION BY ROANOKE GAS COMPANY
FOR AN EXPEDITED INCREASE IN RATES – CASE NO. PUE-2012-00086

On September 14, 2012, Roanoke Gas Company ("Roanoke Gas" or "Company") filed with the State Corporation Commission ("Commission") an application for an expedited increase in rates ("Application"). Roanoke Gas seeks to increase its annual revenues by \$1,837,452, or approximately 3.5%. The proposed increase in rates is based on a 10.1% return on equity. Roanoke Gas proposes that its increase in rates be placed into effect for service rendered on and after November 1, 2012.

Interested persons are encouraged to review the Application and supporting documents for the details of these and other proposals. While the total revenue that may be approved by the Commission is limited to the amount produced by the Company's proposed rates, TAKE NOTICE that the Commission may approve revenues and adopt rates, fees, charges, tariff revisions, and terms and conditions of service that differ from those appearing in the Company's Application and supporting documents and may apportion revenues among customer classes and/or design rates in a manner differing from that shown in the Company's Application and supporting documents.

The Commission last granted the Company an increase in rates on May 2, 2012. Roanoke Gas states that its operations have not materially changed since its last rate case but that several factors have contributed to the need for rate relief, including: (i) increased operating costs for such things as the Company's employee health and other benefits; (ii) the Company's investment in non-revenue producing pipeline replacement; and (iii) the decline in residential natural gas deliveries.

The Commission has entered an Order for Notice and Hearing that, among other things, schedules a hearing on the Company's Application, assigns a Hearing Examiner to this proceeding, and permits Roanoke Gas to place its proposed rates into effect on an interim basis, subject to refund with interest, for service rendered on and after November 1, 2012.

A public hearing on the Company's Application shall be held at 10 a.m. on March 26, 2013, in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, to receive into the record the testimony of public witnesses and the evidence of Roanoke Gas, any respondents, and the Commission Staff. Any person desiring to testify as a public witness should appear at the hearing location fifteen (15) minutes before the starting time on the day of the hearing and contact the Commission's Bailiff. Individuals with disabilities who require accommodation to participate in the hearing should contact the Commission at least seven (7) days before the scheduled hearing at 1-800-552-7945 (voice) or 1-804-371-9206 (TDD).

Copies of the Application, all testimony, exhibits and schedules filed with the Application, and the Order for Notice and Hearing are available for public inspection during regular business hours at the Company's business office, 519 Kimball Avenue, N.E., Roanoke, Virginia 24016. A copy of the Application may be obtained at no cost through written request to counsel for Roanoke Gas, Richard D. Gary, Esquire, Hunton &

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Williams, LLP, Riverfront Plaza, East Tower, 951 Byrd Street, Richmond, Virginia 23219-4074. In addition, interested persons may review the Application and related documents in the Commission's Document Control Center, Office of the Clerk of the Commission, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5 p.m., on regular business days, or download unofficial copies from the Commission's website at: <http://www.scc.virginia.gov/case>.

Any interested person may participate as a respondent in this proceeding by filing, on or before December 3, 2012, a notice of participation. If not filed electronically, an original and fifteen (15) copies of the notice of participation shall be submitted to the Clerk of the Commission at the address set forth above. Interested persons should obtain a copy of the Commission's Order for Notice and Hearing for further details on participation as a respondent. All filings shall refer to Case No. PUE-2012-00086.

On or before March 19, 2013, any interested person may file written comments on the Application with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Interested persons desiring to submit comments electronically may do so on or before March 19, 2013, by following the instructions found on the Commission's website at: <http://www.scc.virginia.gov/case>. All comments shall refer to Case No. PUE-2012-00086.

ROANOKE GAS COMPANY

(7) On or before October 30, 2012, Roanoke Gas shall serve a copy of this Order for Notice and Hearing on the chairman of the board of supervisors and county attorney of each county and upon the mayor or manager (or equivalent official) of every city and town in which the Company provides service in the Commonwealth of Virginia. Service shall be made by first class mail to the customary place of business or residence of the person served.

(8) On or before November 30, 2012, Roanoke Gas shall file proof of publication of the notice prescribed in Ordering Paragraph (6) and proof of service of copies of this Order for Notice and Hearing as prescribed by Ordering Paragraph (7), including the name, title, and address of each official served.

(9) On or before March 19, 2013, any interested person may file written comments on the Application with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Any interested person desiring to submit comments electronically may do so on or before March 19, 2013, by following the instructions found on the Commission's website at: <http://www.scc.virginia.gov/case>. Interested persons shall refer in their comments to Case No. PUE-2012-00086.

(10) Any interested person may participate as a respondent in this proceeding by filing, on or before December 3, 2012, a notice of participation. If not filed electronically, an original and fifteen (15) copies of the notice of participation shall be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (9). A copy of the notice of participation simultaneously shall be served on counsel to the Company, Richard D. Gary, Esquire, Hunton & Williams LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074. Pursuant to 5 VAC 5-20-80 B, Participation as a respondent, of the Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be represented by counsel as required by Rule 5 VAC 5-20-30, Counsel, of the Rules of Practice. All filings shall refer to Case No. PUE-2012-00086.

(11) Within five (5) business days of receipt of a notice of participation as a respondent as required by Ordering Paragraph (10), the Company shall serve upon the respondent a copy of this Order for Notice and Hearing, a copy of the Application, and all materials filed with the Commission unless these materials have already been provided to the respondent.

(12) On or before January 4, 2013, each respondent may file with the Clerk of the Commission and serve on the Staff, the Company, and all other respondents, any testimony and exhibits by which the respondent expects to establish its case. If not filed electronically, an original and fifteen (15) copies of such testimony and exhibits shall be submitted to the Clerk of the Commission at the address in Ordering Paragraph (9). The respondent shall comply with the Commission's Rules of Practice, including 5 VAC 5-20-140, *Filing and service*, 5 VAC 5-20-150, *Copies and format*, and 5 VAC 5-20-240, *Prepared testimony and exhibits*.

(13) On or before February 28, 2013, the Staff shall investigate the Company's Application for an expedited increase in rates and shall file with the Clerk of the Commission an original and fifteen (15) copies of the testimony and exhibits regarding its investigation of the Application.

(14) On or before March 8, 2013, the Company may file with the Clerk of the Commission any rebuttal testimony and exhibits that it expects to offer and simultaneously shall serve a copy on the Staff and all respondents. If not filed electronically, an original and fifteen (15) copies of such rebuttal testimony and exhibits shall be submitted to the Clerk of the Commission at the address in Ordering Paragraph (9).

(15) The Company shall respond to interrogatories and requests for data within seven (7) calendar days after the receipt of the same. Except as so modified, discovery shall be in accordance with Part IV of the Rules of Practice, 5 VAC 5-20-240 et seq.

(16) This matter is continued generally pending further order of the Commission.

**CASE NO. PUE-2012-00087
JULY 31, 2012**

APPLICATION OF
MECKLENBURG ELECTRIC COOPERATIVE

For amendment of Electric Service Backed 100% by Renewable Energy Certificates Tariff

ORDER AMENDING TARIFF

On July 10, 2012,¹ Mecklenburg Electric Cooperative ("MEC" or "Cooperative") filed an application and supporting documents ("Application") with the State Corporation Commission ("Commission") for approval of proposed amendments to its Electric Service Backed 100% by Renewable Energy Certificates Tariff, designated as Rider GT ("Rider GT").² Through Rider GT, MEC currently offers electric energy provided 100 percent from renewable energy as a "companion rate" to its residential member-customers on a voluntary basis.

MEC's Rider GT is offered pursuant to § 56-577 A 6 of the Code of Virginia ("Code"). Subdivision 56-577 A 6 of the Code deems a tariff filed by a cooperative for Commission approval a tariff offering electric energy provided 100 percent from renewable energy to one or more classes of customers "if [the tariff] provides undifferentiated electric energy and the cooperative retires a quantity of renewable energy certificates ["RECs"]³ equal to 100 percent of the electric energy provided pursuant to such tariff."⁴

As of July 1, 2010, § 56-577 A 6 of the Code applied only to tariffs offered to one or more classes of residential customers.⁵ As of July 1, 2012, however, § 56-577 A 6 of the Code applies to tariffs offered to one or more classes of nonresidential customers as well.⁶ As such, in the instant Application, the Cooperative seeks to amend its Rider GT to offer electric energy provided 100 percent from renewable energy to all of its member-customers on a voluntary basis.⁷

Based on the Application, the Cooperative proposes to change only the Availability and Applicability section of Rider GT and to update the sources of Renewable Energy to be consistent with a 2012 amendment to § 56-576 of the Code.⁸ The remaining sections of Rider GT, including the Monthly Rate, Statutory Disclosures, and Termination sections, all of which were approved by the Commission in Case No. PUE-2010-00066, remain substantively the same.⁹

The Cooperative requests that the Commission waive any notice and suspension requirements so that service offered pursuant to Rider GT is available as a "companion rate" to all of its member-customers on a voluntary basis effective August 9, 2012.¹⁰

NOW THE COMMISSION, upon consideration of the matter, is of the opinion and finds that no notice or suspension of rates is necessary in this proceeding and that the Cooperative's request for approval of proposed amendments to Rider GT should be granted.

Accordingly, IT IS ORDERED THAT:

- (1) This case is docketed and assigned Case No. PUE-2012-00087.
- (2) The Cooperative's Application is granted.
- (3) The proposed amendments to Rider GT are approved, effective for service to all member-customers rendered on and after August 9, 2012.

¹ On July 18, 2012, the Cooperative filed revisions to correct typographical errors in its Application.

² The Commission approved MEC's Rider GT in Case No. PUE-2010-00066. *Application of Mecklenburg Electric Cooperative, For approval of a 100% Renewable Energy Tariff*, 2010 S.C.C. Ann. Rept. 543, Order Approving Tariff (Dec. 17, 2010).

³ For purposes of this section of the Code, with respect to electric cooperatives, REC is defined as "a tradable commodity or instrument issued by a regional transmission entity or affiliate or successor thereof in the United States that validates the generation of electricity from renewable energy sources or that is certified under a generally recognized renewable energy certificate standard." One REC equals 1,000 kilowatt hours or one megawatt hour of electricity generated from renewable energy.

⁴ Pursuant to § 56-577 A 6 of the Code, a cooperative offering electric energy provided 100 percent from renewable energy that involves the retirement of RECs must disclose to its retail customers who express an interest in purchasing energy pursuant to such tariff: (i) that the renewable energy is comprised of the retirement of RECs; (ii) the identity of the entity providing the RECs; and (iii) the sources of renewable energy being offered.

⁵ Subdivision 56-577 A 6 of the Code does not apply unless the Cooperative files for approval of such a tariff on or after July 1, 2010.

⁶ Subdivision 56-577 A 6 of the Code does not apply unless the Cooperative files for approval of such a tariff on or after July 1, 2012.

⁷ Application at 3.

⁸ Among other things, the 2012 amendments to § 56-576 of the Code added "landfill gas" to the definition of "renewable energy."

⁹ See Exhibit A and Exhibit B of the Application.

¹⁰ Application at 3.

(4) The Cooperative shall file its amended Rider GT, incorporating the modifications proposed in its Application, with the Clerk of the Commission and with the Director of the Commission's Division of Energy Regulation within thirty (30) days of the date of this Order. The Clerk of the Commission shall retain such filing for public inspection in person and on the Commission's website: <http://www.sec.virginia.gov/case>.

(5) This matter is dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. PUE-2012-00089
OCTOBER 18, 2012**

APPLICATION OF
APPALACHIAN POWER COMPANY
and
AMERICAN ELECTRIC POWER SERVICE CORPORATION

For authority to enter into an affiliate transaction under Title 56, Chapter 4 of the Code of Virginia

ORDER GRANTING AUTHORITY

On July 20, 2012, Appalachian Power Company ("APCo") and American Electric Power Service Corporation ("AEPSC") (collectively, "Applicants") filed an application with the State Corporation Commission ("Commission") requesting authority to enter into an affiliate transaction under Chapter 4 of Title 56 ("Affiliates Act") of the Code of Virginia ("Code") ("Application").

APCo is a Virginia public service corporation that provides electric power to approximately one million customers in the southwestern portion of Virginia, in southern West Virginia, and in northeastern Tennessee. AEPSC is a centralized service company that provides management, financial, administrative, operations, technical, and other services ("Centralized Services") to American Electric Power Company ("AEP") and its affiliates, including APCo. AEP and its affiliates are subject to the jurisdiction of the Federal Energy Regulatory Commission pursuant to the Public Utility Holding Company Act of 2005 ("PUHCA 2005")¹ and Title 18, §§ 366.1 *et seq.* of the Code of Federal Regulations.

The Applicants seek approval of a new Service Agreement between APCo and AEPSC ("Proposed Agreement") to replace the current service agreement, which expires October 18, 2012. Under the Proposed Agreement, AEPSC will provide to APCo specifically identified Centralized Services at cost, with no equity return. AEPSC will not use AEP affiliates to provide Centralized Services to APCo without separate Commission approval. The term of the Proposed Agreement will be five years. The Proposed Agreement also includes a rearrangement of the list of Centralized Services, clarification of the service bill payment policy, and minor revisions to the allocation bases. None of these changes are expected to have a material impact on AEPSC's charges to APCo.

During the review of the Application, the Commission Staff ("Staff") became concerned with the treatment for certain information technology assets, which are jointly utilized and commonly benefit multiple AEP affiliates throughout the AEP system ("Joint-Use Assets"). These Joint-Use Assets represent the capitalized portion of AEPSC internal labor, third party labor, and software purchase costs² incurred to develop internal-use software for the customer information systems, work order management systems, accounting systems, reporting systems, distribution management systems, electronic document management systems, inventory systems, and help desk systems employed throughout the AEP system. In order to prevent the misallocation and cross-subsidization of Joint-Use Asset costs, Staff recommends that APCo should be required to return the existing Joint-Use Assets on its books, along with the associated accumulated depreciation and accumulated deferred income taxes, to AEPSC, and on a prospective basis APCo should pay for the benefits of the Joint-Use Assets through a facilities charge consisting of the depreciation, taxes, and actual interest costs associated with the Joint-Use Assets. The Applicants opposed this recommendation in their Response dated October 12, 2012, filed contemporaneously with Staff's Action Brief.

NOW THE COMMISSION, upon consideration of the Application and the representations of the Applicants, including their Response, the applicable statutes, and having been advised by Staff, is of the opinion and finds that, subject to certain requirements described below, the Proposed Agreement is in the public interest and should be approved.

We recognize that the Applicants are seeking approval to continue a long-standing relationship between APCo and AEPSC. We note that the Proposed Agreement is generally structured to be consistent with the requirements of recent Commission service company orders. However, we are concerned that the Proposed Agreement's failure to adjust for subsequent changes in Joint-Use Asset usage, and AEPSC's decision not to retain any Joint-Use Assets on its own balance sheet, affords the opportunity for the misallocation and cross-subsidization of Joint-Use Assets charges to APCo. We note that AEPSC is not a public utility as defined by § 56-232 of the Code and that this Commission does not set rates for this service company or determine to whom its services may be provided. Rather, we are tasked by the Affiliates Act to determine whether the Proposed Agreement serves the public interest by ensuring that APCo, the public utility subject to our regulation, receives such services at a reasonable cost. Therefore, to ensure that the public interest is served, we will adopt Staff's recommendation regarding the Joint-Use Assets along with the other requirements outlined in its Action Brief.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to § 56-77 of the Code, APCo hereby is granted authority to enter into the Proposed Agreement subject to the requirements set forth herein.

¹ PUHCA 2005 is the short name of Subtitle F of Title XII of the Energy Policy Act of 2005, Pub. L. No. 109-58, §§ 1261-77, 119 Stat. 972-975 (2005).

² Items such as software licenses do not qualify as capitalizable and, therefore, are expensed as incurred.

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- (2) The duration of the authority granted herein shall match the term of the Proposed Agreement and be limited to five (5) years from the date of the Order in this case. If the Applicants wish to continue the arrangement after that date, further Commission approval shall be required.
- (3) APCo shall be required to return the existing Joint-Use Assets on its books, along with the associated accumulated depreciation and accumulated deferred income taxes, to AEPSC, and on a prospective basis APCo shall pay for the benefits of the Joint-Use Assets through a facilities charge consisting of the depreciation, taxes, and actual interest costs associated with the Joint-Use Assets.
- (4) The authority granted herein shall be limited to Centralized Services specifically identified in the Proposed Agreement. Should APCo wish to obtain additional services from AEPSC, further Commission approval shall be required.
- (5) Separate Affiliates Act approval shall be required for APCo to receive services from AEPSC through the engagement of affiliated third parties.
- (6) Separate Affiliates Act approval shall be required for any changes in the terms and conditions of the Proposed Agreement, including changes in allocation methodologies and successors and assigns.
- (7) The approval granted in this case shall have no ratemaking implications. Specifically, it shall not guarantee the recovery of any costs directly or indirectly related to the Proposed Agreement.
- (8) APCo shall be required to maintain records demonstrating that the Centralized Services obtained from AEPSC are and continue to be cost-beneficial to ratepayers and, therefore, in the public interest. For services where a market now exists or hereafter develops, APCo shall be required to investigate alternative sources from which to purchase such services. If such an alternative exists, APCo shall be required to compare the market price to AEPSC's cost and pay the lower of cost or market. In any rate proceeding, APCo shall be required to bear the burden of proving that it paid the lower of cost or market for all Centralized Services received from AEPSC.
- (9) The authority granted herein shall not preclude the Commission from exercising the provisions of § 56-78 and § 56-80 of the Code hereafter.
- (10) The Commission reserves the authority to examine the books and records of any affiliate in connection with the authority granted herein whether or not the Commission regulates such affiliate.
- (11) All transactions under the Proposed Agreement shall be reflected in APCo's monthly service company bill and included in APCo's Annual Report of Affiliate Transactions ("ARAT"). The ARAT shall be filed with the Commission's Director of the Division of Utility Accounting and Finance ("UAF Director") by no later than May 1 of each year, such date subject to administrative extension by the UAF Director. If rate filings or annual informational filings are not based on a calendar year, then APCo shall include the affiliate information contained in the ARAT in such filings.
- (12) APCo shall be required to file a signed and executed copy of the Proposed Agreement approved herein within thirty (30) days of its approval by the Public Service Commission of West Virginia.
- (13) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2012-00089
OCTOBER 22, 2012**

APPLICATION OF
APPALACHIAN POWER COMPANY
and
AMERICAN ELECTRIC POWER SERVICE CORPORATION

For authority to enter into an affiliate transaction under Title 56, Chapter 4 of the Code of Virginia

CORRECTING ORDER

On October 18, 2012, the State Corporation Commission entered an Order Granting Authority in the above-captioned proceeding (October 18, 2012 Order). The October 18, 2012 Order is incorrect and was inadvertently entered due to an administrative error. The correct Order Granting Authority in this proceeding is attached hereto and should replace the October 18, 2012 Order.

Accordingly, IT IS ORDERED THAT:

- (1) The October 18, 2012 Order be corrected as described above.
- (2) The October 18, 2012 Order is hereby replaced with the Order Granting Authority attached hereto.
- (3) There being nothing further to be done, this matter is hereby dismissed.

NOTE: A copy of Attachment A entitled "Order Granting Authority" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. PUE-2012-00090
JULY 31, 2012**

APPLICATION OF
A&N ELECTRIC COOPERATIVE

For amendment of Electric Service Backed 100% by Renewable Energy Certificates Tariff

ORDER AMENDING TARIFF

On July 11, 2012,¹ A&N Electric Cooperative ("ANEC" or "Cooperative") filed an application and supporting documents ("Application") with the State Corporation Commission ("Commission") for approval of proposed amendments to its Electric Service Backed 100% by Renewable Energy Certificates Tariff, designated as Rider R ("Rider R").² Through Rider R, ANEC currently offers electric energy provided 100 percent from renewable energy as a "companion rate" to its residential member-customers on a voluntary basis.

ANEC's Rider R is offered pursuant to § 56-577 A 6 of the Code of Virginia ("Code"). Subdivision 56-577 A 6 of the Code deems a tariff filed by a cooperative for Commission approval a tariff offering electric energy provided 100 percent from renewable energy to one or more classes of customers "if [the tariff] provides undifferentiated electric energy and the cooperative retires a quantity of renewable energy certificates [{"RECs"}]³ equal to 100 percent of the electric energy provided pursuant to such tariff."⁴

As of July 1, 2010, § 56-577 A 6 of the Code applied only to tariffs offered to one or more classes of residential customers.⁵ As of July 1, 2012, however, § 56-577 A 6 of the Code applies to tariffs offered to one or more classes of nonresidential customers as well.⁶ As such, in the instant Application, the Cooperative seeks to amend its Rider R to offer electric energy provided 100 percent from renewable energy to all of its member-customers on a voluntary basis.⁷

Based on the Application, the Cooperative proposes to change only the Availability and Applicability section of Rider R and to update the sources of Renewable Energy to be consistent with a 2012 amendment to § 56-576 of the Code.⁸ The remaining sections of Rider R, including the Monthly Rate, Statutory Disclosures, and Termination sections, all of which were approved by the Commission in Case No. PUE-2010-00088, remain substantively the same.⁹

The Cooperative requests that the Commission waive any notice and suspension requirements so that service offered pursuant to Rider R is available as a "companion rate" to all of its member-customers on a voluntary basis effective August 10, 2012.¹⁰

NOW THE COMMISSION, upon consideration of the matter, is of the opinion and finds that no notice or suspension of rates is necessary in this proceeding and that the Cooperative's request for approval of proposed amendments to Rider R should be granted.

Accordingly, IT IS ORDERED THAT:

- (1) This case is docketed and assigned Case No. PUE-2012-00090.
- (2) The Cooperative's Application is granted.
- (3) The proposed amendments to Rider R are approved, effective for service to all member-customers rendered on and after August 10, 2012.

¹ On July 18, 2012, the Cooperative filed revisions to correct typographical errors in its Application.

² The Commission approved ANEC's Rider R in Case No. PUE-2010-00088. *Application of A&N Electric Cooperative, For approval of a 100% Renewable Energy Tariff*, 2010 S.C.C. Ann. Rept. 590, Order Approving Tariff (Dec. 17, 2010).

³ For purposes of this section of the Code, with respect to electric cooperatives, REC is defined as "a tradable commodity or instrument issued by a regional transmission entity or affiliate or successor thereof in the United States that validates the generation of electricity from renewable energy sources or that is certified under a generally recognized renewable energy certificate standard." One REC equals 1,000 kilowatt hours or one megawatt hour of electricity generated from renewable energy.

⁴ Pursuant to § 56-577 A 6 of the Code, a cooperative offering electric energy provided 100 percent from renewable energy that involves the retirement of RECs must disclose to its retail customers who express an interest in purchasing energy pursuant to such tariff: (i) that the renewable energy is comprised of the retirement of RECs; (ii) the identity of the entity providing the RECs; and (iii) the sources of renewable energy being offered.

⁵ Subdivision 56-577 A 6 of the Code does not apply unless the Cooperative files for approval of such a tariff on or after July 1, 2010.

⁶ Subdivision 56-577 A 6 of the Code does not apply unless the Cooperative files for approval of such a tariff on or after July 1, 2012.

⁷ Application at 3.

⁸ Among other things, the 2012 amendments to § 56-576 of the Code added "landfill gas" to the definition of "renewable energy."

⁹ See Exhibit A and Exhibit B of the Application.

¹⁰ Application at 3.

(4) The Cooperative shall file its amended Rider R, incorporating the modifications proposed in its Application, with the Clerk of the Commission and with the Director of the Commission's Division of Energy Regulation within thirty (30) days of the date of this Order. The Clerk of the Commission shall retain such filing for public inspection in person and on the Commission's website: <http://www.scc.virginia.gov/case>.

(5) This matter is dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. PUE-2012-00092
AUGUST 10, 2012**

APPLICATION OF
CENTRAL VIRGINIA ELECTRIC COOPERATIVE

For amendment of Electric Service Backed 100% by Renewable Energy Certificates Tariff

ORDER AMENDING TARIFF

On July 27, 2012, Central Virginia Electric Cooperative ("CVEC" or "Cooperative") filed an application and supporting documents ("Application") with the State Corporation Commission ("Commission") for approval of proposed amendments to its Electric Service Backed 100% by Renewable Energy Certificates Tariff, designated as Rider R ("Rider R").¹ Through Rider R, CVEC currently offers electric energy provided 100 percent from renewable energy as a "companion rate" to its residential member-customers on a voluntary basis.

CVEC's Rider R is offered pursuant to § 56-577 A 6 of the Code of Virginia ("Code"). Subdivision 56-577 A 6 of the Code deems a tariff filed by a cooperative for Commission approval a tariff offering electric energy provided 100 percent from renewable energy to one or more classes of customers "if [the tariff] provides undifferentiated electric energy and the cooperative retires a quantity of renewable energy certificates [{"RECs"}]² equal to 100 percent of the electric energy provided pursuant to such tariff."³

As of July 1, 2010, § 56-577 A 6 of the Code applied only to tariffs offered to one or more classes of residential customers.⁴ As of July 1, 2012, however, § 56-577 A 6 of the Code applies to tariffs offered to one or more classes of nonresidential customers as well.⁵ As such, in the instant Application, the Cooperative seeks to amend its Rider R to offer electric energy provided 100 percent from renewable energy to all of its member-customers on a voluntary basis.⁶

Based on the Application, the Cooperative proposes to change only the Availability and Applicability section of Rider R and to update the sources of Renewable Energy to be consistent with a 2012 amendment to § 56-576 of the Code.⁷ The remaining sections of Rider R, including the Monthly Rate, Statutory Disclosures, and Termination sections, all of which were approved by the Commission in Case No. PUE-2010-00085, remain substantively the same.⁸

The Cooperative requests that the Commission waive any notice and suspension requirements so that service offered pursuant to Rider R is available as a "companion rate" to all of its member-customers on a voluntary basis effective August 26, 2012.⁹

¹ The Commission approved CVEC's Rider R in Case No. PUE-2010-00085. *Application of Central Virginia Electric Cooperative, For approval of a 100% Renewable Energy Tariff*, 2010 S.C.C. Ann. Rept. 582, Order Approving Tariff (Dec. 17, 2010).

² For purposes of this section of the Code, with respect to electric cooperatives, REC is defined as "a tradable commodity or instrument issued by a regional transmission entity or affiliate or successor thereof in the United States that validates the generation of electricity from renewable energy sources or that is certified under a generally recognized renewable energy certificate standard." One REC equals 1,000 kilowatt hours or one megawatt hour of electricity generated from renewable energy.

³ Pursuant to § 56-577 A 6 of the Code, a cooperative offering electric energy provided 100 percent from renewable energy that involves the retirement of RECs must disclose to its retail customers who express an interest in purchasing energy pursuant to such tariff: (i) that the renewable energy is comprised of the retirement of RECs; (ii) the identity of the entity providing the RECs; and (iii) the sources of renewable energy being offered.

⁴ Subdivision 56-577 A 6 of the Code does not apply unless the Cooperative files for approval of such a tariff on or after July 1, 2010.

⁵ Subdivision 56-577 A 6 of the Code does not apply unless the Cooperative files for approval of such a tariff on or after July 1, 2012.

⁶ Application at 3.

⁷ Among other things, the 2012 amendments to § 56-576 of the Code added "landfill gas" to the definition of "renewable energy."

⁸ See Exhibit A and Exhibit B of the Application.

⁹ Application at 3.

NOW THE COMMISSION, upon consideration of the matter, is of the opinion and finds that no notice or suspension of rates is necessary in this proceeding and that the Cooperative's request for approval of proposed amendments to Rider R should be granted.

Accordingly, IT IS ORDERED THAT:

- (1) This case is docketed and assigned Case No. PUE-2012-00092.
- (2) The Cooperative's Application is granted.
- (3) The proposed amendments to Rider R are approved, effective for service to all member-customers rendered on and after August 26, 2012.
- (4) The Cooperative shall file its amended Rider R, incorporating the modifications proposed in its Application, with the Clerk of the Commission and with the Director of the Commission's Division of Energy Regulation within thirty (30) days of the date of this Order. The Clerk of the Commission shall retain such filing for public inspection in person and on the Commission's website: <http://www.scc.virginia.gov/case>.
- (5) This matter is dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. PUE-2012-00093
AUGUST 10, 2012**

APPLICATION OF
NORTHERN NECK ELECTRIC COOPERATIVE

For amendment of 100% Renewable Energy Attributes Electric Service Rider Tariff

ORDER AMENDING TARIFF

On July 27, 2012,¹ Northern Neck Electric Cooperative ("NNEC" or "Cooperative") filed an application and supporting documents ("Application") with the State Corporation Commission ("Commission") for approval of proposed amendments to its 100% Renewable Energy Attributes Electric Service Rider Tariff, designated as Schedule RE-1 ("Schedule RE-1").² Through Schedule RE-1, NNEC currently offers electric energy provided 100 percent from renewable energy as a "companion rate" to its residential member-customers on a voluntary basis.

NNEC's Schedule RE-1 is offered pursuant to § 56-577 A 6 of the Code of Virginia ("Code"). Subdivision 56-577 A 6 of the Code deems a tariff filed by a cooperative for Commission approval a tariff offering electric energy provided 100 percent from renewable energy to one or more classes of customers "if [the tariff] provides undifferentiated electric energy and the cooperative retires a quantity of renewable energy certificates ["RECs"]³ equal to 100 percent of the electric energy provided pursuant to such tariff."⁴

As of July 1, 2010, § 56-577 A 6 of the Code applied only to tariffs offered to one or more classes of residential customers.⁵ As of July 1, 2012, however, § 56-577 A 6 of the Code applies to tariffs offered to one or more classes of nonresidential customers as well.⁶ As such, in the instant Application, the Cooperative seeks to amend its Schedule RE-1 to offer electric energy provided 100 percent from renewable energy to all of its member-customers on a voluntary basis.⁷

Based on the Application, the Cooperative proposes to change the Availability and Applicability section of Schedule RE-1, to update the sources of Renewable Energy to be consistent with a 2012 amendment to § 56-576 of the Code,⁸ and to change the name of Schedule RE-1 to Schedule RE-2. The

¹ On August 7, 2012, the Cooperative filed revisions to correct typographical errors in Exhibits A and B of its Application.

² The Commission approved NNEC's Schedule RE-1 in Case No. PUE-2010-00086. *Application of Northern Neck Electric Cooperative, For approval of a 100% Renewable Energy Tariff*, 2010 S.C.C. Ann. Rept. 586, Order Approving Tariff (Dec. 17, 2010).

³ For purposes of this section of the Code, with respect to electric cooperatives, REC is defined as "a tradable commodity or instrument issued by a regional transmission entity or affiliate or successor thereof in the United States that validates the generation of electricity from renewable energy sources or that is certified under a generally recognized renewable energy certificate standard." One REC equals 1,000 kilowatt hours or one megawatt hour of electricity generated from renewable energy.

⁴ Pursuant to § 56-577 A 6 of the Code, a cooperative offering electric energy provided 100 percent from renewable energy that involves the retirement of RECs must disclose to its retail customers who express an interest in purchasing energy pursuant to such tariff: (i) that the renewable energy is comprised of the retirement of RECs; (ii) the identity of the entity providing the RECs; and (iii) the sources of renewable energy being offered.

⁵ Subdivision 56-577 A 6 of the Code does not apply unless the Cooperative files for approval of such a tariff on or after July 1, 2010.

⁶ Subdivision 56-577 A 6 of the Code does not apply unless the Cooperative files for approval of such a tariff on or after July 1, 2012.

⁷ Application at 3.

⁸ Among other things, the 2012 amendments to § 56-576 of the Code added "landfill gas" to the definition of "renewable energy."

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remaining sections of the proposed amended tariff, including the Monthly Rate, Statutory Disclosures, and Termination sections, all of which were approved by the Commission in Case No. PUE-2010-00086, remain substantively the same.⁹

The Cooperative requests that the Commission waive any notice and suspension requirements so that service offered pursuant to the proposed amended tariff, designated Schedule RE-2, is available as a "companion rate" to all of its member-customers on a voluntary basis effective August 26, 2012.¹⁰

NOW THE COMMISSION, upon consideration of the matter, is of the opinion and finds that no notice or suspension of rates is necessary in this proceeding and that the Cooperative's request for approval of proposed amendments to the tariff, now designated Schedule RE-2, should be granted.

Accordingly, IT IS ORDERED THAT:

- (1) This case is docketed and assigned Case No. PUE-2012-00093.
- (2) The Cooperative's Application is granted.
- (3) The proposed amendments to the tariff, now designated Schedule RE-2, are approved, effective for service to all member-customers rendered on and after August 26, 2012.
- (4) The Cooperative shall file its amended tariff, now designated Schedule RE-2, incorporating the modifications proposed in its Application, with the Clerk of the Commission and with the Director of the Commission's Division of Energy Regulation within thirty (30) days of the date of this Order. The Clerk of the Commission shall retain such filing for public inspection in person and on the Commission's website: <http://www.sec.virginia.gov/case>.
- (5) This matter is dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

⁹ See Exhibit A and Exhibit B of the Application.

¹⁰ Application at 3.

**CASE NO. PUE-2012-00095
DECEMBER 21, 2012**

APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY

For approval and certification of electric transmission facilities under Va. Code § 56-46.1 and the Utility Facilities Act, Va. Code § 56-265.1 *et seq.*

FINAL ORDER

On August 13, 2012, Virginia Electric and Power Company d/b/a Dominion Virginia Power ("Dominion Virginia Power" or "Company") filed with the State Corporation Commission ("Commission") an application for approval and certification of electric transmission facilities ("Application") under §§ 56-46.1 and 56-265.1 *et seq.* of the Code of Virginia ("Code") to construct (i) a new 230 kV overhead transmission line in Rockingham County to run approximately 19.8 miles, entirely within existing rights-of-way, between the Company's existing Harrisonburg and Endless Caverns Substations; and (ii) certain associated facilities at its Harrisonburg and Endless Caverns Substations (collectively, the "Project").¹

As proposed by the Company, the new 230 kV Harrisonburg-Endless Caverns Line, to be designated Line #2134, would be installed along with existing 230 kV Harrisonburg-Endless Caverns Line #2107 on new double-circuit, single-shaft poles with twin-bundled 636 ACSR conductors, and a transfer capability of 1047 MVA. The Company also proposes to remove the existing Line #2017 single-circuit H-frame structures and replace them with the new structures.²

The Company further proposes to expand the existing Endless Caverns Substation to accommodate the installation of a third 230 kV-115 kV transformer and six 230 kV breakers in a ring bus configuration and to reconfigure the existing 115 kV bus into a six breaker ring bus. The Company further proposes to expand the 230 kV bus at Harrisonburg Substation to accommodate two 230 kV breakers.³

Dominion Virginia Power states that these changes are necessary because (i) power flow studies it conducted with PJM Interconnection, L.L.C., project that by summer of 2015, the Company's transmission facilities will violate mandatory North American Electric Reliability Corporation ("NERC") Reliability Standards; and (ii) failure to address these projected NERC violations could lead to loss of service and could potentially damage Dominion Virginia Power's electrical facilities in this area.⁴

¹ Application at 2.

² *Id.* at 2-3.

³ *Id.* at 3.

⁴ *Id.* at 2.

The Company states that the in-service date for the proposed Project is May 2015.⁵ The estimated cost is approximately \$65.6 million, of which the Company would spend approximately \$49.2 million on transmission line removal and construction, and approximately \$16.4 million on substation work.⁶

On September 7, 2012, the Commission entered an Order for Notice and Comment that, among other things, docketed the Application; established a procedural schedule; provided interested persons the opportunity to become a respondent, file written comments, or request a hearing on the Application; and directed the Commission's Staff ("Staff") to investigate the Application and present its findings in a report ("Staff Report").

As noted in the Commission's Order for Notice and Comment, the Staff requested that the Department of Environmental Quality ("DEQ") coordinate a review of the Company's proposed Project by state and local agencies and file a report on the review. On November 8, 2012, DEQ filed its report ("DEQ Report") with the Clerk of the Commission. The DEQ Report offers 14 general recommendations for the Commission's consideration that are in addition to any requirements of federal, state, or local law. Specifically, the DEQ Report contains the following recommendations to Dominion Virginia Power regarding the Project. The Company should:

- Conduct an on-site delineation of all wetlands and stream crossings within the Project area with verification by the U.S. Army Corps of Engineers, using accepted methods and procedures, and follow DEQ's recommendations to avoid and minimize impacts to wetlands and streams.
- Follow DEQ's recommendations regarding air quality protection, as applicable.
- Reduce solid waste at the source, reuse it and recycle it to the maximum extent practicable, and follow DEQ's recommendations to manage waste, as applicable.
- Coordinate with the Department of Conservation and Recreation ("DCR") regarding DCR's recommendations, as well as check for updates to the Biotics Data System database if a significant amount of time passes before the Project is implemented.
- Coordinate with the DCR Karst Program regarding its recommendations to protect karst features.
- Coordinate with the Department of Game and Inland Fisheries regarding its recommendations for wildlife protection.
- Coordinate with the Department of Forestry regarding its recommendations to protect trees.
- Coordinate with the Department of Agriculture and Consumer Services regarding its recommendations to protect agricultural land.
- Coordinate with the Department of Historic Resources regarding its recommendations to protect historic and archaeological resources.
- Coordinate with the Department of Transportation regarding its recommendations on traffic flow and off-road bicycle facilities.
- Coordinate with the Department of Aviation regarding its recommendation to notify the Federal Aviation Administration of the proposed construction.
- Coordinate with the Department of Health regarding its recommendation to coordinate with waterworks owners.
- Follow the principles and practices of pollution prevention to the maximum extent practicable.
- Limit the use of pesticides and herbicides to the extent practicable.⁷

On December 5, 2012, Staff filed its Staff Report summarizing the results of its investigation of the Company's Application.⁸ Staff concluded that the Company reasonably demonstrated the need for the proposed Harrisonburg-Endless Caverns 230 kV transmission line and associated facilities at the Company's Harrisonburg and Endless Caverns Substations.⁹

On December 14, 2012, Dominion Virginia Power filed comments ("Comments") with the Clerk of the Commission stating that it agrees with and supports the recommendations set forth in the Staff Report, including the Staff's findings and conclusions concerning the need for the Project. The Company further noted in its Comments that no one filed a request for hearing in this proceeding.

⁵ *Id.* at 3.

⁶ *Id.*

⁷ DEQ Report at 6-7.

⁸ The Project does not meet the criteria necessary for consideration as an HB 1319 underground pilot project. *See* Staff Report at 8.

⁹ Staff Report at 14.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the public convenience and necessity require that the Company construct the proposed Harrisonburg-Endless Caverns 230 kV transmission line and perform the associated work at the Company's existing Harrisonburg and Endless Caverns Substations as proposed in the Company's Application. Further, the Commission finds that it should issue a certificate of public convenience and necessity authorizing the Project.

Approval

The statutory scheme governing the Company's Application is found in several chapters of Title 56 of the Code. Section 56-265.2 A of the Code provides that "it shall be unlawful for any public utility to construct . . . facilities for use in public utility service, . . . without first having obtained a certificate from the Commission that the public convenience and necessity require the exercise of such right or privilege."

Section 56-46.1 of the Code further directs the Commission to consider several factors when reviewing the Company's Application. Subsection A of the statute provides that:

Whenever the Commission is required to approve the construction of any electrical utility facility, it shall give consideration to the effect of that facility on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact. . . . In every proceeding under this subsection, the Commission shall receive and give consideration to all reports that relate to the proposed facility by state agencies concerned with environmental protection; and if requested by any county or municipality in which the facility is proposed to be built, to local comprehensive plans that have been adopted Additionally, the Commission (a) shall consider the effect of the proposed facility on economic development within the Commonwealth, . . . and (b) shall consider any improvements in service reliability that may result from the construction of such facility.

Section 56-46.1 B of the Code further provides that: "[a]s a condition to approval the Commission shall determine that the line is needed and that the corridor or route the line is to follow will reasonably minimize adverse impact on the scenic assets, historic districts and environment of the area concerned."

The Code further requires that the Commission consider existing right-of-way easements when siting transmission lines. Section 56-46.1 C of the Code provides that "[i]n any hearing the public service company shall provide adequate evidence that existing rights-of-way cannot adequately serve the needs of the company." In addition, § 56-259 C of the Code provides that "[p]rior to acquiring any easement of right-of-way, public service corporations will consider the feasibility of locating such facilities on, over, or under existing easements of rights-of-way."

Need and Service Reliability

We find that the Company's load growth forecasts support the need for the Project. The need for the Project to resolve projected violations of NERC Reliability Standards has not been questioned. Thus, the uncontroverted evidence in this case indicates that the proposed construction is necessary to ensure that reliable service is maintained. We therefore find that the proposed construction of the Harrisonburg-Endless Caverns 230 kV Line #2134 will meet the Company's long-term transmission reliability needs effectively.

Economic Development

We find that the proposed Project will promote economic development in the Commonwealth of Virginia by maintaining the operational reliability of the transmission line and, in turn, continuing to ensure the delivery of sufficient supplies of electrical power. As an added benefit, the Project will increase the transmission capacity for the area, thereby further supporting economic development in the area.

Routing and Right-of-Way

The Company did not consider any routing alternatives for its proposed transmission line because, if approved, the line would be located entirely on existing rights-of-way. Thus, Dominion Virginia Power was not required, in accordance with § 56-46.1 C of the Code, to demonstrate that existing rights-of-way could not adequately serve its needs. Similarly, § 56-259 C of the Code is inapplicable to this proceeding because the Company seeks no additional easements associated with the proposed Project.

Scenic Assets and Historic Districts

We find that the proposed Project will have a minimal impact on scenic assets and historic districts consistent with § 56-46.1 B of the Code. As discussed previously, the proposed transmission line will be located in existing rights-of-way. Due to the fact that the proposed Project will be constructed along the same route as the existing line, adverse impacts on scenic assets and historic districts in the region will be minimized as required by § 56-46.1 B of the Code.

Environmental Impact

Under §§ 56-46.1 A and B of the Code, the Commission is required to consider the proposed Project's impact on the environment and to establish such conditions as may be desirable or necessary to minimize adverse environmental impacts. The statute further provides that the Commission shall receive, and give consideration to, all reports that relate to the proposed Project by state agencies concerned with environmental protection.

We find that there are no adverse environmental impacts that would prevent the construction or operation of the proposed Project. The DEQ Report, as well as the DEQ Supplement prepared by the Company as part of its Application, support a finding that the Company's proposed route reasonably

minimizes adverse environmental impacts, provided that the Company complies with the DEQ recommendations.¹⁰ We therefore find that, as a condition to our approval herein, the Company must comply with all of the DEQ's recommendations as provided in the DEQ Report.

We further find that the proposed Project does not represent a hazard to human health or safety. There is no evidence in this case that the Project represents a public health or safety hazard.

Accordingly, IT IS ORDERED THAT:

(1) The Company is authorized to construct and operate the proposed Harrisonburg-Endless Caverns transmission line, which runs approximately 19.8 miles between the Company's existing Harrisonburg and Endless Caverns Substations, on the route proposed in the Company's Application, subject to the findings and conditions imposed herein. The Company also is authorized to perform necessary construction and installations at the Harrisonburg and Endless Caverns Substations as set forth in the Company's Application.

(2) Pursuant to §§ 56-46.1, 56-265.2, and related provisions of Title 56 of the Code, the Company's request for a certificate of public convenience and necessity to construct and operate the proposed Harrisonburg-Endless Caverns 230 kV transmission line and to perform necessary construction work at the Harrisonburg and Endless Caverns Substations is granted as provided for herein, subject to the requirements set forth in this Final Order.

(3) Pursuant to the Utility Facilities Act,¹¹ the Commission issues the following certificate of public convenience and necessity to the Company:

Certificate No. ET-108n, which authorizes Virginia Electric and Power Company under the Utility Facilities Act to operate certificated transmission lines and facilities in Rockingham County, all as shown on the map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUE-2012-00095, cancels Certificate No. ET-108m, issued to Virginia Electric and Power Company on January 20, 1987, in Case No. PUE-1986-00080.

(4) The Commission's Division of Energy Regulation forthwith shall provide the Company copies of the certificate issued in Ordering Paragraph (3) with the detailed map attached.

(5) The transmission line and associated substation work approved herein must be constructed and in service by June 1, 2015; provided, however, the Company is granted leave to apply for an extension for good cause shown.

(6) As there is nothing further to come before the Commission, this matter is dismissed and the papers filed herein shall be placed in the file for ended causes.

¹⁰ The DEQ recommendations are listed above and are discussed in the DEQ Report.

¹¹ Va. Code Ann. § 56-265.1 *et seq.* (Supp. 2011).

**CASE NO. PUE-2012-00096
NOVEMBER 15, 2012**

APPLICATION OF
WASHINGTON GAS LIGHT COMPANY

For authority to amend its SAVE Plan pursuant to § 56-604 B of the Code of Virginia

ORDER APPROVING AMENDED SAVE PLAN

On August 6, 2012, in accordance with 5 VAC 5-20-80 of the State Corporation Commission's ("Commission") Rules of Practice and Procedure and § 56-604 B of the Code of Virginia ("Code"), a provision of the Steps to Advance Virginia's Energy Plan Act ("SAVE Act"), Washington Gas Light Company ("WGL" or "Company") filed an application ("Application") with the Commission for approval of certain amendments to its SAVE Plan, which was approved by the Commission in Case No. PUE-2010-00087 ("Approved SAVE Plan").¹ In its Application for an amended SAVE Plan ("Amended SAVE Plan"), the Company proposes to recover approximately \$191.4 million in anticipated expenditures for replacement of facilities over a five-year period beginning January 1, 2013.² Further, the Company proposes to recover its anticipated expenditures through a rider on customers' bills as provided for by § 56-604 A of the SAVE Act ("Rider").

The Company projects that the Rider for the Amended SAVE Plan will add \$8.90 to a typical residential customer's bill in 2013,³ and this charge would be reflected on customers' bills in the line item "All Applicable Riders."⁴ In subsequent years, the Rider would be revised annually after review by the

¹ *Application of Washington Gas Light Company, For approval of a SAVE plan and rider as provided by Va. Code § 56-604*, Case No. PUE-2010-00087, 2011 S.C.C. Ann. Rept. 345, Order Approving Save Plan and Rider (Apr. 21, 2011).

² Application at 2.

³ *Id.* at 7.

⁴ *Id.* at 10.

Commission Staff ("Staff"), and the revised Rider would become effective at the beginning of the January billing cycle. The Amended SAVE Plan and Rider would remain in effect through December 31, 2017.⁵

WGL states that the infrastructure replacement projects included in the Amended SAVE Plan will expand the scope of WGL's Approved Save Plan and enable the Company to continue accelerated replacement of higher risk pipe based on historical leak rates.⁶ The Company states that it will continue to implement the replacement programs in the Approved SAVE Plan but proposes to revise the cost estimates for three of the approved programs to reflect actual cost experience to date and to include construction overhead.⁷ The Approved SAVE Plan consists of three ongoing programs: Program 1 - Bare and/or Unprotected Steel Services; Program 2 - Bare and Unprotected Steel Main; and Program 3 - Vintage Mechanically Coupled Pipe.⁸ As part of this Application, the Company requests authority to extend the approval period for Programs 2 and 3 for an additional three years beyond December 31, 2014, to coincide with the five-year approval requested for the three proposed new replacement programs; namely, Program 5 - Targeted Copper Service Segments; Program 6 - Targeted Pre-1975 Plastic Service Segments ("Black Plastic"); and Program 7 - Cast Iron Main.⁹ Additionally, the estimated expenditures and timeframe for the proposed new pipe replacement programs are \$11.0 million over five years for Program 5 - Targeted Copper Service Segments; \$4.6 million over five years for Program 6 - Black Plastic; and \$26.2 million over ten years for Program 7 - Cast Iron Main.¹⁰ The Company projects total annual expenditures for the Amended SAVE Plan to be \$40 million in 2013; \$40 million in 2014; \$37.1 million in 2015; \$37.1 million in 2016; and \$37.1 million in 2017.¹¹

In its Application, the Company also requests that the Commission eliminate the limitation that individual program allocations may be modified by no more than 10%. The Company asserts that elimination of this limitation would create the flexibility necessary for WGL to prioritize projects based on their risk, as demonstrated by the Company's Distribution Integrity Management Program, rather than on a pre-determined timeline.¹² The Company further states that expenditures for SAVE programs will continue to be capped at 105% of the total SAVE Plan approved amount, and annual expenditures will not exceed 125% of the amount approved for each year, as required by the Commission's Order in Case No. PUE-2010-00087.¹³

On August 24, 2012, the Commission entered an Order for Notice and Comment in this matter, which, among other things, permitted the filing of comments and hearing requests by interested persons, required the Staff to file a report ("Report"), and permitted a Company response to the Staff Report. No comments or hearing requests were filed in this matter. The Staff filed its Report on October 26, 2012.

In its Report, the Staff estimated the incremental revenue requirement impact of WGL's proposed amendments to the SAVE Rider for calendar year 2013 to be \$518,264. Staff made three modifications to the Company's calculation of the Amended SAVE Rider for calendar year 2013.¹⁴ First, the Staff corrected an error to incorporate the full impact of plant retirements into the revenue requirement. Second, the Staff adjusted the depreciation rate used by the Company in calculating the 2013 SAVE Rider revenue requirement. Third, the Staff made an adjustment to the state income tax rate to make the rate consistent with the methodology it recommended in the Company's most recent rate proceeding, Case No. PUE-2010-00139.¹⁵

In concluding its Report, the Staff: (1) stated that it does not oppose the Company's proposed Amended SAVE Plan, as the additional programs appear to include SAVE eligible infrastructure under the SAVE Act; (2) noted that the additional flexibility that the Company is seeking in this proceeding in regard to the individual program limitations is consistent with the Commission's Orders in other SAVE Plan applications filed with the Commission; (3) recommended that the Commission not approve any specific 2013 SAVE Rider Current Factor in this proceeding, as such factor will be determined in the context of Case No. PUE-2012-00105;¹⁶ and (4) recommended that in the future the Company focus on the specific infrastructure and regional areas with the greatest leakage rates when designing its future SAVE Plans or any future plan amendments.¹⁷

⁵ *Id.* at 11.

⁶ *Id.* at 3.

⁷ *Id.* The Company states on page 9 of the Application that it discovered that construction overhead costs were inadvertently omitted in the calculations of the capital expenditures under the Company's original Approved SAVE Plan. As a result, WGL seeks to update and modify the costs to replace the remaining pipe infrastructure included in Programs 1, 2, and 3, based upon actual costs, including construction overhead. The Company also updated its projections and estimates and, as of December 31, 2012, the Company estimates that it will spend approximately \$354.5 million to replace the remaining pipe under Programs 1, 2, and 3. *See* Application at 9.

⁸ Program 1 is expected to be completed on or before December 31, 2014, and Program 4 was completed in 2012. *See* Application at 11.

⁹ Application at 4.

¹⁰ *Id.* at 3-4.

¹¹ *Id.* at 4.

¹² *Id.* at 4-5.

¹³ *Id.*

¹⁴ Staff Report at 9-10.

¹⁵ *Application of Washington Gas Light Company, For a general increase in rates and charges and to revise its terms and conditions for gas service*, Case No. PUE-2010-00139, Doc. Cont. Cen. No. 120710015, Order (July 2, 2012); Doc. Cont. Cen. No. 120730099, Order (July 24, 2012).

¹⁶ *Application of Washington Gas Light Company, For approval to revise its SAVE Rider for calendar year 2013*, Case No. PUE-2012-00105.

¹⁷ Staff Report at 12.

On November 2, 2012, the Company filed its Comments of WGL on Staff's Report ("Comments"). In its Comments, the Company stated that it did not object to the Staff's recommendations to revise the revenue requirement.¹⁸ Additionally, the Company requested that the Commission, consistent with its precedent, approve the requested additional flexibility which would allow the Company to maximize construction efficiencies and to prioritize changing leak conditions in a timely manner.¹⁹ In response to the Staff's recommendation that the Company should focus on specific infrastructure and regional areas with the greatest leakage rates when designing its future SAVE Plans or any amendments to such plans, the Company noted that its proposal to eliminate the 10% limitation on intra-program allocation of investments would accomplish this.²⁰ The Company also noted that it does not oppose the Staff's recommendations regarding the development of specific Current and Reconciliation Factors for the SAVE Rider for 2013 in the context of Case No. PUE-2012-00105. However, the Company stated that it anticipates the amount used to calculate the Current Factor to be included in the computation of the SAVE Rider for 2013 will be \$5,120,225, if the Commission approves the Amended SAVE Plan.²¹

NOW THE COMMISSION, having considered this matter, is of the opinion and finds that the Company's Amended SAVE Plan should be approved; that the Company should focus on the specific infrastructure and regional areas with the greatest leakage rates when designing its future SAVE Plans or any future plan amendments; and that determination of the 2013 SAVE Rider Current Factor should be determined in the context of Case No. PUE-2012-00105.

Accordingly, IT IS ORDERED THAT:

(1) WGL's Amended SAVE Plan, as permitted by § 56-603 *et seq.* of the Code of Virginia, is approved consistent with the findings set forth in this Order.

(2) This case is dismissed.

¹⁸ Comments at 5.

¹⁹ *Id.* at 6.

²⁰ *Id.* at 7.

²¹ *Id.* at 7-8.

CASE NO. PUE-2012-00097 OCTOBER 31, 2012

APPLICATION OF
COLUMBIA GAS OF VIRGINIA, INC.

For approval to implement a 2013 SAVE Plan Infrastructure Replacement Current Rate in accordance with § 20 of its General Terms and Conditions

FINAL ORDER

On August 10, 2012, Columbia Gas of Virginia, Inc. ("Columbia Gas" or the "Company"), filed an application with the State Corporation Commission ("Commission") requesting approval to implement a 2013 Infrastructure Replacement Current Rate ("IRCR") in accordance with § 20 of its General Terms and Conditions ("Application"), as contemplated in the Commission's November 28, 2011 Order Approving SAVE Plan and Rider in Case No. PUE-2011-00049 ("SAVE Order").¹ The Company's SAVE Plan, authorized pursuant to the Steps to Advance Virginia's Energy Plan ("SAVE") Act,² is a five-year program that commenced on January 1, 2012. The Company's SAVE Plan cost recovery mechanisms are designed to facilitate the accelerated replacement of \$100 million of SAVE eligible natural gas infrastructure, in addition to recovering the costs associated with an estimated \$2.9 million of incremental infrastructure replacements occurring in 2011 that were not included in the Company's non-gas base rates.³ Columbia Gas's proposed revenue requirement for the 2013 IRCR is \$3,872,277.

On August 24, 2012, the Commission entered an Order for Notice and Comment ("Order") in this matter, which, among other things, permitted the filing of comments and hearing requests by interested persons, required the Staff of the Commission ("Staff") to file a report ("Report"), and permitted a Company response ("Response") to the Staff Report. No comments or hearing requests were filed in this matter; a Staff Report was filed on October 16, 2012.

In its Report, the Staff recommended two modifications to the Company's calculation of its 2013 IRCR. First, the Staff noted that Schedule 14d of the Application included plant data for investment made prior to January 1, 2011, and recommended exclusion of the pre-2011 investment, as such investment falls outside of the authorized SAVE Plan.⁴

¹ *Application of Columbia Gas of Virginia, Inc., For approval of a SAVE Plan and Rider as provided by Virginia Code § 56-604, Case No. PUE-2011-00049, 2011 S.C.C. Ann. Rept. 501, Final Order (Nov. 28, 2011).*

² Virginia Code § 56-603 *et seq.*

³ Application at 1.

⁴ Staff Report at 5.

Next, the Staff noted that the Company did not apply bonus depreciation in its calculation of 2013 balances of Accumulated Deferred Income Tax ("ADIT"). The Staff explained that current legislation allows for 50% bonus depreciation on assets placed into service during calendar year 2012. In its calculation of ADIT, the Staff assumed that 50% bonus depreciation would be extended into calendar year 2013. The Staff further suggested that in the event that future legislation does not extend bonus depreciation beyond 2012, the Company's reconciliation to be filed in August 2014 would capture the associated cost of service effect of this disallowance.⁵ The Staff's revisions result in a 2013 IRCR revenue requirement of \$3,719,532.

On October 22, 2012, the Company filed its Response to the Staff Report. The Company stated that it did not oppose the Staff's proposed adjustments to the calculation of the IRCR for purposes of this proceeding; however, it respectfully reserved the right to take issue with the proposed treatment of bonus depreciation in a future proceeding.⁶

NOW THE COMMISSION, having considered the matter, is of the opinion and finds that the Company's 2013 IRCR proposed in its Application, as modified by the Staff, should be approved.

Accordingly, IT IS ORDERED THAT:

(1) The Company's 2013 IRCR, as permitted by § 56-603 *et seq.* of the Code of Virginia, is approved as set forth in this Order. Rates consistent with this Order shall become effective with the first billing unit of January 2013 and remain in effect through the last billing unit of December 2013.

(2) Within thirty (30) days of the date of this Order, the Company shall file revised tariffs for the 2013 IRCR with the Clerk of the Commission and the Divisions of Energy Regulation and Utility Accounting and Finance. The Clerk of the Commission shall retain such filings for public inspection in person and on the Commission's website: <http://www.scc.virginia.gov/case>.

(3) The November 28, 2011 SAVE Order requires, among other things, that "on or before August 15, 2013, the Company shall file its proposed SAVE Rider rates." Upon request of the Staff, the Company shall provide information related to such filing at least thirty (30) days prior to the date on which the Company expects to make the filing.

(4) This case is dismissed.

⁵ *Id.*

⁶ Response at 2.

**CASE NO. PUE-2012-00098
SEPTEMBER 17, 2012**

PETITION OF
VIRGINIA NATURAL GAS, INC.
and
ATLANTA GAS LIGHT COMPANY

For exemption from approval or, alternatively, for approval of transfer of handheld computers pursuant to Chapter 4 of Title 56 of the Code of Virginia

ORDER GRANTING APPROVAL

On August 10, 2012, Virginia Natural Gas, Inc. ("VNG"), and Atlanta Gas Light Company ("AGLC") (collectively, "Petitioners"), filed a petition with the State Corporation Commission ("Commission") requesting an exemption, pursuant to § 56-77 B of Chapter 4 of Title 56 ("Affiliates Act") of the Code of Virginia ("Code"), or alternatively, approval under the Affiliates Act for the transfer of handheld computers ("Handhelds") from AGLC to VNG.

VNG is a Virginia public service corporation that provides natural gas service to approximately 280,000 customers in central and southeastern Virginia. AGLC provides natural gas delivery service to more than 1.6 million customers in Georgia. Both VNG and AGLC are wholly owned subsidiaries of AGL Resources Inc.

VNG states that it routinely uses automated meter reading ("AMR") for billing purposes. Handhelds are important in facilitating the AMR process because they are used to transmit the proper programming configuration and setup to the Encoder/Receiver/Transmitter device, which records and stores the volume of gas measured.

The Petitioners request approval of the one-time transfer of eighteen (18) Handhelds from AGLC to VNG in exchange for \$56,000, the approximate net book value of the Handhelds ("Proposed Transfer"). Although the Handhelds contemplated in the transfer are no longer available for purchase from Itron, purchasing similar new Handhelds from Itron would cost VNG significantly more than purchasing the contemplated used ones from AGLC.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the Petitioners' request for an exemption from the prior approval requirements of the Affiliates Act is inappropriate and should be denied. However, we find the above-described transaction is in the public interest and should, therefore, be approved.

Accordingly, IT IS ORDERED THAT:

(1) The Petitioners' request for an exemption from the Affiliates Act is denied. Pursuant to § 56-77 of the Code, the Applicants are hereby granted approval of the Proposed Transaction as described herein.

(2) The Petitioners shall file a report of the action taken pursuant to the approval granted herein within thirty (30) days of the Proposed Transfer taking place, subject to administrative extension by the Commission's Director of Utility Accounting and Finance. Such report shall include the date of the transfer, the actual transfer price, any legal documentation, and VNG's accounting entries recording the transfer.

(3) The approval granted herein shall have no ratemaking implications. Specifically, it will not guarantee the recovery of any costs directly or indirectly related to the transfer.

(4) The approval granted herein shall not preclude the Commission from exercising the provisions of § 56-78 and § 56-80 of the Code of Virginia hereafter.

(5) The Commission reserves the right to examine the books and records of any affiliate, whether or not such affiliate is regulated by the Commission, in connection with the approval granted herein.

(6) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2012-00099
OCTOBER 16, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

In re: Virginia Electric and Power Company's Integrated Resource Plan Filing pursuant to Va. Code § 56-597 *et seq.*

FINAL ORDER

On August 31, 2012, Virginia Electric and Power Company ("DVP" or the "Company") filed with the State Corporation Commission ("Commission"), pursuant to § 56-599 C of the Code of Virginia ("Code") and the guidelines established by the Commission in Case No. PUE-2008-00099 ("Guidelines"),¹ its total system 2012 Integrated Resource Plan ("2012 IRP") that the Company also filed with the North Carolina Utilities Commission. Section E of the Guidelines provides that ". . . by September 1 of each year in which a plan is *not* required, each utility shall file a narrative summary describing any significant event necessitating a major revision to the most recently filed IRP, including adjustments to the type and size of resources identified." Section E of the Guidelines further provides that "[i]f the utility provides a total system IRP in another jurisdiction by September 1 of the year in which a plan is not required, filing the total system IRP from the other jurisdiction will suffice for purposes of this section."

The 2012 IRP was accompanied by a Motion for Protective Order and Additional Protective Treatment ("Motion").² According to the Company, "[a]dditional protective treatment is necessary for the extraordinarily sensitive information . . . in order to protect the wholesale power marketplace, the Company's ability to negotiate with vendors in the future, and future transmission project development."³

NOW THE COMMISSION, upon consideration of the Company's filing herein and accompanying Motion as well as the applicable law and the Guidelines, is of the opinion and finds that the Company's 2012 IRP complies with the Guidelines and should be accepted for filing. The Commission also is of the opinion and finds that DVP's Motion for Protective Order and Additional Protective Treatment is no longer necessary and should, therefore, be denied. We note that the Commission has received no request during this proceeding for leave to review the confidential and extraordinarily sensitive information. Accordingly, we deny the Motion for Protective Order and Additional Protective Treatment as moot but direct the Clerk of the Commission to retain such information under seal.

Accordingly, IT IS ORDERED THAT:

(1) The Company's 2012 IRP is accepted for filing.

(2) The Company's Motion for Protective Order and Additional Protective Treatment is hereby denied; however, we direct the Clerk of the Commission to retain the confidential and extraordinarily sensitive information to which the Motion pertains under seal.

(3) There being nothing further to come before the Commission, this matter is dismissed from the Commission's active docket and the papers filed herein shall be placed in the Commission's file for ended causes.

¹ See *Commonwealth of Virginia, ex rel. State Corporation Commission, Concerning Electric Utility Integrated Resource Planning Pursuant to §§ 56-597 et seq. [of the] Code of Virginia*, Case No. PUE-2008-00099, 2008 S.C.C. Ann. Rept. 606, Order Establishing Guidelines for Developing Integrated Resource Plans (Dec. 23, 2008).

² DVP simultaneously filed with the Clerk of the Commission both an original copy of its 2012 IRP, under seal, containing confidential and extraordinarily sensitive information, and a public version of its IRP with confidential and extraordinarily sensitive information redacted.

³ Motion at 8.

**CASE NO. PUE-2012-00102
OCTOBER 19, 2012**

APPLICATION OF
COLLEGIATE CLEAN ENERGY, LLC

For a license to conduct business as a competitive service provider for electricity in the Commonwealth of Virginia

ORDER GRANTING LICENSE

On August 20, 2012, Collegiate Clean Energy, LLC ("Collegiate Clean Energy" or "Company") filed an application with the State Corporation Commission ("Commission") for a license to act as a competitive service provider for electric service ("Application") pursuant to the Commission's Rules Governing Retail Access to Competitive Energy Services, 20 VAC 5-312-10 *et seq.* ("Retail Access Rules"). The Application seeks authority to sell electric supply service at retail in the service territories of Virginia Electric and Power Company d/b/a Dominion Virginia Power ("Dominion Virginia Power") and Appalachian Power Company ("APCo"), noting, in particular, the Company's plans to sell electricity to universities and colleges. Collegiate Clean Energy attested that it would abide by all applicable regulations of the Commission as required by 20 VAC 5-312-40 B of the Commission's Retail Access Rules.

On August 30, 2012, the Commission entered an Order for Notice and Comment which, among other things, docketed the case; required Collegiate Clean Energy to give notice to Dominion Virginia Power and APCo and other interested persons; provided for the receipt of comments from the public; required the Commission Staff ("Staff") to analyze the reasonableness of the Application and present its findings in a Staff Report; and provided an opportunity for participants to file any reply comments to the Staff Report. The Company filed proof of notice on September 5, 2012.

On September 18, 2012, Dominion Virginia Power and APCo filed comments raising issues and concerns about the Company's ability to provide competitive electric service and renewable energy consistent with § 56-577 A 5 of the Code of Virginia ("Code"). Neither Dominion Virginia Power nor APCo expressly opposed the Commission's issuance of a competitive service provider ("CSP") license to Collegiate Clean Energy. However, APCo has requested that the Commission conduct a hearing in this docket to determine whether Collegiate Clean Energy's plan to sell renewable electricity at retail to universities and colleges,¹ conforms to the requirements of law.² Similarly, Dominion Virginia Power questions whether Collegiate Clean Energy's business model conforms to law and further asserts that the Commission should provide guidance in this docket, or through a separate rulemaking, "on how CSPs and utilities can comply with Va. Code § 56-577 A 5."³

On September 25, 2012, the Staff filed its Report which summarized Collegiate Clean Energy's proposal and evaluated its financial condition and technical fitness. The Staff Report notes that the Commission recently found that issues beyond financial condition and technical fitness should be explored in a proceeding separate and apart from licensure.⁴ The Staff recommended that Collegiate Clean Energy be granted a license to conduct business as a CSP of electric service in the service territories of Dominion Virginia Power and APCo, subject to any applicable legal limitations on retail access existing in the statute or Commission regulation.

On October 2, 2012, the Commission received responses to the Staff Report from Collegiate Clean Energy and Dominion Virginia Power. The Company supported Staff's recommendations and provided additional arguments as to why the license should be issued without making any determination on the issues raised by Dominion Virginia Power and APCo in their comments. Dominion Virginia Power reiterated its request for the Commission to clarify in this docket the meaning and operation of the provision relating to the "electric energy provided 100% from renewable energy" contained in § 56-577 A 5 of the Code. Thereafter, APCo filed a Motion and Supplemental Comments⁵ and Collegiate Clean Energy filed a response to APCo's Motion and Supplemental Comments.⁶

NOW UPON CONSIDERATION of the Application, participant comments, the Staff Report, the responses to the Staff Report, and applicable law, the Commission finds that Collegiate Clean Energy's Application for a license to conduct business as a CSP in the service territories of Dominion Virginia Power and APCo should be granted, subject to the conditions set forth below.⁷

We find that the legal conformity issues raised by Dominion Virginia Power and APCo concerning certain aspects of the Company's business plan are beyond the scope of the licensure process outlined in the Retail Access Rules. Accordingly, we decline to address them in this docket.

Accordingly, IT IS ORDERED THAT:

(1) Collegiate Clean Energy, LLC, hereby is granted License No. E-28 to conduct business as a competitive service provider of electric service to commercial and industrial customers in the service territories of Dominion Virginia Power and APCo. This license to act as a competitive service provider for electricity is granted subject to the provisions of the Retail Access Rules, this Order, and other applicable law.

¹ Application at 5 and 8.

² APCo comments at 3.

³ Dominion Virginia Power comments at 6.

⁴ See *Application of Secure Futures, LLC - For a license to conduct business as a competitive service provider of 100% renewable electric service in Virginia*, Case No. PUE-2011-00102, 2011 S.C.C. Ann. Rep. 542, Order Granting License (Oct. 17, 2011).

⁵ On October 5, 2012, APCo filed a Motion and Supplemental Comments to Collegiate Clean Energy's Response filed on October 2, 2012.

⁶ On October 9, Collegiate Clean Energy filed a response to the Motion and Supplemental Comments filed by APCo on October 5, 2012.

⁷ While the issues raised therein do not, in the main, bear on the limited issue of licensure we address in this docket, we will accept the late-filed comments of APCo together with Collegiate Clean Energy's subsequent response thereto.

- (2) This license is not valid authority for the provision of any product or service not identified within the license itself.
- (3) This case shall remain open for consideration of any subsequent amendments or modifications to this license.

**CASE NO. PUE-2012-00104
OCTOBER 10, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

In re: Kentucky Utilities Company d/b/a Old Dominion Power Company's Integrated Resource Plan, 2012 Narrative Summary

FINAL ORDER

On August 29, 2012, Kentucky Utilities Company d/b/a Old Dominion Power Company ("KU/ODP" or "Company") filed with the State Corporation Commission ("Commission") its narrative summary ("Narrative Summary") with attachments regarding updates to its Integrated Resource Plan ("IRP") pursuant to § 56-599 C of the Code of Virginia and the guidelines established by the Commission in Case No. PUE-2008-00099 ("Guidelines").¹ Section E of the Guidelines provides that "by September 1 of each year in which a plan is *not* required, each utility shall file a narrative summary describing any significant event necessitating a major revision to the most recently filed IRP, including adjustments to the type and size of resources identified." KU/ODP's Narrative Summary indicated that the Company had no significant events that necessitate a major revision to the Company's most recent IRP. However, KU/ODP did attach as updates to the Commission, copies of portions of the filing made with the Kentucky Public Service Commission on April 25, 2012, which are related to an Annual Resource Assessment conducted therein.

NOW THE COMMISSION, upon consideration of the applicable law and the Guidelines, is of the opinion and finds that the Company's Narrative Summary complies with the Guidelines and so should be accepted for filing.

Accordingly, IT IS ORDERED THAT the Company's Narrative Summary shall be accepted for filing. With nothing further to come before the Commission, this matter shall be dismissed from the Commission's Active docket and the papers filed herein shall be placed in the Commission's file for ended causes.

¹ See *Commonwealth of Va. ex rel. State Corp. Comm'n., Concerning Electric Utility Integrated Resource Planning Pursuant to §§ 56-597 et seq., of the Code of Virginia*, Case No. PUE-2008-00099, 2008 S.C.C. Ann. Rept. 606, Order Establishing Guidelines for Developing Integrated Resource Plans (Dec. 23, 2008).

**CASE NO. PUE-2012-00105
DECEMBER 18, 2012**

APPLICATION OF
WASHINGTON GAS LIGHT COMPANY

For approval to revise its SAVE Rider for calendar year 2013

FINAL ORDER

On September 28, 2012, Washington Gas Light Company ("WGL" or "Company") completed an application ("Application") with the State Corporation Commission ("Commission") requesting approval to revise its SAVE Rider for calendar year 2013 pursuant to (i) § 56-603 *et seq.* of the Code of Virginia ("Code"), the Steps to Advance Virginia's Energy Plan ("SAVE") Act, (ii) 5 VAC 5-20-80 of the Commission's Rules of Practice and Procedure, and (iii) the Commission's April 21, 2011 Order Approving SAVE Plan and Rider in Case No. PUE-2010-00087 ("Initial SAVE Plan Order").¹ In its Application, the Company stated that the SAVE Rider for 2013 would consist of two factors computed for each customer class: (1) a current factor ("Current Factor") based on the Company's projected SAVE Plan program expenditures approved in the Initial SAVE Plan Order, and (2) a reconciliation factor ("Reconciliation Factor") computed in accordance with § 56-604 E of the SAVE Act, the Stipulation approved by the Commission in the Company's recent base rate proceeding ("Base Rate Case"),² and the Initial SAVE Plan Order.³ The Company further stated that if the Commission approves the Company's August 6, 2012 application to amend its SAVE Plan ("Amended SAVE Plan"),⁴ the SAVE Rider rates the Commission approves in that proceeding would replace the Current Factors described in this Application.⁵ The Company stated that either the Current Factors or the SAVE Rider rates

¹ *Application of Washington Gas Light Company, For approval of a SAVE plan and rider as provided by Va. Code § 56-604*, Case No. PUE-2010-00087, 2011 S.C.C. Ann. Rept. 345, Order Approving SAVE Plan and Rider (Apr. 21, 2011).

² *Application of Washington Gas Light Company, For a general increase in rates and charges and to revise its terms and conditions for gas service*, Case No. PUE-2010-00139, Doc. Cont. Cen. No. 120710015, Order (July 2, 2012); Doc. Cont. Cen. No. 120730099, Order (July 24, 2012).

³ Application at 1-2.

⁴ *Application of Washington Gas Light Company, For approval to amend Washington Gas's SAVE Plan pursuant to § 56-604 B of the Code of Virginia*, Case No. PUE-2012-00096, Doc. Cont. Cen. No. 121120271, Order Approving Amended SAVE Plan (Nov. 15, 2012).

⁵ Application at 2.

proposed in the Amended SAVE Plan application would be reduced by the Reconciliation Factors proposed in the present Application to reflect the over-recovery of SAVE Plan costs for the first period of the SAVE Plan ended April 30, 2012.⁶

On October 10, 2012, the Commission entered an Order for Notice and Comment in this matter, which, among other things, provided an opportunity for the filing of comments and hearing requests by interested persons; required the Staff of the Commission ("Staff") to investigate the Application and file a Staff report ("Report"); and permitted the filing of a Company response ("Comments") to the Staff Report. No comments or hearing requests were filed in this matter.

On November 15, 2012, the Commission entered an Order Approving Amended SAVE Plan in Case No. PUE-2012-00096 which, among other things, granted approval of the Amended SAVE Plan and deferred ruling on the 2013 SAVE Rider's Current Factor until the Final Order in this proceeding.

The Staff Report in this proceeding was filed on November 26, 2012. In its Report, the Staff referred to three revenue requirement revisions it made in the Staff report filed in the Amended SAVE Plan proceeding. The Staff first noted that its revision involving a correction to the composite depreciation rate appears to have been incorporated by WGL in its current Application.⁷ Next, the Staff corrected the presentation of net plant so that the full impact of plant retirements would be incorporated into the revenue requirement.⁸ The Staff also made an adjustment to the state income tax rate to make the rate consistent with the methodology it recommended in the Base Rate Case.⁹ In concluding its discussion of the 2013 Current Factor, the Staff recommended a revenue requirement based on calendar year 2013 of \$5,120,225.¹⁰

Next, the Staff discussed the Company's proposed Reconciliation Factor. The Staff recommended that WGL utilize a specifically designated income or expense account to record offsets to the regulatory asset or liability when accounting for SAVE costs and recoveries.¹¹ Additionally, the Staff noted that in accordance with the Initial SAVE Plan Order, the cost of capital applied to the eligible infrastructure costs in this case properly reflects the 8.261% overall cost of capital approved in the Base Rate Case.¹²

In concluding its discussion on the Reconciliation Factor, the Staff recommended that the Commission adopt the Company's proposed revenue requirement with two modifications. First, the Staff noted that the carrying charges on the SAVE over-recovery should be calculated using a net-of-tax cost of capital.¹³ Second, the Staff recommended the utilization of a 6.7% effective state income tax rate for purposes of calculating income tax savings on SAVE costs, as well as in the development of the revenue conversion factor.¹⁴ With these revisions, the Staff calculated an over-collection of \$2,408,664,¹⁵ and therefore recommended a negative revenue requirement in that amount.¹⁶

The Staff's revisions to the Current and Reconciliation Factors result in a combined revenue requirement of \$2,711,561 for the 2013 SAVE Rider.¹⁷ With regard to rate class allocations, the Staff stated that it is unopposed to WGL's proposed allocation for the 2013 Current and Reconciliation Factors, which are based on the net rate base from the Base Rate Case.¹⁸ Finally, the Staff recommended that should the Commission adjust the Company's proposed revenue requirement, the currently proposed allocation factors should remain in place.¹⁹

On December 6, 2012, the Company filed its Comments on the Staff Report. The Company stated that it does not object to the Staff's recommendations for the Company's 2013 SAVE Rider.²⁰ Specifically, the Company stated that it does not disagree with the Staff's incorporation of plant retirements in the development of the SAVE Rider.²¹ The Company also agreed to use an effective state income tax rate of 6.70% for future SAVE filings but noted that the methodology recommended by the Staff has not been fully litigated in a WGL proceeding.²² In concluding its discussion on the Current

⁶ *Id.*

⁷ Staff Report at 4.

⁸ *Id.* at 4-5.

⁹ *Id.* at 5.

¹⁰ *Id.* at 6-7.

¹¹ *Id.* at 8.

¹² *Id.* at 9.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.* at 10.

¹⁷ *Id.*

¹⁸ *Id.* at 6.

¹⁹ *Id.* at 11.

²⁰ Comments at 3.

²¹ *Id.* at 4.

²² *Id.*

Factor, the Company stated that it does not object to the Current Factor revenue requirement adjustments recommended by the Staff and does not oppose the Current Factor revenue requirement allocations among applicable rate schedules shown in the Staff Report.²³ Regarding the Reconciliation Factor, WGL stated in its Comments that it does not oppose the two modifications proposed by the Staff and, accordingly, does not oppose the Reconciliation Factor revenue requirement allocations among applicable rate schedules shown in the Staff Report, which are based on the Company's proposed cost allocations.²⁴

NOW THE COMMISSION, having considered the matter, is of the opinion and finds that the Company's 2013 Current and Reconciliation SAVE Factors and resulting 2013 SAVE Rider proposed in its Application, as modified by the Staff, should be approved.

Accordingly, IT IS ORDERED THAT:

(1) The Company's 2013 Current and Reconciliation SAVE Factors and resulting 2013 SAVE Rider, as modified herein, are approved. Rates consistent with this Order shall be effective from January 1, 2013 through December 31, 2013.

(2) The Company shall begin utilizing a specifically designated income or expense account to record offsets to the regulatory asset or liability when accounting for SAVE costs and recoveries.

(3) Within thirty (30) days of the date of this Order, the Company shall file with the Clerk of the Commission and the Divisions of Energy Regulation and Utility Accounting and Finance, revised rate schedules and terms and conditions of service for the 2013 Current Factor and Reconciliation SAVE Factors, along with workpapers supporting the total revenue requirement and rates, all of which shall reflect the findings and requirements set forth in this Order. The Clerk of the Commission shall retain such filings for public inspection in person and on the Commission's website: <http://www.scc.virginia.gov/case>.

(4) Upon request of Staff, the Company shall provide information related to the specific filings required pursuant to § 56-604 E of the Code at least thirty (30) days prior to such filing deadlines.

(5) This case is dismissed.

²³ *Id.*

²⁴ *Id.* at 5.

**CASE NO. PUE-2012-00107
DECEMBER 13, 2012**

APPLICATION OF
BARC ELECTRIC COOPERATIVE

For authorization regarding furnishing of services and for authorization to loan money to its subsidiary, Reliable Energy, LLC

ORDER GRANTING APPROVAL

On September 5, 2012, BARC Electric Cooperative ("BARC") filed an application ("Application") with the State Corporation Commission ("Commission") requesting authorization to furnish services and loan money to its subsidiary, Reliable Energy, LLC ("Reliable Energy"), pursuant to Chapter 4 of Title 56 ("Affiliates Act") of the Code of Virginia ("Code").¹ BARC filed additional information in support of the Application on September 14, 2012, and the Application was deemed complete on that date.

On October 23, 2012, concurrently with its response to Staff's Interrogatories, BARC filed a Motion for Entry of a Protective Order ("Motion") pursuant to 5 VAC 5-20-110 and 5 VAC 5-20-170 of the Commission's Rules of Practice and Procedure. BARC's Motion sought to gain confidential treatment of certain documents contained in its response to Staff's Interrogatories.

BARC is an electric utility cooperative that provides services to over 12,000 meters, spanning the counties of Alleghany, Augusta, Bath, Highland and Rockbridge. BARC recently formed Reliable Energy as an unregulated, for-profit, taxable, wholly owned subsidiary of BARC. Reliable Energy was formed for the purpose of entering into the business of installing, leasing, maintaining, operating, and testing emergency backup generators and related equipment. BARC is the sole owner of Reliable Energy and acts as its manager.

In its Application, BARC seeks approval of a service agreement ("Service Agreement") through which it will provide services to Reliable Energy. BARC proposes to provide management, administrative, and operational services as well as office space, transportation, equipment, customer service, and data processing services to Reliable Energy. BARC will charge Reliable Energy the fully distributed cost for its services, including overhead and return components. The rates charged to Reliable Energy will be compared annually to the actual costs experienced and recalculated to ensure that BARC recovers all direct and indirect costs and that the arrangement does not result in a subsidy to Reliable Energy. The Service Agreement expires on December 31, 2013, but calls for automatic renewal for successive one-year terms commencing January 1 of each year, unless terminated by either party.

The Application also seeks approval of a line of credit ("Line of Credit") through which BARC will lend money to Reliable Energy. The Line of Credit carries a maximum value of \$5 million and an interest rate of the prime rate plus two percent.² Reliable Energy is expected to draw on the Line of

¹ Va. Code § 56-76 *et seq.*

² BARC defines the prime rate as the Prime Lending Rate as published on the National Rural Utilities Cooperative Finance Corporation website rate page on the last day of each month.

Credit when funds are needed to support the installation of a generator under its leases. The Line of Credit expires December 31, 2013, unless otherwise renewed by BARC and Reliable Energy. The Line of Credit states that BARC agrees to automatically renew the Line of Credit for successive one-year terms, provided that BARC has not otherwise issued a notice of cancellation or notice of default.

BARC further seeks any necessary Affiliates Act approval for a \$100 initial investment in Reliable Energy. In addition, BARC represents that it expects Reliable Energy to be profitable and that its after-tax profits will be available for dividend payments back to BARC.

NOW THE COMMISSION, upon consideration of the Application and the representations of the Applicant, including its December 6, 2012 Comments, the applicable statutes, and having been advised by its Staff, is of the opinion and finds that, subject to certain modifications and requirements, the proposed Service Agreement and Line of Credit are in the public interest and should be approved. The Commission also finds that BARC's Motion is no longer necessary; therefore, the Motion is denied.³

Our first concern is that both the Service Agreement and Line of Credit call for automatic renewal each year. Due to the nature of these agreements, we find it appropriate to limit BARC's authority to operate under the Service Agreement and Line of Credit to five years. The time limitation will allow for a regular, comprehensive review of the services provided and credit extended by BARC to Reliable Energy and will ensure that such provision of services and extension of credit continue to be in the public interest. We have approved this time limitation in several prior cases.⁴

Another concern is with three vague, open-ended clauses in the Service Agreement. The Service Agreement contains the service category "Such other responsibilities as required." The Service Agreement also states that the list of services to be provided by BARC to Reliable Energy include, but are not limited to, those specifically listed in the Service Agreement. In addition, Section 8.b. of the Service Agreement states that the Service Agreement "may be amended at any time during the term." These three references could allow BARC and Reliable Energy to add services or change the terms of the Service Agreement without obtaining separate Commission approval. Our practice is to disallow such open-ended clauses.⁵ Therefore, we will limit our approval herein to those services specifically identified in the Application and the Service Agreement.

Our third concern is with the proposed pricing of services provided by BARC to Reliable Energy at cost. We will require BARC to maintain records to demonstrate that the services provided by BARC to Reliable Energy are cost-beneficial to its members. Furthermore, if a market exists for the services provided to Reliable, BARC should compare the market price with its cost of providing similar services, and it shall charge Reliable the higher of its cost, including a reasonable return on assets utilized, or the cost of obtaining the services from an outside party.

Fourth, we note that BARC's Comments to Staff's draft action brief request a change in the allocation methodology of BARC's overhead and equipment charges to Reliable Energy. We accept BARC's changes on this issue.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to § 56-77 of the Code, BARC hereby is granted approval to enter into the Service Agreement and Line of Credit subject to the modifications and requirements set forth herein. BARC also is granted authority to make an initial investment in Reliable Energy of up to \$100 and to receive dividend payments from Reliable Energy.

(2) BARC's Motion is hereby denied; however, we direct the Clerk of the Commission to retain the confidential information, to which the Motion pertains, under seal.

(3) The duration of the approval granted for the Service Agreement and Line of Credit herein shall be limited to five (5) years from the date of the Order in this case. If BARC wishes to continue the arrangements after that date, further Commission approval shall be required.

(4) The approval granted herein shall be limited to the services specifically identified in the Service Agreement. The open-ended service clauses described above are not approved. Should BARC wish to provide additional services to Reliable Energy, further Commission approval shall be required.

(5) Separate Affiliates Act approval shall be required for any changes in the terms and conditions of the Service Agreement or Line of Credit, including changes in allocation methodologies and successors and assigns.

³ The Commission held BARC's Motion in abeyance. We note that the Commission has received no request for leave to review the confidential information submitted in this proceeding. Accordingly, we deny the Motion as moot but direct the Clerk of the Commission to retain the confidential information, to which the Motion pertains, under seal.

⁴ *Application of Virginia-American Water Company and American Water Works Service Company, For approval of a services agreement under Chapter 4 of Title 56 of the Code of Virginia*, Case No. PUE-2011-00056, 2011 S.C.C. Ann. Rept. 507, Order Granting Approval (Aug. 5, 2011); *Joint Application of Kentucky Utilities Company d/b/a Old Dominion Power Company, Louisville Gas and Electric Company, LG&E and KU Services Company, LG&E and KU Energy LLC, LG&E and KU Capital LLC, PPL Corporation, PPL Electric Utilities Corporation, and PPL Services Corporation, For authority to engage in affiliate transactions and to enter into Utility Services Agreements, pursuant to Chapter 4 of Title 56 of the Code of Virginia, § 56-76 et seq.*, Case No. PUE-2011-00095, 2011 S.C.C. Ann. Rept. 534, Order Granting Authority (Nov. 14, 2011).

⁵ *See, e.g., Application of Appalachian Power Company and American Electric Power Service Corporation, For authority to enter into an affiliate transaction under Chapter 4 of Title 56 of the Code of Virginia*, Case No. PUE-2007-00055, 2007 S.C.C. Ann. Rept. 452, Order Granting Authority (Oct. 18, 2007); *Application of Virginia Natural Gas, Inc., and AGL Services Company, For approval of a revised services agreement pursuant to Chapter 4 of Title 56 of the Code of Virginia*, Case No. PUE-2005-00025, 2005 S.C.C. Ann. Rept. 424, Order Denying Petition for Clarification and Granting Approval (July 8, 2005); *Application of Columbia Gas of Virginia, Inc., For approval of a service agreement with NiSource Corporate Services Company pursuant to Chapter 4 of Title 56 of the Code of Virginia*, Case No. PUE-2004-00072, 2004 S.C.C. Ann. Rept. 477, Order Granting Approval (Sept. 30, 2004), 2004 S.C.C. Ann. Rept. 480, Order on Reconsideration (Dec.1, 2004).

(6) The approval granted in this case shall have no ratemaking implications. Specifically, it shall not guarantee the recovery of any costs directly or indirectly related to the Service Agreement, Line of Credit, or initial investment in Reliable Energy.

(7) In future rate case proceedings, BARC shall bear the burden of proving that it received the higher of cost or market for any services it provided to Reliable for which a market exists.

(8) The authority granted herein shall not preclude the Commission from exercising the provisions of § 56-78 and § 56-80 of the Code hereafter.

(9) The Commission reserves the authority to examine the books and records of any affiliate in connection with the authority granted herein whether or not the Commission regulates such affiliate.

(10) All transactions under the Service Agreement shall be reflected in BARC's monthly service company bill and included in BARC's Annual Report of Affiliate Transactions ("ARAT"). The ARAT shall be filed with the Commission's Director of the Division of Utility Accounting and Finance ("UAF Director") by no later than May 1 of each year, such date subject to administrative extension by the UAF Director. If rate filings are not based on a calendar year, then BARC shall include the affiliate information contained in the ARAT in such filings. BARC also shall report on the Line of Credit in its ARAT, including the average monthly balance and interest rate.

(11) BARC shall file a signed and executed copy of the revised Service Agreement and Line of Credit within ninety (90) days of its execution.

(12) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2012-00108
OCTOBER 9, 2012**

APPLICATION OF
COLUMBIA GAS OF VIRGINIA, INC.

For approval to consolidate and extend FTS Service Agreements with Columbia Gas Transmission, LLC pursuant to Chapter 4 of Title 56 of the Code of Virginia

ORDER GRANTING APPROVAL

On September 6, 2012, Columbia Gas of Virginia, Inc. ("CGV"), filed an application ("Application") with the State Corporation Commission ("Commission") requesting approval to consolidate and extend Firm Transportation Service ("FTS") Service Agreements with Columbia Gas Transmission, LLC ("TCO") under Chapter 4 of Title 56 ("Affiliates Act") of the Code of Virginia ("Code").¹

CGV is a Virginia public service corporation that provides natural gas distribution service to approximately 250,000 customers in Central and Southern Virginia, the Piedmont region, most of the Shenandoah Valley, portions of Northern and Western Virginia and the Hampton Roads region. TCO is an interstate natural gas pipeline company and a "natural-gas company" as defined in the Natural Gas Act.² CGV and TCO are wholly owned subsidiaries of Columbia Energy Group, which in turn, is a wholly owned subsidiary of NiSource, Inc.

In a 1996 order, the Commission approved CGV's *Policy for Executing Revised or New Transportation Agreements with Affiliates*, which allowed CGV to enter into supply-related arrangements with TCO prior to Commission approval, with the understanding that CGV would provide the specifics of the arrangement to the Commission after the execution of such agreements.³ In a 2004 order, the Commission modified this order to require CGV to provide notice to the Commission as soon as such a gas-supply arrangement becomes binding and to file for Affiliates Act approval of such agreements within forty-five (45) days of the agreement's execution.⁴ CGV complied with both provisions in this filing.

CGV requests that the Commission: (1) approve an amendment consolidating FTS Service Agreement Nos. 50471, 50472, and 50473 into existing FTS Service Agreement No. 50473 ("Consolidating Agreement"); (2) approve an amendment extending the terms of the Consolidating Agreement through October 31, 2022 ("Amendment"); (3) approve an amendment terminating FTS Service Agreement No. 50472 ("Terminating Agreement") upon its consolidation into the Consolidating Agreement; (4) authorize the request as in the public interest without the necessity of a public hearing; and (5) grant such further relief as may be necessary and appropriate under the Affiliates Act.

The Application does not request approval of any new services, but rather CGV represents that the Consolidating Agreement, Amendment, and Terminating Agreement allow it to consolidate and extend its current FTS capacity with TCO. CGV also represents that the FTS capacity with TCO is its lowest cost primary transportation path and is a critical part of its supply function, including peak day and seasonal supply.

¹ Va. Code § 56-76 *et seq.*

² Section 15 U.S.C. § 717 *et seq.*

³ *Application of Commonwealth Gas Services, Inc., For approval of agreements with affiliates*, Case No. PUA-1995-00025, 1996 S.C.C. Ann. Report 118, Order Granting Approval (July 18, 1996). Commonwealth Gas Services, Inc. changed its name to Columbia Gas of Virginia, Inc., effective January 16, 1998. Columbia Gas Transmission Corporation converted to Columbia Gas Transmission, LLC, on December 9, 2008.

⁴ *Application of Columbia Gas of Virginia, Inc. For approval of a firm transportation service agreement pursuant to Chapter 4 of Title 56 of the Code of Virginia*, Case No. PUE-2004-00013, 2004 S.C.C. Ann. Rept. 432, Order Granting Approval (April 13, 2004).

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

NOW THE COMMISSION, upon consideration of this matter and having been advised by its Staff, is of the opinion and finds that the above-described Consolidating Agreement, Amendment, and Terminating Agreement are in the public interest and should be approved subject to the requirements recommended in the Staff's Action Brief filed contemporaneously with this Order and to the other requirements set forth below.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to § 56-77 of the Code, CGV is hereby granted approval of the Consolidating Agreement, Amendment, and Terminating Agreement, subject to the requirements set forth herein.
- (2) The duration of the Commission's approval herein shall extend through October 31, 2022. Should CGV wish to continue operating under the Consolidating Agreement after that date, separate Commission approval shall be required.
- (3) The approval granted herein shall have no ratemaking implications. Specifically, it will not guarantee the recovery of any costs directly or indirectly related to the Consolidating Agreement.
- (4) The Commission's notice, filing, and reporting requirements for CGV-TCO's existing agreements shall apply to the Consolidating Agreement, Amendment, and Terminating Agreement approved herein.
- (5) Separate Commission approval shall be required for any changes in the terms and conditions of Consolidating Agreement, Amendment, and Terminating Agreement approved herein.
- (6) The approval granted herein shall not preclude the Commission from exercising the provisions of § 56-78 and § 56-80 of the Code of Virginia hereafter.
- (7) The Commission reserves the right to examine the books and records of any affiliate, whether or not such affiliate is regulated by the Commission, in connection with the approval granted herein.
- (8) CGV shall include all transactions under the Consolidating Agreement in its Annual Report of Affiliate Transactions ("ARAT") submitted to the Commission's Director of the Division of Utility Accounting and Finance ("UAF Director") on or before May 1st of each year, which deadline may be extended administratively by the Commission's UAF Director.
- (9) In the event that rate filings are not based on a calendar year, then CGV shall include the affiliate information contained in its ARAT in such filings.
- (10) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2012-00110
SEPTEMBER 20, 2012**

APPLICATION OF
WASHINGTON GAS LIGHT COMPANY

For approval to revise its SAVE Rider

ORDER GRANTING APPLICATION

On September 11, 2012, Washington Gas Light Company ("WGL" or "Company") filed an application with the State Corporation Commission ("Commission") requesting authority to reduce its SAVE Rider to \$0.00 per therm on the first day of the October billing cycle, or September 27, 2012, through December 31, 2012 ("Application"). As explained in the Company's Application, the Commission first approved WGL's SAVE Plan and Rider on April 21, 2011, in Case No. PUE-2010-00087.¹ The SAVE Rider was subsequently revised in Case No. PUE-2011-00101 to allow the Company to recover approximately \$3.8 million in SAVE Plan costs for planned infrastructure investments in calendar year 2012.²

In support of the relief requested in its current Application, WGL represents that continuing to bill its customers the current SAVE Rider charges will allow the Company to over-recover its planned infrastructure costs for calendar year 2012. This over-recovery will occur because WGL was required in its latest general rate case, Case No. PUE-2010-00139, to remove \$15,341,901 of SAVE Plan costs incurred by the Company between June 2010 and September 31, 2011 from its SAVE Rider.³ WGL's Application represents that after removing these costs from the Company's SAVE Rider and after applying the 8.261% cost of capital approved in its general rate case, the Company's Save Plan costs for recovery through its SAVE Rider for calendar year 2012 is approximately \$1.8 million, compared to the \$3.8 million authorized for recovery through the SAVE Rider in Case No. PUE-2011-00101.⁴ WGL's

¹ *Application of Washington Gas Light Company, For approval of a SAVE plan and rider as provided by Va. Code § 56-604*, Case No. PUE-2010-00087, 2011 S.C.C. Ann. Rept. 345, Order Approving Save Plan and Rider (April 21, 2011).

² *Application of Washington Gas Light Company, For approval to implement the SAVE Rider for calendar year 2012 in accordance with Washington Gas's Commission-approved SAVE Plan*, Case No. PUE-2011-00101, 2011 S.C.C. Ann. Rept. 541, Order Approving 2012 SAVE Rider (Nov. 28, 2011).

³ *Application of Washington Gas Light Company, For a general increase in rates and charges and to revise the terms and conditions for gas service*, Case No. PUE-2010-00139, Doc. Cont. Cen. No. 120710015, Order (July 2, 2012), Doc. Cont. Cen. No. 120730099, Order (July 24, 2012).

⁴ Application at 3-4.

Application further represents that the Company estimates it will recover approximately \$2.5 million in SAVE Plan costs through September 30, 2012, or approximately \$700,000 more than necessary to fund its total SAVE infrastructure costs recoverable through its SAVE Rider for calendar year 2012.⁵ In order to avoid any additional over-recovery of costs from its customers through the SAVE Rider, the Company requests that the SAVE Rider be set at \$0.00 per therm from the first day of the October billing cycle, or September 27, 2012, through December 31, 2012.

NOW THE COMMISSION, having considered the Company's Application, is of the opinion and finds that the Company's Application should be granted and that the charges in the Company's SAVE Rider should be reduced to \$0.00 per therm from the first day of the October billing cycle, or September 27, 2012, through December 31, 2012. While we are approving the Company's Application, we note that the Company's request for expedited consideration of its Application has prevented the Commission from directing our Staff to investigate and audit the financial and accounting data contained in the Company's Application. Accordingly, our decision to grant the Company's Application should not be interpreted as a Commission finding that the financial and accounting data contained in the Company's Application is accurate or approved by the Commission. Rather, we are granting the Company's Application because it will benefit the Company's customers immediately, it will prevent any additional over-recovery of SAVE Plan costs from customers during calendar year 2012, and because the Staff of the Commission will have the opportunity to investigate and audit the accuracy of the Company's financial and accounting data when the SAVE Rider costs and recoveries during calendar year 2012 are reconciled and trued-up in the Company's 2013 SAVE Rider application.

Accordingly, IT IS ORDERED THAT:

- (1) WGL's Application is hereby granted.
- (2) WGL shall reduce its SAVE Rider charges to \$0.00 per therm on the first day of the October billing cycle, or September 27, 2012, through December 31, 2012.
- (3) There being nothing further to be done, this case is closed and the papers herein shall be placed in the Commission's file for ended causes.

⁵ *Id.* at 4.

**CASE NO. PUE-2012-00111
DECEMBER 11, 2012**

APPLICATION OF
VIRGINIA NATURAL GAS, INC.,
and
AGL SERVICES COMPANY

For approval of an amendment to a services agreement under Chapter 4 of Title 56 of the Code of Virginia

ORDER GRANTING APPROVAL

On September 12, 2012, Virginia Natural Gas, Inc. ("VNG"), and AGL Services Company ("AGSC") (collectively, "Applicants"),¹ filed an application ("Application") with the State Corporation Commission ("Commission"), pursuant to Chapter 4 of Title 56 of the Code of Virginia ("Code")² and Ordering Paragraphs (5), (6), and (11) of the Commission's September 30, 2010 Order Granting Approval in Case No. PUE-2010-00070 ("2010 Order").³ The Application requested approval to amend the currently operative AGL Services Agreement under which AGSC provides Centralized Services⁴ to VNG (the "Current Agreement") in order to: (a) modify the restriction on "any provision that allows AGSC to engage affiliated third parties to provide Centralized Services to VNG" without separate Commission approval⁵ by allowing AGSC to engage AGL Resources Inc.'s ("AGLR(s)") regulated local distribution company affiliates (collectively, "Regulated Affiliates")⁶ to perform such services; (b) include the provision of an emergency/immediate need clause; and (c) expand the Centralized Services being provided to VNG through AGSC by adding a new "Field Operations Support" subcategory to the

¹ VNG and AGSC are wholly owned subsidiaries of AGL Resources Inc., an energy holding company headquartered in Atlanta, Georgia.

² Va. Code § 56-76 *et seq.* (the "Affiliates Act").

³ *Application of Virginia Natural Gas, Inc., and AGL Services Company, For approval of a revised services agreement under Chapter 4 of Title 56 of the Code of Virginia*, Case No. PUE-2010-00070, Order Granting Approval, 2010 S.C.C. Ann. Rept. 559 (Sept. 30, 2010) at 564.

⁴ "Centralized Services" collectively refers to the administrative, management, and other centralized shared services that AGSC currently provides to AGLR and its subsidiaries, including VNG.

⁵ See 2010 Order, *supra* note 3, at 563; see also *id.* at 564, Ordering Paragraph (6).

⁶ The Applicants state that, at this time, VNG's Regulated Affiliates include: Northern Illinois Gas Company d/b/a Nicor Gas Company ("Nicor Gas") in Illinois; Atlanta Gas Light Company in Georgia; Chattanooga Gas Company in Tennessee; Pivotal Utility Holdings, Inc., d/b/a Elizabethtown Gas Company ("Elizabethtown Gas") in New Jersey; Pivotal Utility Holdings, Inc., d/b/a Florida City Gas Company in Florida; and Pivotal Utility Holdings, Inc., d/b/a Elkton Gas Company in Maryland.

existing Business Support services category (the "Amended Agreement").⁷ The Applicants state that the proposed amendments to the Current Agreement are intended to allow VNG and its customers to share in the benefits provided by engaging employees with years of experience and expertise in operating and maintaining a natural gas distribution and transmission system in the provision of such services, as well as allow the sharing of support services, construction, and/or goods between VNG and the Regulated Affiliates through AGSC when an emergency or other immediate need situation arises ("Emergency Services").

On October 31, 2012, the Applicants filed a Motion for Interim Authority to Operate Under Emergency Clause and for Expedited Consideration or Exemption, in which VNG requested an exemption from Affiliates Act requirements to provide Emergency Services through AGSC to its Regulated Affiliate in New Jersey, Elizabethtown Gas, and/or for interim authority to operate under the emergency/immediate need clause of the Amended Agreement for the duration of the emergency in New Jersey ("NJ Emergency Event"). Accordingly, the Commission issued an Order on Motion on October 31, 2012 ("Order on Motion"), granting VNG authority to provide Emergency Services directly to Elizabethtown Gas for the duration of the NJ Emergency Event.⁸ On December 6, 2012, VNG reported to the Commission that it had completed its Emergency Services related to the NJ Emergency Event pursuant to Ordering Paragraph (3) of the Order on Motion

NOW THE COMMISSION, upon consideration of the Application and the representations of the Applicants (including their December 4, 2012 Comments), the applicable statutes, and having been advised by its Staff, is of the opinion and finds that, subject to certain modifications and requirements described below, the proposed Amended Agreement is in the public interest and should be approved.

First, we will approve the engagement of the Regulated Affiliates to provide Centralized Services through AGSC to VNG under three conditions. One, the Applicants must provide thirty (30) days notice to the Commission prior to the engagement of a Regulated Affiliate to provide a Centralized Service through AGSC to VNG. Two, we will require the Applicants to develop and maintain records showing that any change from AGSC or an unaffiliated third party provider to a Regulated Affiliate to provide a Centralized Service to VNG is in the public interest. Three, we will limit the Regulated Affiliates approved to provide Centralized Services to the ones listed in the current Application. We do not approve the engagement of any other affiliates to provide Centralized Services through AGSC to VNG; such transactions will require separate Commission approval.

Second, we will approve the provision of Emergency Services described in the instant Application. The Applicants represent that the Emergency Services are likely to be irregular and event specific. In order to better track these services and costs for regulatory purposes, we will require the Applicants to develop a new services category titled "Emergency Services" in Exhibit I to the Amended Agreement, and require the Applicants to develop and maintain records to track the Emergency Services and costs⁹ provided by VNG through AGSC to a Regulated Affiliate, or vice versa, by event and service provider.

Third, we will approve the addition of the proposed Field Operations Support sub-category to the existing Business Support services category. We also direct that the "Other" services category in the Description of Services section of Exhibit I to the Amended Agreement be renamed "Project Management" services.

Finally, we note that we issued a number of regulatory, pricing, and reporting requirements pertaining to the Current Agreement in the 2010 Order. We find that these requirements remain applicable for the Amended Agreement and will remain in effect.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to § 56-77 of the Code, the Applicants are hereby granted approval to enter into the Amended Agreement as described and modified herein.

(2) The approval granted herein shall extend from the date of the entry of this Order through September 30, 2015. Should the Applicants wish to continue operating under the Amended Agreement after that date, subsequent Commission approval shall be required.

(3) The engagement of the Regulated Affiliates to provide Centralized Services through AGSC to VNG is approved subject to three conditions. One, the Applicants shall provide thirty (30) days notice to the Commission prior to the engagement of a Regulated Affiliate to provide a Centralized Service through AGSC to VNG. Two, the Applicants shall develop and maintain records showing that any change from AGSC or an unaffiliated third party provider to a Regulated Affiliate to provide a Centralized Service is in the public interest. Three, the Regulated Affiliates approved to provide Centralized Services shall be limited to those listed herein. The approval granted herein does not include the engagement of any other affiliates to provide Centralized Services through AGSC to VNG. Such transactions shall require separate Commission approval.

(4) The provision of emergency/immediate need Centralized Services is approved. The Applicants shall develop a new services category titled "Emergency Services" in Exhibit I to the Amended Agreement, and develop and maintain records to track the emergency/immediate services and costs provided by VNG through AGSC to a Regulated Affiliate, or vice versa, by event and service provider.

⁷ The Commission has approved previous versions of this services agreement in Case Nos. PUA-2000-00060, PUE-2005-00025, and PUE-2010-00070. See *Application of Virginia Natural Gas, Inc., and AGL Services Company, For approval of a Services Agreement*, Case No. PUA-2000-00060, Order Granting Approval, 2000 S.C.C. Ann. Rept. 222 (Sept. 25, 2000); *Application of Virginia Natural Gas, Inc., and AGL Services Company, For approval of a revised services agreement pursuant to Chapter 4 of Title 56 of the Code of Virginia*, Case No. PUE-2005-00025, Order Denying Petition for Clarification and Granting Approval, 2005 S.C.C. Ann. Rept. 424 (July 8, 2005), recons. Granted, Order Granting Reconsideration and Suspending Prior Order, 2005 S.C.C. Ann. Rept. 428 (July 28, 2005), and Order on Reconsideration, 2005 S.C.C. Ann. Rept. 428 (Nov. 1, 2005) (collectively, the "2005 Orders"); and 2010 Order, *supra* note 3.

⁸ See *Application of Virginia Natural Gas, Inc., and AGL Services Company, For approval of an amendment to a services agreement under Chapter 4 of Title 56 of the Code of Virginia*, Case No. PUE-2012-00111, Order on Motion, Doc. Cont. Cen. No. 121030378 (Oct. 31, 2012).

⁹ This includes all costs relating to the NJ Emergency Event.

(5) The addition of the proposed Field Operations Support sub-category to the existing Business Support services category is approved. We further direct that the "Other" services category in the Description of Services section of Exhibit I to the Amended Agreement be renamed "Project Management" services.

(6) Ordering Paragraphs (4), (5), (7), (8), (10), (11), (12), (13), (14), (15), and (16) from the 2010 Order shall remain in effect.

(7) This case is hereby dismissed.

**CASE NO. PUE-2012-00112
DECEMBER 18, 2012**

JOINT APPLICATION OF
KENTUCKY UTILITIES COMPANY d/b/a OLD DOMINION POWER COMPANY,
LG&E AND KU ENERGY LLC,
PPL CORPORATION,
PPL SERVICES CORPORATION,
and
PPL ENERGY SUPPLY, LLC

For authority to engage in affiliate transactions and to enter into a Utility Services Agreement, pursuant to Chapter 4 of Title 56 of the Code of Virginia

ORDER GRANTING AUTHORITY

On September 26, 2012, Kentucky Utilities Company d/b/a Old Dominion Power Company ("KU/ODP"), LG&E and KU Energy LLC ("LKE"), PPL Corporation ("PPL"), PPL Services Corporation ("PPL Services"), and PPL Energy Supply, LLC ("PPL Energy") (collectively, "Applicants"), filed a Joint Application with the State Corporation Commission ("Commission"), pursuant to Chapter 4 of Title 56 of the Code of Virginia ("Code"),¹ requesting authority to engage in affiliate transactions and to amend their currently effective Utility Services Agreement for Third-Party Vendor Costs dated December 6, 2011 (the "Prior Agreement"),² to allow for two new types of affiliate transactions and to add one new party to the agreement (as amended, the "Amended Agreement").

Pursuant to the terms of the Prior Agreement, LKE, PPL, and PPL Services can procure certain goods and services from third-party vendors on KU/ODP's behalf, and then invoice KU/ODP, at cost, for KU/ODP's portion of such purchases. The Applicants state that the Amended Agreement seeks to continue the authority previously granted by the Commission in Case No. PUE-2011-00095, while expanding such authority to allow for additional provisions that will: (i) add PPL Energy as a party to the agreement and allow PPL Energy to obtain and pass through costs related to letters of credit for workers' compensation insurance coverage; and (ii) allow LKE, PPL, and PPL Services to charge KU/ODP its portion of costs related to the implementation and continued operation of information technology products, such as software, purchased from third-party vendors.

With the exception of these additional provisions, the terms and conditions of the Amended Agreement are substantively identical to those existing in the Prior Agreement approved by the Commission in its 2011 Order. KU/ODP, LKE, PPL, PPL Services, or PPL Energy may terminate the Amended Agreement by providing sixty (60) days written notice to the remaining parties. The Amended Agreement contains a five (5)-year period of authorization, to become effective upon the date of approval by the Commission, and does not provide for renewability. The Applicants represent that the Amended Agreement is in the public interest because it provides for affiliate transactions that will allow KU/ODP to continue to receive efficient and economical services from its affiliates while realizing the benefits made possible by PPL's acquisition of control of KU/ODP, which was approved by the Commission in Case No. PUE-2010-00060.³

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the above-described affiliate transactions and the Amended Agreement are in the public interest and should, therefore, be approved subject to the requirements recommended in the Commission Staff's Action Brief filed contemporaneously with this Order and noted herein.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to § 56-77 of the Code, the Applicants are hereby granted authority to engage in affiliate transactions and to enter into the Amended Agreement, subject to the requirements set forth herein.

(2) The authority granted herein for the Amended Agreement shall be for a set period of five (5) years from the date of this Order. Should the Applicants wish to continue operating under the Amended Agreement after the five (5)-year period of authorization, subsequent Commission approval shall be required.

¹ Va. Code § 56-76 *et seq.*

² The Prior Agreement was approved by the Commission, along with certain other affiliate services agreements, in Case No. PUE-2011-00095. *See Joint Application of Kentucky Utilities Company d/b/a Old Dominion Power Company, Louisville Gas and Electric Company, LG&E and KU Services Company, LG&E and KU Energy LLC, LG&E and KU Capital LLC, PPL Corporation, PPL Electric Utilities Corporation, and PPL Services Corporation, For authority to engage in affiliate transactions and to enter into Utility Services Agreements, pursuant to Chapter 4 of Title 56 of the Code of Virginia, § 56-76 et seq.*, Case No. PUE-2011-00095, Order Granting Authority, 2011 S.C.C. Ann. Rept. 534 (Nov. 14, 2011) ("2011 Order").

³ *See Joint Petition of PPL Corporation, E.ON AG, E.ON US Investments Corp., E.ON U.S. LLC, and Kentucky Utilities Company d/b/a Old Dominion Power Company, For approval of transfer of ownership and control*, Case No. PUE-2010-00060, Final Order, 2010 S.C.C. Ann. Rept. 534 (Oct. 19, 2010).

- (3) KU/ODP shall file with the Commission a signed and executed copy of the Amended Agreement approved herein within ninety (90) days of the date of this Order.
- (4) The authority granted herein shall supplement the authority granted in Case No. PUE-2011-00095.
- (5) Ordering Paragraphs (4), (5), (6), (8), (9), (10), (11), (12), and (13) set forth in the 2011 Order shall be incorporated herein.
- (6) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUE-2012-00113
OCTOBER 25, 2012**

APPLICATION OF
APPALACHIAN NATURAL GAS DISTRIBUTION COMPANY
and
ANGD LLC

For authority to issue securities under Chapters 3 and 4 of Title 56 of the Code of Virginia

ORDER GRANTING AUTHORITY

On September 28, 2012, Appalachian Natural Gas Distribution Company ("Appalachian") and its parent company affiliate, ANGD LLC ("ANGD") (collectively, "Applicants"), filed an application with the State Corporation Commission ("Commission") requesting authority to borrow long-term debt and incur short-term indebtedness under Chapters 3 and 4 of Title 56 of the Code of Virginia. On October 2, 2012, the Applicants subsequently submitted the requisite fee of Two Hundred Fifty Dollars (\$250). The Applicants further amended their application by letter filed with the Commission on October 19, 2012.

As amended, the Applicants request authority for Appalachian to enter into a 5.00% Promissory Note ("5.00% Note") for \$3 million with a bank, extend the \$284,320 remaining balance of Appalachian's existing 10.00% Promissory Note ("10.00% Note") with ANGD for a period of one year, and enter into an inter-company revolving credit agreement note ("RCA Note") with ANGD for up to \$3.5 million.

Monthly payments of principal and interest will be paid on the 5.00% Note, based on a twenty-year amortization. However, the outstanding balance of the entire 5.00% Note will be due in a balloon payment five years from the date of closing. The Applicants state that proceeds from the 5.00% Note will be used to: (i) refinance existing long-term debt, (ii) refinance permanent working capital currently financed on a short-term basis, and (iii) provide future project financing. The Applicants further represent that the lender desires to observe some level of operating history on the initial draw on the 5.00% Note before subsequent amounts are available for borrowing. Therefore, to preserve financing flexibility and to provide the funds needed within existing constraints, the Applicants find it necessary to obtain a one-year extension of ANGD's subordinated 10.00% Promissory Note with Roanoke Gas Company and to request a one-year extension of Appalachian's associated 10.00% Note with ANGD.

Borrowings under the RCA Note will mirror the terms and conditions of ANGD's new revolving credit agreement ("RCA"). Interest will be based upon the Wall Street Journal's prime rate and be due monthly in arrears based upon the average balance. The RCA Note will be due one (1) year from the date of issuance. However, contingent upon the mutual consent of ANGD and the lender to renew their RCA, the RCA Note may be renewed annually.

NOW THE COMMISSION, upon consideration of the application and having been advised by its Staff, is of the opinion and finds that approval of the application is reasonable and will not be detrimental to the public interest.

Accordingly, IT IS ORDERED THAT:

- (1) Appalachian is authorized to enter into the 5.00% Note and to borrow funds in the manner and for the purposes set forth in its application through the period ending October 31, 2017.
- (2) Appalachian is authorized to extend the term of its 10.00% Note with ANGD through the period ending October 31, 2013.
- (3) Appalachian is authorized to enter into the RCA Note with ANGD up to the aggregate maximum amount of \$3.5 million at any one time, in the manner and for the purposes set forth in its application, through the period ending October 31, 2017.
- (4) Within sixty (60) days after the end of each October 31 annual term of the RCA Note entered into pursuant to Ordering Paragraph (3), the Applicants shall file with the Commission a detailed Report of Action with respect to all borrowings to include:
 - (a) The average monthly balance and interest rate of borrowings by ANGD under its RCA with the lender and the subsequent average monthly balance and interest rate of those funds subsequently borrowed by Appalachian and Bluefield Gas Company ("Bluefield");
 - (b) The maximum amount of RCA borrowings outstanding at any one time during each month by ANGD, along with the monthly aggregate maximum of inter-company revolving credit borrowings by Appalachian and Bluefield.
- (5) The Applicants shall file a final Report of Action on or before March 31, 2018, to include the information specified in Ordering Paragraph (4) for the last eligible borrowing term, along with a balance sheet that reflects the capital structure at the end of the last eligible borrowing term.

(6) The authority granted herein shall not extend to any other prospective inter-company borrowings or revolving credit notes, which shall require the separate and prior approval of this Commission.

(7) Approval of the application shall have no implications for ratemaking purposes.

(8) This matter is continued, subject to the continuing review, audit, and appropriate directive of the Commission.

**CASE NO. PUE-2012-00114
OCTOBER 18,2012**

APPLICATION OF
SOUTHWESTERN VIRGINIA GAS COMPANY

For authority to incur long-term debt and short-term debt

ORDER GRANTING AUTHORITY

On October 1, 2012, Southwestern Virginia Gas Company ("Southwestern" or "Applicant") filed an application with the State Corporation Commission ("Commission") under Chapter 3¹ of Title 56 of the Code of Virginia for authority to incur long-term debt and short-term debt ("Application"). Southwestern has paid the requisite fee of \$250.

The Applicant requests authority to borrow up to \$2 million through the issuance of a first mortgage note ("Note") to Fidelity Bank. The Note will be amortized over a 25-year period but will have a maturity of 15 years. The interest rate will be floating based on the prime rate minus 1%. Payment of interest and principal will be due monthly. Issuance costs are estimated by the Applicant to be \$7,450.

The Applicant also requests authority to replace two existing \$500,000 lines of credit with a single \$1 million line of credit with Fidelity Bank. The interest rate on any outstanding balance will be the prime rate with a floor of 4%. Interest payments are to be paid monthly. The term of the line of credit is 12 months from the date of closing. It is anticipated that the annual savings from the new line of credit over the existing lines of credit will be \$3,550.

NOW THE COMMISSION, upon consideration of the Application and having been advised by its Staff, is of the opinion and finds that approval of the Application will not be detrimental to the public interest.

Accordingly, IT IS ORDERED THAT:

(1) The Applicant is hereby authorized to issue up to \$2 million in long-term debt in the form of a first mortgage note to Fidelity Bank, under the terms and conditions and for the purposes set forth in the Application.

(2) The Applicant shall submit a Report of Action within thirty (30) days after the issuance of the long-term debt pursuant to Ordering Paragraph (1), to include the following:

- (a) the issuance date of the first mortgage note and the net proceeds to the Applicant;
- (b) the list of any signed agreements not previously provided which were executed for the purpose of issuing the long-term debt pursuant to Ordering Paragraph (1);
- (c) the initial interest rate term selected and the date of the next change of the interest rate index; and
- (d) a schedule of the balance of all unamortized issuance expenses on the old first note.

(3) The Applicant shall file a final Report of Action on or before September 30, 2013, that includes a detailed account of all the actual expenses and fees paid to date for the new first mortgage note, with an explanation of any variances from the estimated expenses contained in the Financing Summary attached to the Application.

(4) Applicant is hereby authorized to incur indebtedness through a \$1 million line of credit with Fidelity Bank, under the terms and conditions and for the purposes set forth in the Application.

(5) Applicant shall file with the Commission a report of action on or before December 31, 2013, reporting on its short-term debt activities under the line of credit to include a monthly schedule of daily short-term borrowings, the average monthly balance, the average monthly interest rate, and the monthly maximum amount of short-term debt outstanding.

(6) Approval of the Application shall have no implications for ratemaking purposes.

(7) This matter shall be continued, subject to the continuing review, audit, and appropriate directive of the Commission.

¹ Va. Code §§ 56-55 *et seq.*

**CASE NO. PUE-2012-00116
DECEMBER 21, 2012**

APPLICATION OF
WASHINGTON GAS LIGHT COMPANY

For authority to revise service agreements

ORDER GRANTING APPROVAL

On October 5, 2012, Washington Gas Light Company ("WGL" or "Applicant") filed a complete application ("Application") with the State Corporation Commission ("Commission") requesting authority to revise service agreements ("Proposed Agreements") between WGL and its affiliates, Washington Gas Energy Services, Inc. ("WGEServices"), and Washington Gas Energy Systems, Inc. ("WGESystems") (collectively, the "Affiliates"), pursuant to Chapter 4 of Title 56 ("Affiliates Act") of the Code of Virginia ("Code").¹ By order dated November 26, 2012, the Commission extended the time for review of the Application through January 3, 2013. On December 3, 2012, WGL filed a letter requesting the Commission to expedite completion of its review of the Application prior to the end of December 2012 in order for it to meet the January 1, 2013 effective date of the health and welfare plans.

WGL is a regulated public utility headquartered in Washington, D.C., which provides natural gas distribution service to more than one million residential, commercial and industrial customers, including service to approximately 495,000 customers in Virginia.

WGEServices is a retail energy marketer that provides natural gas and electric service to residential, commercial, and industrial customers in Virginia, Maryland, Delaware, Pennsylvania, and the District. WGESystems' principal business is upgrading the mechanical, electrical, water, and energy-related systems of large governmental and commercial facilities using both traditional and alternative energy technologies. WGESystems also provides general contractor and project management services on behalf of WGL for energy management projects under WGL's Area-Wide Contract ("AWC") with the federal government's General Services Administration agency.

WGL and the Affiliates are subsidiaries of WGL Holdings, Inc., and are considered affiliated interests under § 56-76 of the Code. As such, WGL is required to obtain prior approval from the Commission pursuant to the Affiliates Act for any agreement or arrangement between it and the Affiliates for the provision of services, the exchange of property, rights, or things, or the purchase or sale of treasury bonds or capital stock.

WGL currently has separate service agreements ("Current Agreements") with WGEServices² and WGESystems.³ Through the Current Agreements, WGL provides the Affiliates with support services such as accounting, legal, financial, and management. In WGL's most recent rate case, Case No. PUE-2010-00139 ("Rate Case"),⁴ the Commission Staff ("Staff") expressed certain concerns regarding WGL's service agreements with its affiliates, including the agreements with WGEServices and WGESystems. Staff recommended that WGL file for new Affiliates Act approval of seven affiliate agreements, including the two in the instant Application. This recommendation was included in the settlement that was accepted by the Commission in its PUE-2010-00139 Order.

Under the Proposed Agreements, WGL will provide each Affiliate with the following types of services: Accounting and Tax; Financial Report Preparation; Office of General Counsel; Strategy and Corporate Development; Sustainability; Internal Audit; Investor Relations; Finance; Corporate Relations; Executive Officers; Retained Management of Outsourced Departments; Payroll; Information Technology; Cash Receipts/Cash Disbursements; and Human Resources. WGL also will provide WGESystems with Design Build services.

The Proposed Agreements, while similar to the Current Agreements, contain several revisions. First, the Proposed Agreements were modified to address Staff's concerns discussed in the Rate Case. These concerns consisted of the need to: (1) update the current legal names of the parties in the agreements; (2) include a sunset provision;⁵ (3) remove the "Miscellaneous Services" provision; (4) remove the provision permitting the use of affiliated third party service providers; (5) remove the provision allowing the transfer of equipment or goods to or from WGL; and (6) incorporate the Commission's asymmetric pricing policy.⁶ WGL also revised the "Descriptions of Services" in the Proposed Agreements to make them consistent with WGL's Cost Allocation Manual. Finally, the "Human Resources" description has been modified to reflect WGEServices' and WGESystems' proposed participation in some health and welfare plans sponsored by WGL.

¹ Va. Code § 56-76 *et seq.*

² *Application of Washington Gas Light Company, For authority to execute service agreements with affiliates*, Case No. PUA-1988-00021, 1988 S.C.C. Ann. Rept. 196, Order Granting Authority (Aug. 9, 1988). In this case, WGL was granted authority to enter into a services agreement with Washington Resources Group, Inc., which changed its name to Washington Gas Energy Services, Inc., in 1996 when it began its energy marketing function.

³ *Application of Washington Gas Light Company, For approval to enter into service agreements with selected subsidiaries*, Case No. PUA-1997-00019, 1998 S.C.C. Ann. Rept. 151, Order Granting Approval (May 14, 1998).

⁴ *Application of Washington Gas Light Company, For a general increase in rates and charges and to revise its terms and conditions for gas service*, Case No. PUE-2010-00139, Doc. Cont. Cen. No. 120710015, Order (July 2, 2012); Doc. Cont. Cen. No. 120730099, Order (July 24, 2012) ("PUE-2010-00139 Order").

⁵ The Proposed Agreement between WGL and WGEServices has a five-year term while the Proposed Agreement between WGL and WGESystems will terminate on March 20, 2016, concurrent with the expiration of WGL's AWC with the federal government.

⁶ All services provided by WGL to the Affiliate will be charged at cost. Such costs include any direct, indirect, and overhead costs. The Applicant states that this pricing methodology represents applicable market rates.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

NOW THE COMMISSION, upon consideration of the Application and the representations of the Applicant, including its December 19, 2012 comments, the applicable statutes, and having been advised by its Staff, is of the opinion and finds that the Proposed Agreements are in the public interest and should be approved subject to the following requirements.

First, we will limit the duration of our approval. Approval of the Proposed Agreement with WGEServices will expire five (5) years from the date of the entry of the Commission's Order Granting Approval. Our approval of the Proposed Agreement with WGESystems will expire on March 20, 2016. If WGL wishes to continue the Proposed Agreements after our initial approval ends, further approval will be required.

Second, only the services specifically identified in the Proposed Agreements are approved. Any additional services will require separate approval.

Third, WGL may only engage non-affiliated third party service providers when providing service under the Proposed Agreements. Any use of affiliated third party providers will require separate approval.

Fourth, our approval does not include the transfer of goods or equipment between WGL and the Affiliates. Such transfers will require separate approval.

Fifth, we will require WGL to maintain records to demonstrate that the services provided by WGL to the Affiliates are cost-beneficial to Virginia ratepayers. Furthermore, for services where a market may exist, WGL should investigate whether alternative service providers are available and, if they exist, WGL should compare the market price to WGL's costs and charge the Affiliates the higher of cost or market. WGL will bear the burden, in any rate proceeding, of demonstrating that the services provided to the Affiliates under the Proposed Agreements were priced at the higher of cost or market where a market exists.

Sixth, we find that the authority granted in this case will have no ratemaking implications. In particular, our approval does not guarantee the recovery of any costs directly or indirectly related to the Proposed Agreements.

Seventh, WGL will file an executed copy of the Proposed Agreements within ninety (90) days of their execution.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to § 56-77 of the Code, WGL hereby is granted approval to enter into the Proposed Agreement, consistent with the findings set out above and effective as of the date of the entry of this Order Granting Approval. Within ninety (90) days after the date of this Order, WGL shall file with the Commission an executed copy of the Proposed Agreements.

(2) The approval granted herein is limited to five years from the date of the entry of the Order Granting Approval in this case for the Proposed Agreement between WGL and WGEServices. Approval of the Proposed Agreement between WGL and WGESystems shall extend from the date of the entry of the Order Granting Approval in this case through March 20, 2016. Should WGL wish to continue the Proposed Agreements beyond that date, further Commission approval shall be required.

(3) The approval granted herein is limited to the services specifically identified in the Proposed Agreements. If WGL wishes to add a new service category, separate Commission approval shall be required.

(4) The approval granted herein does not permit WGL to provide services to the Affiliates through the engagement of affiliated third parties. Should WGL wish to make use of its affiliates' expertise, separate Commission approval shall be required.

(5) The approval granted herein does not permit WGL to transfer goods or equipment between itself and the Affiliates. Should WGL and its Affiliates wish to make such transfers, separate Commission approval shall be required.

(6) WGL shall be required to maintain records demonstrating that the services provided to the Affiliates are cost-beneficial to Virginia ratepayers. For any services provided by WGL where a market may exist, WGL shall investigate whether alternative service providers are available and, if they exist, WGL shall compare the market price to WGL's costs and charge the Affiliates the higher of cost or market. WGL will bear the burden, in any rate proceeding, of demonstrating that the services provided to the Affiliates under the Proposed Agreements were priced at the higher of cost or market where a market exists.

(7) The approval granted in this case shall have no ratemaking implications. In particular, our approval does not guarantee the recovery of any costs directly or indirectly related to the Proposed Agreements.

(8) Commission approval shall be required for any changes in terms and conditions of the Proposed Agreements, including changes in allocation methodologies and successors and assigns.

(9) The approval granted herein shall not preclude the Commission from exercising its authority under the provisions of § 56-78 or § 56-80 of the Code hereafter.

(10) The Commission reserves the right to examine the books and records of any affiliate in connection with the approval granted herein whether or not such affiliate is regulated by this Commission.

(11) WGL shall include the transactions associated with the Proposed Agreements approved herein in its Annual Report of Affiliate Transactions ("ARAT") submitted to the Commission's Director of the Division of Utility Accounting and Finance ("UAF Director") on May 1 of each year, subject to administrative extension by the UAF Director.

(12) In the event that WGL's annual informational filings or expedited or general rate case filings are not based on a calendar year, then WGL shall include the affiliate information contained in its ARAT for the test period in such filings.

(13) There appearing nothing further to be done, this case shall be dismissed from the Commission's docket of active cases, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. PUE-2012-00117
NOVEMBER 16, 2012**

APPLICATION OF
VIRIDIAN ENERGY, PA LLC

For a license to conduct business as a competitive service provider for natural gas

ORDER GRANTING LICENSE

On October 2, 2012, Viridian Energy, PA LLC ("Viridian Energy" or "Company") filed an application with the State Corporation Commission ("Commission") for a license to act as a competitive service provider ("CSP") for natural gas service ("Application") pursuant to the Commission's Rules Governing Retail Access to Competitive Energy Services, 20 VAC 5-312-10 *et seq.* ("Retail Access Rules"). The Company's application seeks authority to serve residential, commercial, and industrial customers in the service territories of Washington Gas Light Company ("WGL") and Columbia Gas of Virginia, Inc. ("Columbia Gas"). Viridian Energy attested that it would abide by all applicable regulations of the Commission as required by 20 VAC 5-312-40 B of the Commission's Retail Access Rules.

On October 15, 2012, the Commission entered an Order for Notice and Comment which, among other things, docketed the case; required Viridian Energy to give notice to WGL and Columbia Gas and other interested persons; provided for the receipt of comments from the public; required the Commission Staff ("Staff") to analyze the reasonableness of the Application and present its findings in a Staff Report; and provided an opportunity for participants to file any reply comments to the Staff Report. The Company filed proof of notice on October 18, 2012.

On October 31, 2012, Columbia Gas filed comments raising concerns about the Company's use of independent sales associates ("Associates") and requested that the Commission determine that Associates qualify as CSPs that are required to be individually licensed.¹ Columbia Gas suggested that under the Retail Access Rules and § 56-235.8 (F) of the Code of Virginia ("Code"), Associates must be licensed by the Commission in order to market or sell competitive energy in Virginia. Columbia Gas also described several defects in Viridian Energy's dispute resolution procedures.

On November 5, 2012, the Staff filed its Report which summarized Viridian Energy's proposal and evaluated its technical fitness and financial condition. The Staff Report stated that the Staff does not believe that Associates are required to be registered as CSPs or aggregators under the Code. The Staff recommended that Viridian Energy be granted a license to conduct business as a CSP of natural gas service in the service territories of WGL and Columbia Gas, provided that Viridian Energy furnishes financial security in the amount of \$25,000, and subject to any applicable legal limitations on retail access existing in the Code or Commission regulation.

On November 9, 2012, the Commission received a response to the Staff Report from Viridian Energy and reply comments from Columbia Gas. The Company supported Staff's recommendations and agreed to provide \$25,000 in financial security as a prerequisite to commencing business in Virginia.² Viridian Energy also provided comments refuting Columbia Gas's initial comments related to individual Associate licensure and defective dispute resolution procedure.³ Columbia Gas' reply comments reiterated its request for the Commission to determine that individual Associates must register as CSPs and that Viridian Energy is responsible for the actions of Associates.⁴

NOW UPON CONSIDERATION of the Application, participant comments, the Staff Report, responses to the Staff Report, and applicable law and our Retail Access Rules, the Commission finds that Viridian Energy's Application for a license to conduct business as a CSP in the service territories of WGL and Columbia Gas should be granted, subject to the conditions set forth below, and that this case should be continued to accommodate the consideration of any subsequent amendments or modifications to the license granted herein. Viridian Energy will be required to provide financial security in the amount of \$25,000 in the form of a performance bond, and Viridian Energy will maintain such financial security in good standing as a condition of renewal.

As discussed herein, Columbia Gas claims that Associates are required under the Code to be individually licensed as CSPs. The Code requires that any person "engaged in the business of selling natural gas" to residential and small commercial customers first obtain a license from the Commission. The Code does not define what activities are encompassed in the business of selling natural gas, but in the case of Viridian Energy, Associates are strictly limited to the referral of potential customers already known to the Associate. The Viridian Energy policies and procedures explicitly state that "Associates may not enroll on behalf of the Customer. The Customer must enroll personally. Only the accountholder of record is authorized to enroll the Customer account. Only the Customer can accept Viridian Energy's Terms and Conditions."⁵ Similarly, Viridian Energy produces all marketing materials, and Associates are barred from using unapproved materials to communicate with potential customers or cold-calling potential customers. Therefore, while Associates are compensated for recommending customers to Viridian Energy, there will be no sale of natural gas until Viridian Energy employees contract

¹ Columbia Gas Comments at 2.

² Viridian Energy Response to Staff Report at 1.

³ *Ibid.*, at 2.

⁴ Columbia Gas Reply Comments at 1.

⁵ Viridian Energy Response to Staff Report, Attachment A at 13.

with the customer and enroll the customer's account. Indeed, our Retail Access Rules state that a CSP is a person that "sells or offers to sell" competitive energy service within the Commonwealth. 20 VAC 5-312-10. The Associates cannot contract with the customer on Viridian Energy's behalf. The Associates cannot sell, or offer to sell, natural gas to customers. Consequently, we will not require that individual Associates be licensed as CSPs or aggregators in the Commonwealth of Virginia.

Accordingly, IT IS ORDERED THAT:

(1) Viridian Energy, PA LLC hereby is granted License No. G-33 to conduct business as a competitive service provider of natural gas service to residential, commercial, and industrial customers in the service territories of Washington Gas Light and Columbia Gas of Virginia, subject to Viridian Energy providing a \$25,000 in financial security in the form of a performance bond. This license to act as a competitive service provider for natural gas service is granted subject to the provisions of the Retail Access Rules, this Order, and other applicable law.

(2) This license is not valid authority for the provision of any product or service not identified within the license itself.

(3) This case shall remain open for consideration of any subsequent amendments or modifications to this license.

**CASE NO. PUE-2012-00119
NOVEMBER 29, 2012**

APPLICATION OF
KENTUCKY UTILITIES COMPANY d/b/a OLD DOMINION POWER COMPANY

Under Chapter 3 of Title 56 for extension of authority to use financial derivative instruments and to engage in affiliate transactions under Chapter 4 of Title 56 of the Code of Virginia

ORDER GRANTING APPROVAL

On October 9, 2012, Kentucky Utilities Company d/b/a Old Dominion Power Company ("KU/ODP") filed an application ("Application") with the State Corporation Commission ("Commission") for authority to use financial derivative instruments ("Derivative(s)") pursuant to Chapter 3 of Title 56 of the Code of Virginia ("Code"),¹ and for authority to engage in affiliate transactions pursuant to Chapter 4 of Title 56 of the Code ("Affiliates Act")² from time to time for the period extending from January 1, 2013, through December 31, 2017. KU/ODP paid the requisite fee of \$250.

KU/ODP seeks to extend the same type of authority it presently has through December 31, 2012, which was authorized in Case No. PUE-2009-00103.³ The authority granted in the 2009 Order limited the annualized net payment obligation from Derivative transactions to \$20 million and the aggregate notional amount of Derivative transactions to \$400 million. In its Application, KU/ODP seeks to increase the annualized net payment obligation to \$25 million and the aggregate notional amount to \$500 million.

KU/ODP represents that it has a significant capital expenditure program planned for the next several years, which will increase the amount of debt outstanding. KU/ODP proposes to use Derivatives to take advantage of market conditions to manage the interest costs of both long-term fixed and variable rate debt. Further, KU/ODP represents that Derivatives can be used to both lower interest costs and diminish risk.

KU/ODP also requests authority to engage in affiliate transactions, either through PPL or a non-regulated PPL affiliate ("PPL affiliate"), in connection with the use of the Derivatives. KU/ODP represents that the advantage of going through PPL or a PPL affiliate is that KU/ODP would not need to negotiate the terms of an agreement independently, and it would be able to take advantage of any master agreements that PPL or the PPL affiliate has or may establish. KU/ODP represents that it would not be charged any costs or expenses by PPL or the PPL affiliate except for those fees charged by the third-party counterparty.

NOW THE COMMISSION, upon consideration of the Application and having been advised by its Staff, is of the opinion and finds that the Application is in the public interest and should be approved subject to certain limitations and requirements as described below. We are concerned with KU/ODP's request to engage in Derivative transactions through unnamed "other" PPL affiliates. The Commission has a long-standing practice of not approving open-ended provisions in affiliate agreements.⁴ KU/ODP represents that it expects PPL to be the only affiliated entity through which a Derivative transaction would be completed. Therefore, we find that should KU/ODP determine it is economically advantageous to enter into a Derivative transaction through an affiliate, KU/ODP should only engage in Derivative transactions through PPL. If KU/ODP wishes to engage in Derivative transactions through another PPL affiliate, separate Commission approval will be required.

¹ Va. Code § 56-55 *et seq.*

² Va. Code § 56-76 *et seq.*

³ *Application of Kentucky Utilities Company d/b/a Old Dominion Power, For authority under Chapter 3 of Title 56 of the Code of Virginia to use financial derivative instruments*, Case No. PUE-2009-00103, 2009 S.C.C. Ann. Rept. 54 1, Order Granting Authority (Oct. 15, 2009) ("2009 Order").

⁴ *See, e.g., Application of Appalachian Power Company and American Electric Power Service Corporation, For authority to enter into an affiliate transaction under Chapter 4 of Title 56 of the Code of Virginia*, Case No. PUE-2007-00055, 2007 S.C.C. Ann. Rept. 452, Order Granting Authority (Oct. 18, 2007).

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Accordingly, IT IS ORDERED THAT:

- (1) KU/ODP hereby is authorized to enter into the Derivative transactions, as described in the Application and subject to certain limitations and requirements as set forth below, from January 1, 2013, through December 31, 2017.
- (2) The Affiliates Act approval granted herein is limited to KU/ODP Derivative transactions through PPL, provided that such transactions with PPL are on at least as favorable terms as KU/ODP can obtain on its own. Should KU/ODP wish to engage in Derivative transactions through another PPL affiliate, separate Commission approval shall be required.
- (3) KU/ODP shall not enter into any Derivative transaction, under the authority granted in this or any other Commission order, that at the time such transaction is entered into will cause KU/ODP's estimated net payment obligation to exceed \$25 million.
- (4) KU/ODP shall strive to maintain net payment obligations below \$25 million. However, if KU/ODP's annualized net payment obligation should at any time exceed \$30 million, KU/ODP shall file with the Division of Utility Accounting and Finance a report on the actions taken, if any, to reduce its net payment obligation to an amount not to exceed \$25 million.
- (5) The aggregate notional amount of all Derivatives currently authorized under this and all other Commission orders shall not exceed \$500 million outstanding at any one time through the calendar year ended 2017.
- (6) KU/ODP shall not enter into any Derivative transaction involving counterparties having credit ratings of less than investment grade.
- (7) KU/ODP shall file a Report of Action within sixty (60) days after the end of each calendar quarter through December 31, 2017, in which KU/ODP had any outstanding transactions involving Derivatives, with such report to reflect the number of such transactions KU/ODP is or has been a party to, the total amount of money KU/ODP paid to all counterparties, and the total amount of money KU/ODP received, or is to receive, from all counterparties under the terms of such transactions.
- (8) KU/ODP's final report, due March 30, 2018, shall also include a schedule that indicates the remaining term of each outstanding Derivatives agreement along with the information detailed in Ordering Paragraph (7) above.
- (9) The approval granted in this case shall have no ratemaking implications. Specifically, it shall not guarantee the recovery of any costs directly or indirectly related to the Derivative transactions.
- (10) Separate Affiliates Act approval shall be required for any changes in the terms and conditions of the Derivative transactions, including changes in successors and assigns.
- (11) The authority granted herein shall not preclude the Commission from exercising the provisions of § 56-78 and § 56-80 of the Code hereafter.
- (12) The Commission reserves the right to examine the books and records of any affiliate, whether or not such affiliate is regulated by the Commission, in connection with the authority granted herein.
- (13) The Commission may revoke or modify the authority granted herein at any point in the future if it believes such revocation and/or modification is in the public interest.
- (14) This matter shall be continued, subject to the continuing review, audit, and appropriate directive of the Commission.

**CASE NO. PUE-2012-00120
OCTOBER 19, 2012**

APPLICATION OF
PRINCE GEORGE ELECTRIC COOPERATIVE

For authority to incur additional long-term debt

ORDER GRANTING AUTHORITY

On October 9, 2012, Prince George Electric Cooperative ("PGEC" or "Applicant") filed an application with the State Corporation Commission ("Commission") under Chapter 3 of Title 56 of the Code of Virginia for authority to borrow up to \$8,418,000 in long-term debt from the Federal Financing Bank ("FFB"). The Applicant has paid the requisite fee.

The Applicant represents that \$1,200,000 of the overall amount of long-term debt requested is needed to reimburse PGEC for expenditures on backlogged construction projects during the period of October 2010 through February 2012. The Applicant represents that the remaining amount of long-term debt will be used to finance a portion of PGEC's approved Rural Utilities Service ("RUS") four-year construction plan for the 2012 to 2015 period. The FFB loan will be guaranteed by RUS.

The maximum term of the loan is thirty-four (34) years; however, incremental advances of funds available under the loan may be made up to September 28, 2017. Such subsequent advances would have a correspondingly shorter term to maturity from the time advanced until the loan's final maturity date of December 31, 2046. The interest rate will be determined at the time of the draw, and it will reflect the yield on a comparable maturity United States Treasury bond plus 1/8% per annum.

NOW THE COMMISSION, upon consideration of the application and having been advised by its Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest.

Accordingly, IT IS ORDERED THAT:

(1) The Applicant is hereby authorized to borrow up to \$8,418,000 in long-term debt from the FFB all in the manner, under the terms and conditions, and for the purposes set forth in the application.

(2) Within thirty (30) days of the date of any advance of funds from FFB, the Applicant shall file with the Commission's Division of Utility Accounting and Finance a report, which shall include the date of the drawdown, the amount of the advance, the interest rate selected, the interest rate maturity, and the amount of remaining authority available to be borrowed.

(3) Approval of this application shall have no implications for ratemaking purposes.

(4) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2012-00121
DECEMBER 11, 2012**

APPLICATION OF
VIRGINIA-AMERICAN WATER COMPANY
and
AMERICAN WATER CAPITAL CORP.

To continue participation in a financial services agreement with an affiliate

ORDER GRANTING AUTHORITY

On October 15, 2012, Virginia-American Water Company ("Virginia-American") and American Water Capital Corp. ("AWCC") (collectively, "Applicants") filed with the State Corporation Commission ("Commission") an application to continue participation in a Financial Services Agreement ("FSA") under Chapter 4¹ of Title 56 of the Code of Virginia ("Affiliates Act") for a two-year period beginning January 1, 2013, and ending December 31, 2014.²

Financial services supplied under the FSA include cash management through nightly "cash sweeps" and investment of excess cash. In addition, Virginia-American will borrow short-term funds from AWCC under the FSA. Short-term funds will be used to finance the ongoing construction plans, provide working capital, repay maturing long-term debt, pay dividends, and for other proper corporate purposes. The interest rate applicable to short-term borrowings from AWCC or short-term investment with AWCC will be the effective cost of funds received by AWCC on investments in the capital markets. If short-term funds are available to Virginia-American from another source when needed and on terms Virginia-American finds preferable, it can do so without cost or penalty. Costs incurred by AWCC in connection with its bank lines of credit (such as facility fees) and short-term public borrowings will be divided among the participants in proportion to the maximum amount of principal each participant requests be made available during the year. Long-term funds can also be borrowed from AWCC under the FSA; however, borrowing long-term debt under the FSA requires separate Commission approval under Chapter 3 of Title 56 of the Code of Virginia.³

According to the Applicants, continued participation in the FSA will allow Virginia-American to borrow at lower rates and receive higher investment rates than it could obtain on a stand-alone basis. The Applicants represent that interest savings under the FSA have benefited ratepayers over the past several years.

NOW THE COMMISSION, upon consideration of the application and having been advised by its Staff, is of the opinion and finds that Applicant's continued participation in the FSA is in the public interest.

Accordingly, IT IS ORDERED THAT:

(1) The Applicants are hereby authorized to participate under the FSA from January 1, 2013, through December 31, 2014, under the terms and conditions and for the purposes set forth in the application.

(2) Separate Affiliates Act approval shall be required for any changes in the terms and conditions of the FSA.

(3) The Applicants shall file a report of action on a quarterly basis within sixty (60) days of the end of each calendar quarter during the authorization period that shall include a monthly schedule of the short-term borrowing and lending activity during the previous calendar quarter. The

¹ § 56-76 *et seq.*

² Virginia-American was most recently authorized to participate in the FSA in 2011. *See Application of Virginia-American Water Company and American Water Capital Corp., To continue participation in a financial services agreement with an affiliate*, Case No. PUE-2011-00118, 2011 S.C.C. Ann. Rept. 552, Order Granting Authority (Dec. 21, 2011). Ordering Paragraph (9) reads, "Should Applicants seek to extend the authority for Virginia-American to participate in the FSA beyond December 31, 2012, Applicants shall file an application requesting such authority no later than November 1, 2012." *Id.* at 553.

³ § 56-55 *et seq.*

schedule shall include: a monthly schedule of the maximum daily balance borrowed or invested by Virginia-American; the average daily balance for the month and the average rate of interest for the month; a simplified balance sheet as of the end of the quarter containing balances for short-term debt, long-term debt, preferred stock, and common equity; and a monthly schedule of the allocation of all line of credit fees.

(4) The authority granted herein shall have no implications for ratemaking purposes. Specifically, it shall not guarantee the recovery of any costs directly or indirectly related to the FSA.

(5) Approval of the application shall not preclude the Commission from applying the provisions of § 56-78 and § 56-80 of the Code of Virginia hereafter.

(6) The Commission reserves the authority to examine the books and records of any affiliate in connection with the authority granted herein, whether or not the Commission regulates such affiliate.

(7) Virginia-American shall file for separate authority under Chapter 3 of Title 56 of the Code to have aggregate short-term borrowings in excess of 12% of total capitalization.

(8) Should the Applicants seek to issue long-term debt under the FSA, Applicants shall file for separate authority under Chapter 3 of Title 56 of the Code to issue debt with a maturity in excess of twelve months.

(9) Should the Applicants seek to extend the authority for Virginia-American to participate in the FSA beyond December 31, 2014, the Applicants shall file an application requesting such authority no later than October 31, 2014.

(9) This matter is continued.

**CASE NO. PUE-2012-00123
DECEMBER 3, 2012**

APPLICATION OF
ATMOS ENERGY CORPORATION
and
ATMOS ENERGY HOLDINGS, INC.

For authority to incur short-term debt and to lend and borrow short-term funds to and with its affiliate

ORDER GRANTING AUTHORITY

On October 16, 2012, Atmos Energy Corporation ("Atmos" or "Company") and Atmos Energy Holdings, Inc. ("AEH") (collectively, "Applicants"), filed an application with the State Corporation Commission ("Commission") under Chapters 3¹ and 4² of Title 56 of the Code of Virginia ("Code") requesting authority to incur short-term indebtedness up to a maximum of \$1.5 billion between January 1, 2013, and December 31, 2013. The amount of short-term debt requested in the application is in excess of 12% of total capitalization as defined in § 56-65.1 of the Code and thus requires prior Commission approval. Atmos also requests authority to lend and borrow short-term funds to and from its affiliate in an amount not to exceed \$500 million at any one time during 2013. Applicants paid the requisite fee of \$250.

Atmos proposes to incur short-term indebtedness by making drawdowns under its existing credit facility (or new lines of credit in the process of being negotiated), through intercompany borrowings or through the use of its commercial paper program. Currently, Atmos has a \$750 million credit facility in place that has an accordion feature that could allow borrowings up to \$1 billion ("Credit Facility"). According to the application, borrowings under Atmos's Credit Facility will bear interest at floating rates based on the type of loan Atmos elects, either as a Base Rate Loan or a Eurodollar Loan. Under Atmos's commercial paper program, the interest rate is set at the time of the advance and is based on capital market conditions at that time. Atmos states that the funds will be used to repay all or a portion of the Company's outstanding short-term debt; to acquire and/or construct additional properties or facilities as well as improvements to the Company's existing plant; and for other general corporate purposes.

Atmos also proposes to continue to borrow from and lend to AEH, its wholly owned subsidiary, through a \$500 million short-term cash credit facility ("Affiliate Facility") for the period January 1, 2013, through December 31, 2013. The Affiliate Facility also will supply cash working capital needs and financing of capital construction projects for affiliates of AEH, including Atmos Energy Marketing ("AEM"). The interest rate on AEH loans from Atmos under the Affiliate Facility will be based on the higher of the one-month London Interbank Offered Rate plus 300 basis points or the AEM borrowing rate from its committed secured revolving letter of credit facility plus 75 basis points. Loans from AEH to Atmos will be priced at the lesser of the Atmos borrowing rate as a Eurodollar loan or the rate on its commercial paper, if there is any commercial paper outstanding at the time.

NOW THE COMMISSION, upon consideration of this matter and having been advised by its Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest.

Accordingly, IT IS ORDERED THAT:

(1) Atmos is hereby authorized to incur short-term indebtedness up to \$1.5 billion at any one time between January 1, 2013, and December 31, 2013, under the terms and conditions and for the purposes set forth in the application.

¹ Va. Code § 56-55 *et seq.*

² Va. Code § 56-76 *et seq.*

(2) Atmos is hereby authorized to borrow from and lend to AEH short-term funds up to an aggregate amount of \$500 million between January 1, 2013, and December 31, 2013, under the terms and conditions and for the purposes set forth in the application.

(3) Applicants shall file with the Commission quarterly reports of action no later than May 16, 2013, August 15, 2013, and November 15, 2013, reporting on its short-term debt activities during the previous calendar quarter. Such reports shall include a monthly schedule of daily short-term borrowings of Atmos separate from AEH borrowings, the average monthly balance, the average monthly interest rate, and the monthly maximum amount of short-term debt outstanding.

(4) Applicants shall submit to the Commission a final report of action on or before February 28, 2014, providing the information required in Ordering Paragraph (3) for the fourth calendar quarter of 2013. The final report of action also shall include a summary schedule of fees paid by Atmos in 2013 for its Credit Facility in effect during 2013.

(5) Applicants shall provide to the Division of Utility Accounting and Finance the quarterly financial reports for AEH that are provided to its lenders at the same time such reports are provided to the lenders.

(6) Separate Affiliates Act approval shall be required for any changes in the terms and conditions of the Affiliate Facility, including changes in allocation methodologies and successors and assigns.

(7) The authority granted herein shall not preclude the Commission from applying to Applicants the provisions of §§ 56-78 and 56-80 of the Code hereafter.

(8) The Commission reserves the right to examine the books and records of any affiliate of Applicants in connection with the authority granted herein, whether or not such affiliate is regulated by this Commission.

(9) The approval granted in this case shall have no ratemaking implications. Specifically, it shall not guarantee the recovery of any costs directly or indirectly related to the Affiliate Facility.

(10) Should Applicants wish to obtain authority beyond calendar year 2013, Atmos shall file an application requesting such authority no later than November 1, 2013.

(11) This matter shall remain under the continued review, audit, and appropriate directive of the Commission.

**CASE NO. PUE-2012-00125
DECEMBER 3, 2012**

APPLICATION OF
APPALACHIAN POWER COMPANY

For authority to issue promissory notes

ORDER GRANTING AUTHORITY

On October 23, 2012, Appalachian Power Company ("APCo" or "Applicant") filed an application with the State Corporation Commission ("Commission") under Chapter 3 of Title 56 of the Code of Virginia for authority to issue promissory notes. In conjunction, the Applicant requests authority to enter into one or more interest rate hedging arrangements to protect against future interest rate movements in connection with the long-term debt securities to be issued. Furthermore, APCo requests authority to utilize interest rate management techniques by entering into various Interest Rate Management Agreements ("IRMAs"). The Applicant has paid the requisite fee of \$250.

APCo proposes to issue secured or unsecured promissory notes ("Notes") up to the aggregate principal amount of \$350 million from time to time through December 31, 2013. The Notes may be issued in the form of First Mortgage Bonds, Senior Notes, Senior or Subordinated Debentures, Trust Preferred Securities, or other unsecured promissory notes. Within certain limitations, APCo requests flexibility to select specific terms and conditions for the Notes based on market conditions at the time of issuance. The Notes will have maturities of not less than nine months and not more than sixty years. The interest rate may be fixed or variable. APCo intends to sell the Notes (i) by competitive bidding; (ii) through negotiation with underwriters or agents; or (iii) by direct placement with a commercial bank or other institutional investor. Underwriting costs for the Notes are estimated to be 1.0% of the principal amount issued with other issuance costs estimated to amount to approximately \$648,616. The proceeds from the issuance of the Notes may be used to redeem, directly or indirectly, long-term debt; to repay short-term debt; to repay APCo's treasury for expenditures incurred in connections with its construction program and for other proper corporate purposes. A primary use of the proceeds is for the refunding of the \$275 million principal amount of Floating Rate Notes, Series D, due August 16, 2013.

If used, Trust Preferred Securities would be issued by financing entities that APCo would organize and own exclusively for the purpose of facilitating the issuance of tax advantaged preferred securities. The financing entities would issue Trust Preferred Securities to third parties. APCo requests approval of all necessary authorities to enable the issuance of Trust Preferred Securities.

In conjunction with the issuance of the Notes, the Applicant requests authority, through December 31, 2013, to enter into one or more interest rate hedging arrangements to protect against future interest rate movements in connection with the issuance of the Notes. Such hedging arrangements may include, but not be limited to, treasury lock agreements, forward-starting interest rate swaps, treasury put options, or interest rate collar agreements ("Hedge Agreements"). All Hedge Agreements will correspond to the underlying amount of one or more of the Notes. Consequently, the cumulative notional amount of the Hedge Agreements cannot exceed \$350 million for underlying Notes.

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Finally, APCo requests a continuation of the authority, initially granted in Case No. PUE-2004-00123 and last granted in Case No. PUE-2011-00108, to utilize interest rate management techniques and enter into IRMAs through December 31, 2013. The IRMAs will consist of interest rate swaps, caps, collars, floors, options, hedging forwards or futures, or any similar products designed and used to manage and minimize interest costs. IRMA transactions will be for a fixed period and based on a stated principal amount that corresponds to an underlying fixed or variable rate obligation of APCo, whether existing or anticipated. APCo will only enter into IRMAs with counterparties that are highly rated financial institutions. The aggregate notional amount of the IRMAs outstanding will not exceed 25% of APCo's existing debt obligations, inclusive of pollution control revenue bonds.

NOW THE COMMISSION, upon consideration of the application and having been advised by its Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest.

Accordingly, IT IS ORDERED THAT:

(1) The Applicant is hereby authorized under Chapter 3 and, to the extent necessary for issuance of any Trust Preferred Securities, Chapter 4 of Title 56 of the Code of Virginia to issue and sell up to \$350 million of Notes from time to time through December 31, 2013, for the purposes and under the terms and conditions set forth in the application.

(2) The Applicant is authorized to enter into Hedge Agreements for the purposes set forth in its application and to the extent that the aggregate notional amount outstanding does not exceed \$350 million of underlying Notes.

(3) The Applicant is authorized to enter into IRMAs for the purposes set forth in its application and to the extent that the aggregate notional amount outstanding does not exceed 25% of Applicant's total outstanding debt obligations during the period January 1, 2013, through December 31, 2013.

(4) The Applicant shall not enter into any IRMA or Hedge Agreement transactions involving counterparties having credit ratings of less than investment grade.

(5) The Applicant shall submit to the Clerk of the Commission a preliminary Report of Action within ten (10) days after the issuance of any security pursuant to this Order to include the type of security, the issuance date, the amount of the issue, the interest rate or yield, the maturity date, and any securities retired with the proceeds.

(6) The Applicant shall file with the Clerk of the Commission, in this docket, a preliminary Report of Action within ten (10) days after it enters into any Hedge Agreement or IRMA pursuant to Ordering Paragraphs (2) and (3) to include: the beginning and, if established, ending dates of the agreement, the notional amount, the underlying securities on which the agreement is based, an explanation of the general terms of the agreement that explain how the payment obligation is determined and when it is payable, and a calculation of the cumulative notional amount of all outstanding IRMAs as a percent of total debt outstanding.

(7) Within 60 days after the end of each calendar quarter in which any security is issued pursuant to this Order, the Applicant shall file with the Clerk of the Commission a more detailed Report of Action to include: the type of security issued, the date and amount of each series, the interest rate or yield, the maturity date, net proceeds to the Applicant, an itemized list of expenses to date associated with each issue, a description of how the proceeds were used, an analysis demonstrating the cost savings from Notes used to refund existing debt, a list of all Hedging Agreements and IRMAs associated the debt issued, and a balance sheet reflecting the actions taken.

(8) The Applicant's Final Report of Action shall be due on or before March 30, 2014, to include the information required in Ordering Paragraph (7) in a cumulative summary of actions taken during the period authorized.

(9) The Applicant shall submit a Report to the Commission's Division of Utility Accounting and Finance should its exercise of the authority granted herein contribute to a decline in APCo's bond rating below investment grade. Such report shall be submitted within thirty (30) days of a decline below an investment grade bond rating from any rating agency and the report shall outline APCo's plans and actions to restore an investment grade bond rating.

(10) Approval of the application shall have no implications for ratemaking purposes.

(11) The authority granted herein shall not preclude the Commission from applying the provisions of § 56-78 and § 56-80 of the Code hereafter.

(12) The Commission reserves the right to examine the books and records of any affiliate, whether or not such affiliate is regulated by this Commission, in connection with the authority granted herein, pursuant to § 56-79 of the Code of Virginia.

(13) This matter shall remain under the continued review, audit, and appropriate action of this Commission.

**CASE NO. PUE-2012-00126
NOVEMBER 16, 2012**

APPLICATION OF
COLUMBIA GAS OF VIRGINIA, INC.

For authority to issue long-term debt and to participate in an intrasystem money pool arrangement with an affiliate

ORDER GRANTING AUTHORITY

On October 24, 2012, Columbia Gas of Virginia, Inc. ("CGV" or "Company") filed an application with the State Corporation Commission ("Commission") under Chapters 3¹ and 4² of Title 56 of the Code of Virginia ("Code") seeking authority to issue long-term debt to an affiliate and to borrow up to \$100 million in short-term debt through participation in an intrasystem money pool arrangement with an affiliate. The amount of short-term debt requested in the application is in excess of twelve percent (12%) of CGV's total capitalization, as defined in § 56-65.1 of the Code. The Company paid the requisite fee of \$250.

CGV proposes to issue up to \$75 million of new promissory notes ("New Notes") to NiSource Finance Corp. ("NFC") between January 1, 2013, and December 31, 2014. The proceeds from the New Notes will be used to fund a portion of its construction program that is projected to be approximately \$173 million during 2012-2014. The interest rate on any New Notes issued to NFC will be determined by the corresponding applicable U.S. Treasury yield effective on the date a New Note is issued, plus the yield spread on corresponding maturities for companies with a credit risk profile equivalent to that of NFC effective on the date a New Note is issued. The term of New Notes would have a maturity of up to thirty (30) years.

In addition, CGV proposes to continue to participate, as a borrower only, in the NiSource System Money Pool ("Money Pool") under the NiSource System Money Pool Agreement for the period January 1, 2013, through December 31, 2014. CGV requests authority to borrow up to \$100 million in short-term debt through the Money Pool. CGV states that the Money Pool proceeds will be used to meet peak short-term cash requirements, including the funding of construction expenditures, gas purchases and gas storage.

NOW THE COMMISSION, upon consideration of the application and having been advised by its Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest.

ACCORDINGLY, IT IS ORDERED THAT:

(1) CGV is hereby authorized to issue and sell up to \$75 million New Notes to NiSource Finance Corp., between January 1, 2013, and December 31, 2014, under the terms and conditions and for the purposes set forth in the application.

(2) CGV is hereby authorized to incur short-term indebtedness through the Money Pool in excess of twelve percent (12%) of total capitalization, provided that such debt does not exceed \$100 million at any one time between January 1, 2013, and December 31, 2014, under the terms and conditions and for the purposes set forth in the application.

(3) CGV shall file annually for 2013 and 2014, with the Clerk of the Commission, quarterly reports of action no later than May 15, August 15, November 15 and February 15 of each year, reporting on its Money Pool activities during the previous calendar quarter. Such reports shall include a monthly schedule of daily short-term borrowings and investment by CGV, the average monthly balance, the average monthly interest rate, and the monthly maximum amount of short-term debt outstanding. The February 15 report shall also include an annual schedule of allocated credit facility fees charged to CGV.

(4) CGV shall submit to the Clerk of the Commission a Final Report of Action on or before February 28, 2015, providing the information required in Ordering Paragraph (3) above for the fourth calendar quarter of 2014.

(5) CGV shall submit a preliminary report of action with the Clerk of the Commission within ten (10) days after the issuance of any New Notes pursuant to Ordering Paragraph (1), to include the issuance date, amount of the issue, the interest rate, the maturity date, a brief explanation of reasons for the term of maturity chosen.

(6) Within sixty (60) days after the end of each calendar quarter in which any New Notes are issued pursuant to Ordering Paragraph (1), CGV shall file with the Clerk of the Commission a detailed report of action with respect to all New Notes issued during the calendar quarter to include:

- (a) The issuance date, amount issued, interest rate, date of maturity, issuance expenses realized to date, net proceeds to CGV; and
- (b) The cumulative principal amount of New Notes issued under the authority granted herein and the amount remaining to be issued.

(7) Commission approval shall be required for any subsequent changes in the terms and conditions of the Money Pool.

(8) The authority granted herein shall not preclude the Commission from applying the provisions of §§ 56-78 and 56-80 of the Code hereafter.

(9) The Commission reserves the right to examine the books and records of any affiliate of CGV in connection with the authority granted herein, whether or not such affiliate is regulated by the Commission.

¹ Va. Code § 56-55 *et seq.*

² Va. Code § 56-76 *et seq.*

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(10) Should CGV wish to obtain authority beyond calendar year 2014, it shall file an application requesting such authority no later than November 1, 2014. Such application shall also include pro forma sources and uses of funds schedules for the next three years; a monthly projection of Money Pool borrowing and lending balances; and documentation supporting the need for the requested short-term borrowing limit, and long-term debt financing activity.

(11) This matter shall remain under the continued review, audit, and appropriate directive of the Commission.

**CASE NO. PUE-2012-00127
NOVEMBER 16, 2012**

APPLICATION OF
SOUTHSIDE ELECTRIC COOPERATIVE

For authority to issue long-term debt

ORDER GRANTING AUTHORITY

On October 25, 2012, Southside Electric Cooperative ("Applicant" or "Southside"), filed an application under Chapter 3 of Title 56 of the Code of Virginia with the State Corporation Commission ("Commission"). In its application, Southside requests authority to incur long-term indebtedness from the United States of America through the Federal Financing Bank ("FFB") in the form of a promissory note to be guaranteed by the Rural Utilities Service ("RUS"). Applicant has paid the requisite filing fee of \$250.

Applicant requests authority to borrow up to \$44,881,000 ("Note") from the FFB. The Note will have a term of 35 years. The interest rate will be fixed based on the interest rate at the time of advance. The proceeds from the loan will be used to retire short-term debt and for the reimbursement of monies Southside expended on its construction projects.

The Note will be secured by a Supplemental Mortgage and Security Agreement made by and between Southside, RUS and Applicant's other secured lender, the National Rural Utilities Cooperative Finance Corporation.

NOW THE COMMISSION, upon consideration of the application and having been advised by Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest.

Accordingly, IT IS ORDERED THAT:

- (1) Applicant is hereby authorized to incur up to \$44,881,000 of RUS guaranteed long-term debt from FFB for the purposes, and under the terms and conditions, as set forth in its application.
- (2) Within thirty (30) days of the date of each advance of funds from FFB, Applicant shall file with the Commission's Division of Utility Accounting and Finance a report of action which shall include the amount of the advance, the interest rate, and the interest rate term.
- (3) The authority granted herein shall have no implications for ratemaking purposes.
- (4) There being nothing further to be done, this matter hereby is dismissed.

**CASE NO. PUE-2012-00135
DECEMBER 3, 2012**

APPLICATION OF
MECKLENBURG ELECTRIC COOPERATIVE

For authority to incur indebtedness

ORDER GRANTING AUTHORITY

On November 13, 2012, Mecklenburg Electric Cooperative ("Mecklenburg" or "Cooperative"), filed an application with the State Corporation Commission ("Commission") under Chapter 3 of Title 56 of the Code of Virginia for authority to borrow up to \$18,931,000 from the Federal Financing Bank ("FFB") with a guarantee from the Rural Utilities Service. Mecklenburg has paid the requisite filing fee of \$250.

The loan will have a term of thirty-five (35) years. The interest rate will be fixed based on the interest rate at the time of each advance taken by the Cooperative. At the time the application was filed, the long-term fixed interest rate was approximately 2.83%. The proceeds from the loan will be used to finance Mecklenburg's 2011-2014, three-year work plan.

NOW THE COMMISSION, upon consideration of the application and having been advised by Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest.

Accordingly, IT IS ORDERED THAT:

- (1) Mecklenburg hereby is authorized to incur up to \$18,931,000 in debt obligations from the FFB, under the terms and conditions and for the purposes stated in its application.
- (2) Within thirty (30) days of the date of any advance of funds from FFB, the Cooperative shall submit to the Commission's Division of Utility Accounting and Finance a report of action, which shall include the amount of the advance, the interest rate, and the interest rate term.
- (3) The authority granted herein shall have no implications for ratemaking purposes.
- (4) There being nothing further to be done, this matter hereby is dismissed.

**CASE NO. PUE-2012-00137
DECEMBER 7, 2012**

APPLICATION OF
VIRGINIA NATURAL GAS, INC.,
AGL RESOURCES INC.,
and
AGL SERVICES COMPANY

For authority to issue short-term debt, long-term debt, and common stock to an affiliate

ORDER GRANTING AUTHORITY

On November 15, 2012, Virginia Natural Gas, Inc. ("VNG"), AGL Resources Inc. ("AGLR"), and AGL Services Company ("AGL Services") (collectively, "Applicants"), filed an application under Chapters 3¹ and 4² of Title 56 of the Code of Virginia ("Code") requesting authority for VNG to participate in an AGLR Utility Money Pool ("Utility Money Pool"), to issue and sell common stock to an affiliate, and to issue long-term debt to an affiliate. The amount of short-term debt proposed in the application exceeds 12% of the total capitalization as defined in § 56-65.1 of the Code. Applicants paid the requisite fee of \$250.

The Applicants request authorization for VNG to: (i) issue short-term debt up to an aggregate balance of \$150,000,000 through participation in the Utility Money Pool administered by AGL Services; (ii) issue long-term debt to AGLR in an amount not to exceed \$250,000,000; and (iii) issue and sell common stock to AGLR in an amount not to exceed \$300,000,000, all through December 31, 2013.

The Applicants note that the requested level of authority to issue long-term debt and common stock in this case is identical to the limits previously authorized in Case Nos. PUE-2011-00123, PUE-2010-00133, PUE-2009-00127, PUE-2008-00110, PUE-2007-00108, PUE-2006-00119, PUE-2005-00104, and PUE-2004-00132, among other cases. Terms of significance will vary with respect to the particular type of debt security issued, as noted in the application.

Applicants' requested level of short-term debt borrowing authority through the Utility Money Pool is identical to the level previously requested and authorized in Case No. PUE-2011-00123. Applicants represent that the requested authority for Utility Money Pool borrowings of up to \$150,000,000 is a maximum and does not reflect VNG's actual short-term borrowing requirements. However, Applicants state the level of short-term borrowing requested will provide the flexibility needed by VNG to finance its operations on a short-term basis until management deems it appropriate to secure permanent, long-term financing, based on capital market conditions and other criteria.

All short-term borrowings will be in accordance with the Utility Money Pool Agreement that remains unchanged from what was originally approved by the Commission's Order Granting Authority in Case No. PUE-2004-00132.³ With respect to the Utility Money Pool, loans to participants will be made in the form of open account advances for periods of less than 12 months. Borrowings will be payable on demand together with all interest accrued thereon. Interest on borrowings will accrue daily at a rate that will be determined based on the source of funds available in the Utility Money Pool.

If Utility Money Pool borrowings in a given month solely consist of surplus funds from participants ("Internal Funds"), the daily interest rate will be equal to the high-grade unsecured 30-day commercial paper rate of major corporations sold through dealers as quoted in *The Wall Street Journal*. If Utility Money Pool borrowings in a given month solely consist of proceeds from bank borrowings or the issuance of commercial paper ("External Funds"), the daily rate will reflect the weighted average cost of External Funds. In months when borrowings are supported by Internal Funds and External Funds, the rate will reflect a composite rate, equal to the weighted average cost of Internal Funds and External Funds.

The cost of compensating balances and fees paid to banks to maintain credit lines that support the availability of External Funds to the Utility Money Pool will be allocated to borrowing parties in proportion to their respective daily outstanding borrowing of External Funds. Borrowing parties will borrow *pro rata* from each fund source in the same proportion that the respective funds from each source bear to the total amount of funds available to the Utility Money Pool.

¹ § 56-55 *et seq.* of the Code.

² § 56-76 *et seq.* of the Code.

³ The Utility Money Pool Agreement became effective January 1, 2005, and is an arrangement among AGLR, AGL Services, VNG, and other AGLR subsidiaries participating in the Utility Money Pool. Application at 4-5.

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With respect to long-term debt issued by VNG to AGLR, any terms and conditions thereon will mirror the terms and conditions of debt issued by AGLR. If AGLR does not issue long-term debt within one year from the date of the long-term debt issued by VNG, the rate of interest on that corresponding issue of VNG debt will be determined utilizing the interest rate on the comparable term U.S. Treasury Securities as reported in the H.15 Federal Reserve Statistical Release nearest to the time of the loan takedown, plus an appropriate credit spread for AGLR's existing long-term debt rating. However, such VNG debt rate will be adjusted to match AGLR's cost of borrowing if AGLR subsequently issues long-term debt within one year after the VNG loan is drawn.

For common stock, VNG requests authority to issue up to 6,627 shares of common stock without par value to AGLR. If all additional shares of common stock are issued pursuant to this request, the total number of common shares outstanding will be 10,000 shares. This is equal to the total number of shares authorized. The common stock will be sold at the book value of VNG's common equity as of its most recent balance sheet date immediately prior to the sale date.

Applicants state that the proposed issuance of long-term debt and common equity will be used to reduce short-term borrowings, to fund distribution system capital improvement projects, to pay or refinance other obligations of VNG, and for other proper public utility purposes.

NOW THE COMMISSION, upon consideration of the application and having been advised by its Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest.

Accordingly, IT IS ORDERED THAT:

(1) VNG is authorized to participate in the Utility Money Pool and to incur short-term indebtedness in excess of twelve percent of capitalization not to exceed \$150,000,000, for the period January 1, 2013, through December 31, 2013, under the terms and conditions and for the purposes set forth in the captioned application.

(2) VNG is hereby authorized to issue long-term debt to AGLR in an amount not to exceed \$250,000,000 and to issue and sell common stock to AGLR in an amount not to exceed \$300,000,000, for the period January 1, 2013, through December 31, 2013, under the terms and conditions and for the purposes set forth in the captioned application.

(3) Applicants shall seek additional Commission authority to alter or amend the terms and conditions set forth in the application for participation in the Utility Money Pool or to change Utility Money Pool participants.

(4) Should Applicants seek to extend the authority for VNG to participate in the Utility Money Pool beyond December 31, 2013, Applicants shall file an application requesting such authority no later than November 15, 2013.

(5) Approval of this application shall have no implications for ratemaking purposes.

(6) Approval of this application does not preclude the Commission from applying the provisions of §§ 56-78 and 56-80 of the Code.

(7) Applicants shall provide the Commission's Division of Utility Accounting and Finance with at least thirty (30) days' advance notice of the prospective amount and date of any dividend payment by VNG to AGLR.

(8) The Commission reserves the right to examine the books and records of any affiliate in connection with the authority granted herein, whether or not such affiliate is regulated by this Commission.

(9) Applicants shall file quarterly reports of action within sixty (60) days of the end of each calendar quarter following the date of this Order, to include:

(a) A monthly schedule of Utility Money Pool borrowings, segmented by borrower (whether VNG or an affiliate); and

(b) Monthly schedules that separately reflect interest expenses, each type of allocated fee, and an explanation of how both the interest rate and allocated fee have been calculated.

(10) Applicants shall, within ten (10) days after the issuance of any common stock or long-term debt pursuant to the authority granted herein, file a preliminary report with the Clerk of the Commission. Such report shall include the date of issuance, type of security, amount issued, and the respective interest rate, date of maturity, and other terms and conditions of any issuance.

(11) Applicants shall, within sixty (60) days of the end of each calendar quarter in which common stock or long-term debt securities are issued pursuant to the authority granted herein, submit a more detailed report to the Commission. Such report shall include the information noted in Ordering Paragraph (10) above, the cumulative amount of securities issued to date for each type of security and the amount of authorized but unissued securities that remain, a general statement concerning the purposes for which the securities were issued, and a balance sheet reflecting the actions taken.

(12) Applicants shall file their final report of action with the Commission on or before March 3, 2014, to include all of the information outlined in Ordering Paragraphs (9) and (11), summarizing the financings entered into pursuant to Ordering Paragraphs (1) and (2) during the fourth calendar quarter of 2013.

(13) This matter is continued subject to the continuing review, audit, and appropriate directive of the Commission.

DIVISION OF SECURITIES AND RETAIL FRANCHISING

**CASE NOS. SEC-2007-00072, SEC-2008-00064, SEC-2008-00063
AUGUST 21, 2012**

COMMONWEALTH OF VIRGINIA, *ex. rel.*
STATE CORPORATION COMMISSION

v.

FIRM GRIP BUSINESS MANAGEMENT AND HOLDING COMPANY, LLC,
FIRM GRIP FINANCIAL SERVICES, LLC,
and
CHARLES ELSTON,
Defendants

AMENDED SETTLEMENT ORDER

The Division of Securities and Retail Franchising ("Division") of the State Corporation Commission ("Commission") conducted an investigation of Firm Grip Business Management and Holding Company, LLC ("Firm Grip"), Firm Grip Financial Services, LLC ("Firm Grip Financial"), Charles Elston ("Elston") and Rose Elston (collectively, "Defendants"), pursuant to § 13.1-518 of the Virginia Securities Act ("Act"), §§ 13.1-501 *et seq.* of the Code of Virginia.

On July 15, 2008, the Commission issued Rules to Show Cause ("Rules") in the above-captioned cases. The Rules alleged, among other things, that Firm Grip and Firm Grip Financial offered a program whereby an investor would enter into an investment contract, pay an initial lump sum payment to Firm Grip Financial, and in exchange for that initial lump sum payment, Firm Grip and Firm Grip Financial, with no additional involvement from the investor, would pay off the investor's mortgage. A portion of the initial investment money was sent to a man named Clint Eastman ("Eastman") in Kansas, who was touted as the Financial Strategist for the companies. The investors' mortgages have not been paid as promised, nor have they been able to get their original investment back from Firm Grip or Firm Grip Financial. None of the Defendants were registered with the Division to sell securities in the Commonwealth of Virginia ("Commonwealth"), nor were they exempt from registration.

The Rules alleged that the Defendants: (i) violated § 13.1-507 of the Act, in that they offered and sold securities, in the form of investment contracts, that were not registered under the Act nor exempt from registration; and (ii) violated § 13.1-502(2) of the Act by omitting certain material facts necessary in order to make the statements made to potential investors, in the light of the circumstances under which they were made, not misleading, in that they failed to provide adequate risk warnings to potential investors and failed to provide material company information, including the fact that Eastman had filed for bankruptcy.

Additionally, the Rules alleged that Firm Grip, Elston and Rose Elston violated § 13.1-502(3) of the Act by engaging in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser, in that they continued to sell investments after being informed by the Division's personnel of their concern for the safety of the money which had been forwarded to Eastman, that the investments needed to be registered, that there was evidence that the Financial Strategist's claims as to potential returns were not valid, and that the program would not be able to meet its obligations to investors.

Finally, the Rules alleged that (i) Firm Grip violated § 13.1-504 B of the Act by selling securities through Elston, Rose Elston, and others who were not registered with the Division as agents of the issuer, and that (ii) Elston and Rose Elston violated § 13.1-504 A of the Act by selling securities issued by Firm Grip without being duly registered with the Division as an agent of the issuer.

On January 20, 2011, the Commission entered a Settlement Order ("2011 Settlement") with the Defendants, who neither admitted nor denied the Division's allegations. Among other things, the 2011 Settlement required the Defendants to make payments to investors, permanently enjoined Elston and Rose Elston from securities activities within the Commonwealth, and barred the Defendants from violating the Act in the future.

Following entry of the 2011 Settlement, federal and state law enforcement authorities notified the Division that they would release funds totaling approximately \$117,318 ("Seized Funds") related to the Defendants. The Seized Funds had been taken from a Firm Grip bank account pursuant to a Notice of Seizure effective March 26, 2008. The Defendants have confirmed that the Seized Funds consist of investor monies. Additionally, the Defendants have agreed with the Division that the Seized Funds should be returned to investors.¹

If the standards of the statute are met, the Commission is authorized by § 13.1-506 of the Act to revoke a defendant's registration, by § 13.1-519 of the Act to issue temporary or permanent injunctions, by § 13.1-518 A of the Act to impose costs of investigation, by § 13.1-521 A of the Act to impose certain monetary penalties, by § 13.1-521 C of the Act to order a defendant to make rescission and restitution, and by § 12.1-15 of the Code of Virginia to settle matters within its jurisdiction.

The Defendants neither admit nor deny these allegations but admit to the Commission's jurisdiction and authority to enter this Amended Settlement Order ("Order").

As a proposal to settle all matters arising from these allegations, the Defendants have made an offer of settlement to the Commission wherein the Defendants will abide by and comply with the following terms and undertakings:

¹ Defendant Rose Elston, Case No. SEC-2008-00063, passed away following entry of the 2011 Settlement and is not included in this Order.

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(1) Within thirty (30) days of the date of entry of this Order, the Defendants will notify each investor of the settlement, and provide a copy of this Order to each investor. The Defendants will submit certified mail receipts to Bill Ward, Senior Investigator, in the Division within sixty (60) days of the date of entry of this Order, as proof that this requirement has been satisfied.

(2) Starting on September 30, 2012, the Defendants will divide funds Elston received as salary and commissions from Firm Grip in the total amount of Seventy Thousand Dollars (\$70,000), less all amounts already paid under the 2011 Settlement, and make equal payments to each identified investor of Firm Grip. The Defendants will pay a total of Four Thousand Six Hundred Eighty-seven Dollars (\$4,687) every three (3) months, payable in installments of One Hundred Eighty-seven Dollars and Fifty Cents (\$187.50) to each investor, no later than the last day of every third month, directly to each investor at the investors' last known addresses. These payments will continue every three months until all investors identified by the Division are paid their proportionate share (\$2,800) of the monies being disgorged by the Defendants.

(3) On January 31 of each year following any calendar year in which payments under Paragraph (2) were made, the Defendants will send an annual status report by e-mail to William R. Ward at Bill.Ward@scc.virginia.gov, specifying the dates, amounts, and to whom each payment was made during the previous year. This e-mail also will include a copy of the certified mailing receipts and a copy, front and back, of the cancelled checks as proof of the required payments.

(4) The Defendants agree that the Division shall receive the Seized Funds (including any interest or other sums added to the original amount of these funds seized in March 2008). The Defendants further agree that the Division, upon receipt of the Seized Funds, shall make a one-time distribution of the entirety of those funds to investors. The Seized Funds shall be divided equally and distributed to each investor.

(5) Pursuant to Paragraph (5) of the 2011 Settlement, Elston remains permanently enjoined from registering or transacting business as a broker-dealer, agent of a broker-dealer, agent of an issuer, investment advisor, or investment advisor representative and from selling securities within the Commonwealth.

(6) The Defendants will not violate the Act in the future.

The Division has recommended that the Commission accept the offer of settlement of the Defendants.

The Commission, having considered the record herein, the offer of settlement of the Defendants, and the recommendation of the Division, is of the opinion that the Defendants' offer should be accepted.

Accordingly, IT IS ORDERED THAT:

(1) The offer of the Defendants in settlement of the matter set forth herein be, and it is hereby, accepted.

(2) The Defendants fully comply with the aforesaid terms and undertakings of this settlement.

(3) The Commission shall retain jurisdiction in this matter for all purposes, including the institution of a show cause proceeding, or taking such other action it deems appropriate, on account of the Defendants' failure to comply with the terms and undertakings of the settlement.

**CASE NOS. SEC-2008-00006 AND SEC-2008-00007
OCTOBER 17, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
G&G, LLC, and D. TRENT GOURLEY,
Defendants

JUDGMENT ORDER

On November 8, 2011, the managing member, G&G Management Committee, LLC ("G&G Management"), of G&G, LLC ("G&G"), filed in the Office of the Clerk of the State Corporation Commission ("Commission"), a motion entitled "Motion to Amend Settlement Order" ("Motion"). The Motion requests modification of the April 28, 2008 Settlement Order ("Settlement Order")¹ agreed to by G&G and D. Trent Gourley ("Gourley") (collectively, the "Defendants"). Specifically, G&G Management requests that the Commission: (1) permit G&G to be managed without Gourley's participation; (2) require Gourley to pay G&G investors the penalty set forth in the Settlement Order; and (3) reduce the amount of the cash reserves of G&G's Operating Fund of Liquidation Plan from \$2,500,000 to \$1,000,000.

G&G is a limited liability company domiciled in the Commonwealth of Virginia. Gourley, through Gourley & Gourley, LLC and Gourley & Associates, Inc., substantially controlled and directed the operations of G&G. G&G operated a mortgage pool funded by investors or managing member bankers, MMBs. In return for the funds they supplied, MMBs received membership interests in G&G. Based upon the G&G Amended and Restated Operating Agreement ("Operating Agreement"), MMBs were to be paid a priority return of eight (8%) percent per annum on a pro rata monthly basis. That investment could be taken monthly, or capitalized and rolled back into G&G.

¹Settlement Order in Case Nos. SEC-2008-00006 and SEC-2008-00007. A copy of the Settlement Order is available through the Commission's electronic docket at www.scc.virginia.gov.

The Settlement Order was entered after the Defendants were confronted with allegations that they failed to comply with the requirements of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia, including offering and selling of unregistered securities, that Gourley acted as an unregistered agent of the issuer by offering and selling G&G's unregistered securities, and that the Defendants violated the anti-fraud provisions of the Act by failing to provide adequate risk disclosures to the MMBs.

The Settlement Order provides for a Plan of Liquidation as set forth in Exhibit A attached to the Settlement Order. The Settlement Order imposes numerous requirements, but does not amend the Operating Agreement, except to preclude Gourley from taking deferred management fees. The Defendants are required to act consistent with "Good Faith Business Judgment" and consistent with the "significant decline in market values and opportunities" as the business is liquidated.² In addition, G&G is required to maintain minimum operating funds based upon the current expenses of the business. The Defendants are required to provide Commission Staff with periodic reports, allow access to G&G's books and records, and provide access to these reports to G&G's MMBs. Finally, the Settlement Order provides that if the orderly process of liquidation does not result in each investor receiving a minimum return of their initial capital investment, plus 6% (six percent) interest to each investor, Gourley is subject to a monetary penalty.³

On November 21, 2011, the Commission issued its Scheduling Order in which, among other things, it assigned this matter to a Hearing Examiner to conduct all further proceedings on behalf of the Commission and to file a final report, and it provided a schedule for filing responses and a reply to the Motion.

On December 12, 2011, the Division of Securities and Retail Franchising ("Division") filed its response to the Motion.

On the same date, Gourley filed his response to the Motion in which he disputed several facts asserted by G&G Management. On January 3, 2012, G&G Management filed its reply.

The Hearing Examiner scheduled a pre-hearing conference for January 26, 2012, during which the parties and the Division agreed to begin the hearing on March 20, 2012. On February 27, 2012, Gourley filed a Motion for Continuance. By Hearing Examiner Ruling dated March 13, 2012, the hearing was rescheduled for April 17, 2012.

The evidentiary hearing in this matter was convened on April 17 and 18, 2012. Sally Ann Hostetler, Esquire, appeared on behalf of G&G Management. John S. Barr, Esquire, appeared on behalf of Gourley. Debra M. Bollinger, Esquire, appeared on behalf of the Division.

During the hearing, G&G Management offered, and the Hearing Examiner accepted into evidence, numerous exhibits and testimony through witnesses, including the testimony and associated documents, and rebuttal testimony, of R. Michael Kuehn ("Kuehn"), a member of G&G Management, and Michael Dyer ("Dyer"), chief operating officer for G&G.

Gourley testified on his own behalf and offered numerous exhibits and testimony through witnesses, including (1) Tom Bayly, the Division's Senior Investigator assigned to investigate G&G, and (2) Stephen Turner, former G&G accountant.

Following the hearing, the Hearing Examiner, by Ruling dated May 10, 2012, directed that post-hearing briefs be filed on or before May 31, 2012.

On July 6, 2012, the Hearing Examiner filed his Report. Based on the facts and evidence as set forth in his Report, the Hearing Examiner found that: (1) the removal of Gourley from the management of G&G does not constitute a material departure from the terms of the Settlement Order; (2) Gourley's participation in G&G Management is no longer essential to the Plan of Liquidation; (3) the Settlement Order should not be changed absent the agreement of the Division and all of the parties, and by approval of the Commission; (4) the record does not support requiring Gourley to pay the \$1,950,000 penalty at this time, G&G should be permitted more time to complete the Plan of Liquidation, and then a determination of whether the investors of G&G have been repaid their initial capital investment, plus 6% (six percent) per annum, may be made; (5) investors' initial capital investment would include investor funds received directly from the investor and would exclude funds returned to the investor, or any re-invested (or rolled) interest; (6) the Commission does not have the authority pursuant to the 2009 reenactment of § 13.1-521 of the Act to order that the penalty be paid to the investors of G&G; and (7) based upon the agreement of the parties and the Division, and the reduction of G&G's operating expenses, the Commission should approve the requested amendment to the Settlement Order to reduce the amount of cash reserves from \$2,500,000 to \$1,000,000.

G&G Management and Gourley filed Comments to the Report on July 27, 2012.

NOW THE COMMISSION, upon consideration of the record, the Hearing Examiner's Report and the comments thereto, and the applicable statutes, is of the opinion and finds that the Hearing Examiner's findings and recommendations are reasonable and should be adopted. Except for the reduction of the required cash reserves from \$2,500,000 to \$1,000,000, the Settlement Order and its requirements remain in full force and effect. As part of these requirements, the burden remains upon G&G to sell the remaining properties. Once these properties are sold, G&G can resubmit information with regard to the repayment of G&G's investors. If G&G does not make full repayment under the terms of the Settlement Order, however, Gourley will be directed to pay the designated penalty to the Commonwealth.

Accordingly, IT IS ORDERED THAT:

(1) The findings and recommendations of the July 6, 2012 Hearing Examiner's Report are hereby adopted.

² *Id.* Exhibit A at page 1.

³ *Id.* at 3, 4. As a part of the Settlement Order, Gourley also agreed not to seek registration as a broker-dealer, agent, investment advisor or investment advisor representative, agent of the issuer, or principal of a broker-dealer or investment advisor for a period of one year from the date of entry of the Settlement Order. In addition, Gourley agreed not to seek registration or an exemption for securities or other investment opportunities for a period of one year from the date of entry of the Settlement Order. More than one year has passed, however, making this provision moot.

(2) The April 28, 2008 Settlement Order is hereby amended to reduce the cash reserves of the Plan of Liquidation from \$2,500,000 to \$1,000,000.

(3) The Commission shall retain jurisdiction on the docket of active cases.

Commissioner Dimitri did not participate in this matter.

**CASE NOS. SEC-2008-00006 AND SEC-2008-00007
NOVEMBER 6, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
G&G, LLC,
and
D. TRENT GOURLEY,
Defendants

ORDER GRANTING RECONSIDERATION

On October 17, 2012, the State Corporation Commission ("Commission") entered a Judgment Order in this docket. On November 5, 2012, D. Trent Gourley filed a Petition for Reconsideration pursuant to the Commission's Rules of Practice and Procedure, 14 VAC 5-20-10 *et seq.*, requesting that the Commission reconsider its judgment against the Defendants.

NOW THE COMMISSION, upon consideration of this matter, grants reconsideration for the purposes of continuing jurisdiction over this matter and considering the above-referenced request.

Accordingly, IT IS ORDERED THAT:

- (1) Reconsideration is granted for the purpose of continuing jurisdiction over this matter and considering the above-referenced request.
- (2) This matter is continued pending further order of the State Corporation Commission.

**CASE NOS. SEC-2008-00006 AND SEC-2008-00007
NOVEMBER 29, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
G&G, LLC,
and
D. TRENT GOURLEY,
Defendants

ORDER ON RECONSIDERATION

On October 17, 2012, the State Corporation Commission ("Commission") entered a Judgment Order in this docket. On November 5, 2012, D. Trent Gourley, by counsel, filed a Petition for Reconsideration ("Petition") pursuant to the Commission's Rules of Practice and Procedure, 5 VAC 5-20-10 *et seq.*, requesting that the Commission reconsider its judgment against the Defendants.

Specifically, Mr. Gourley requests that the Commission "reconsider only that portion of its Judgment Order adopting the Hearing Examiner's interpretation of the Settlement Order's language to 'repay investors a minimum equivalent to the investor's initial capital investment, plus 6% per annum starting with investments established as of January 1, 2002.'"¹ Mr. Gourley asks the Commission to "(1) withhold any ruling on whether any penalty will be required, and how that calculation will be made, until the remaining properties have been sold and the parties determine, at that time, whether Defendants complied with the Order; or (2) correct the holding as to what is meant by 'initial capital contribution' under the Settlement Order."² Mr. Gourley states that the meaning of the Settlement Order, and the conditions under which Mr. Gourley may avoid the penalty, should be reserved until such time as either the Commission seeks to enforce the Order or Mr. Gourley seeks relief from it.³

On November 6, 2012, the Commission entered an Order Granting Reconsideration for the purpose of continuing jurisdiction over this matter and to consider the Petition.

¹ Petition at 2.

² *Id.* at 5.

³ *Id.*

NOW THE COMMISSION, upon consideration of the Petition, finds that the Petition should be granted as follows. The Commission's October 17, 2012 Judgment Order should be amended to withhold any ruling on the determination of how to calculate the amount that may be returned to investors pursuant to the Settlement Order. The Commission will reserve this issue for future consideration at an appropriate time.

Accordingly, IT IS ORDERED THAT:

- (1) The Commission's October 17, 2012 Judgment Order is amended as expressed herein.
- (2) This matter is continued pending further order of the Commission.

Commissioner Dimitri did not participate in this matter.

**CASE NO. SEC-2009-00118
MARCH 5, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

GLOBAL RETAILERS, LLC
and
BILL BUSSEY,
Defendants

SETTLEMENT ORDER

The Division of Securities and Retail Franchising ("Division") of the State Corporation Commission ("Commission") conducted an investigation of Global Retailers, LLC ("Global Retailers") and Bill Bussey ("Bussey") (collectively, "Defendants"), pursuant to § 13.1-518 of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.*, of the Code of Virginia. Based on its investigation, the Division alleges as follows:

Defendant Global Retailers is a Delaware corporation with its principal office located in Virginia Beach, Virginia. Defendant Bussey is the Chairman and President of Global Retailers and is a Virginia resident.

Global Retailers' business model consists of owning and operating retail home furnishing stores located in Poland under the brand name of "Decorador." Global Retailers, through Bussey, offered and sold nearly \$4.8 Million in securities in the form of "Membership Units" to 97 investors located in Virginia and across the United States. These securities were not registered or exempt from registration under the Act.

The Division opened an investigation into the Defendants' activities in March of 2009 ("2009 investigation"). On September 22, 2010, Defendants entered into a Commission Settlement Order to settle matters arising from the 2009 investigation. As part of the terms of the Settlement Order, the Defendants agreed, among other things, to pay certain monetary penalties and to refrain from violating the Act in the future.

During the course of the 2009 investigation, the Division engaged the Defendants and requested information pertaining to any and all investment opportunities offered by or through Global Retailers. In response to the Division's request, the Defendants provided information solely on securities offered and sold to Global Retailers' investors in the form of "Membership Units." However, prior to and during the course of the 2009 investigation, Bussey was actively offering and selling securities in the form of "DecoNote\$." Defendants knowingly withheld the offering and selling of these securities from the Division during the course of the 2009 investigation. Defendants withheld this information from the Division to preclude the Division from taking any action so Defendants could continue raising funds to allow Global Retailers to continue its operations.

Also, in the fall of 2009, during the course of the 2009 investigation, Global Retailers, through Bussey, was in the beginning stages of coordinating a new offering to raise an additional \$3 Million ("2009 offering") through the sale of more Membership Units. During the 2009 investigation, Defendants were made aware that this securities offering was in violation of the Act and also were aware that they would be required to register and make material disclosures going forward with any new securities offerings. Defendants postponed the 2009 offering as a result of the Division's investigation. Following entry of the Settlement Order, Defendants made no attempts to, nor did they, register the securities from the 2009 offering.

In October of 2010, less than one month after the Settlement Order was entered, Bussey resumed the 2009 offering and began soliciting existing Global Retailers' investors to purchase Membership Units and also requested that these existing investors solicit outside investors to purchase Membership Units. This offering was combined with a concurrent DecoNote\$ offering and dubbed the "Deal of the Decade" promotion. These offerings were not registered under the Act nor were they exempt from registration.

In soliciting these investors, Bussey misrepresented that the Division's 2009 investigation and resulting Settlement Order concluded that Global Retailers was a legitimate company, that it had a viable investment project in Poland, and that it had the well-being of its investors as a top priority throughout the years. Bussey further misrepresented that as a result of the Settlement Order, Global Retailers was free to initiate new offerings. No such conclusions were made by the Division nor were there any such conclusions or representations made by the Commission regarding Global Retailers. Global Retailers' investors were misled into thinking that that any new offerings made by the Defendants were in conformance with the law and were made with the approval of the Commission.

On August 24, 2011, the Commission entered a Rule to Show Cause ("Rule") against the Defendants. In the Rule, based on the conduct described above, it was alleged that Global Retailers: (i) violated § 13.1-507 of the Act on more than one occasion by offering and selling securities that were not registered under the Act; (ii) violated § 13.1-504 B of the Act on more than one occasion by selling securities through Bussey, who was not registered with the Division as an agent of an issuer; (iii) violated § 13.1-502(2) of the Act on more than one occasion by making materially untrue statements and omissions in the offer and sale of securities by misrepresenting to investors the nature of the Division's investigation and the previously

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entered Settlement Order; and (iv) violated § 13.1-521 A of the Act: also (a) by knowingly making material misrepresentations to the Division to induce the Commission to take any action or refrain from taking action by concealing the DecoNote\$ offering during the 2009 investigation; and (b) by violating the terms of the Commission's previously entered Settlement Order.

In the Rule, based on the conduct described above, it also was alleged that Bussey: (i) violated § 13.1-507 of the Act on more than one occasion by offering and selling securities that were not registered under the Act; (ii) violated § 13.1-504 A of the Act on more than one occasion by selling securities as an unregistered agent of Global Retailers; (iii) violated § 13.1-502(2) of the Act on more than one occasion by making materially untrue statements and omissions in the offer and sale of securities by misrepresenting to investors the nature of the Division's investigation and the previously entered Settlement Order; and (iv) violated § 13.1-521 A of the Act: (a) by knowingly making material misrepresentations to the Division to induce the Commission to take any action or refrain from taking action by concealing the DecoNote\$ offering during the 2009 investigation; and (b) by violating the terms of the Commission's previously entered Settlement Order.

If the standards of the statute are met, the Commission is authorized by § 13.1-506 of the Act to revoke a Defendant's registration, by § 13.1-519 of the Act to issue temporary or permanent injunctions, by § 13.1-518 A of the Act to impose costs of investigation, by § 13.1-521 A of the Act to impose certain monetary penalties, by § 13.1-521 C of the Act to order a Defendant to make rescission and restitution, and by § 12.1-15 of the Code to settle matters within its jurisdiction.

Global Retailers admits to the violations of §§ 13.1-504 B and 13.1-507 of the Act and neither admits nor denies the allegations of the violations of §§ 13.1-502(2) and 13.1-521 A of the Act as alleged in the Rule. Global Retailers admits to the Commission's jurisdiction and authority to enter this Settlement Order.

Bussey admits to the violations of §§ 13.1-504 A, 13.1-507, and 13.1-521 A of the Act and neither admits nor denies the allegations of the violations of § 13.1-502(2) of the Act as alleged in the Rule. Bussey admits to the Commission's jurisdiction and authority to enter this Settlement Order.

Prior to the entry of this Order, the Defendants issued a letter to all investors retracting all statements they represented as having been made by the Commission in connection with the "Deal of the Decade" promotion. Additionally, Defendants were cooperative with the Division during the 2009 investigation of and following the issuance of the Rule in this case.

As a proposal to settle all matters arising from these allegations, the Defendants have made an offer of settlement to the Commission wherein the Defendants will abide by and comply with the following terms and undertakings:

(1) Prior to the entry of this Settlement Order, Defendants shall provide the Division with financial disclosure affidavits, along with supporting documentation signed by Defendants attesting to both Bussey's and Global Retailers' financial condition.

(2) Prior to the entry of this Settlement Order, each member of Global Retailers' Board of Directors, with the exception of Bussey, will provide the Division with an affidavit attesting that such member of the Board of Directors does not have access to or control over any Global Retailers' bank accounts nor does such member of the Board of Directors have knowledge of Global Retailers', or any affiliates' or subsidiaries' financial condition.

(3) The Defendant Global Retailers shall conduct all offers and sales of securities within the Commonwealth for Global Retailers, or any affiliate or subsidiary, through a registered broker-dealer. Prior to conducting any offers or sales of securities, the Defendant Global Retailers shall provide the Division with the name and location of any registered broker-dealer that will be used to conduct any such securities offerings for Global Retailers.

(4) Defendant Bussey is permanently enjoined from transacting any business in securities within the Commonwealth until such time as the Commission may otherwise authorize.

(5) Any offer and sale to new investors in Global Retailers made by the Defendants must be accompanied by detailed written disclosure of the existence of this Settlement Order prior to such offer and sale.

(6) The Defendants will provide a copy of this Settlement Order within thirty (30) days of the date of entry of this Settlement Order to all existing investors in Global Retailers having purchased Membership Units and/or DecoNote\$ from the Defendants.

(7) The Defendants shall pay a monetary penalty of Fifty Thousand Dollars (\$50,000) within (3) years from the date of entry of this Order. Such penalty shall be waived upon the Defendants paying the penalty amount towards the principal investment of all DecoNote\$ investors in Global Retailers.

(8) If after notice and opportunity for a hearing the Commission finds that the Defendants defaulted on or failed to comply with any obligation or provision of this Order, or are found to be in contempt of any provision of this Order, the Commission may terminate this Order and proceed with any action against the Defendants arising from the allegations as detailed in this Order including pursuing enforcement in the form of a Rule to Show Cause.

(9) The Defendants consent to service of process at the address to where this Settlement Order is directed to be sent by the Commission for any action arising out of any default or failure to comply with any obligation or provision of this Order, or in any other action that may be taken against the Defendants by the Commission. Such address shall be the Defendants address of record, and Defendants must promptly notify the Commission of any change in the address of record.

(10) The Defendants will not violate the Act in the future.

The Division has recommended that the Commission accept the offer of settlement of the Defendants.

The Commission, having considered the record herein, the offer of settlement of the Defendants, and the recommendation of the Division, is of the opinion that the Defendants' offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The offer of the Defendants in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) The Defendants fully comply with the aforesaid terms and undertakings of this settlement;
- (3) The Commission shall retain jurisdiction in this matter for all purposes, including the institution of a show cause proceeding, or taking such other action it deems appropriate, on account of the Defendant's failure to comply with the terms and undertakings of the settlement; and
- (4) This case is dismissed and the papers herein shall be placed in the file for ended causes.

Dismissal of this case does not relieve the Defendants from their reporting obligations to any regulatory authority

**CASE NO. SEC-2009-00137
APRIL 19, 2012**

COMMONWEALTH OF VIRGINIA, *ex. rel.*
STATE CORPORATION COMMISSION

v.

AREA REAL ESTATE INVESTORS, LLC,
WILLIAM STANLEY ARMSTRONG,
and
AREA FINANCE, LLC,
Defendants

SETTLEMENT ORDER

The Division of Securities and Retail Franchising ("Division") of the State Corporation Commission ("Commission") conducted an investigation of Area Real Estate Investors, LLC, William Stanley Armstrong, and Area Finance, LLC (collectively, the "Defendants"), pursuant to § 13.1-518 of the Virginia Securities Act ("Act"), §§ 13.1-501 *et seq.* of the Code of Virginia.

The investigation concerned the offer and sale of certain securities, in the form of limited partnership interests and promissory notes (together, the "Securities"), to investors within the Commonwealth of Virginia. Based upon the Division's investigation, Area Real Estate Investors, LLC ("AREI"), through William Stanley Armstrong ("Armstrong"), offered and sold limited partnership interests related to rehabilitation projects for residential real estate properties. These limited partnerships purchased properties, made improvements and, shortly thereafter, attempted to sell or lease them for a profit. Investor funds purportedly were used for expenses related to the purchase and rehabilitation of these properties, with investors receiving a return on their investment if the subsequent sale or lease led to a profit.

Additionally, AREI and Area Finance, LLC ("Area Finance"), through Armstrong, offered and sold promissory notes to investors. Area Finance allegedly held these funds for investment purposes, which included placing the funds in limited partnerships either at each investor's request or on Area Finance's own initiative.

Based upon the investigation, the Division alleges that the Defendants committed violations of the Act in conjunction with the offer and sale of the Securities to investors in the Commonwealth of Virginia. Specifically, the Division alleges that the Defendants violated § 13.1-507 of the Act in that they offered and sold the Securities, which were not registered under the Act nor exempt from registration. The Division further alleges that: (i) Armstrong violated § 13.1-504 A of the Act by selling Securities without being duly registered with the Division as an agent of any broker-dealer or issuer; (ii) AREI and Area Finance each violated § 13.1-504 A of the Act by selling Securities, through Armstrong, without being duly registered with the Division as a broker-dealer; and that (iii) AREI and Area Finance each violated § 13.1-504 B of the Act by selling Securities through Armstrong, who was not registered with the Division as an agent of the issuers.

If the standards of the statute are met, the Commission is authorized by § 13.1-506 of the Act to revoke a defendant's registration, by § 13.1-519 of the Act to issue temporary or permanent injunctions, by § 13.1-518 A of the Act to impose costs of investigation, by § 13.1-521 A of the Act to impose certain monetary penalties, by § 13.1-521 C of the Act to order a defendant to make rescission and restitution, and by § 12.1-15 of the Code of Virginia to settle matters within its jurisdiction.

The Defendants admit the Division's allegations as well as the Commission's jurisdiction and authority to enter this Settlement Order.

As a proposal to settle all matters arising in connection with the Division's investigation regarding the Securities, the Defendants have made an offer of full and final settlement to the Commission wherein the Defendants will abide by and comply with the following terms and undertakings:

(1) The Defendant will pay to the Treasurer of the Commonwealth of Virginia, within one (1) year of the date of the entry of this Order, the amount of Five Thousand Dollars (\$5,000) in monetary penalties.

(2) Within sixty (60) days following entry of this Order, the Defendants will provide a copy of this Settlement Order to each investor by certified mail, return receipt requested. Within thirty (30) days of notifying all investors, the Defendants will submit to the Division an affidavit stating that each of the investors has been provided with a copy of the Settlement Order, along with certified mail receipts of such mailing as proof that the requirements under this paragraph have been satisfied.

(3) Each of the Defendants is permanently enjoined from registering or transacting business as a broker-dealer, agent of a broker-dealer, agent of an issuer, investment advisor, or investment advisor representative and from selling securities within the Commonwealth of Virginia upon the date of entry of this Order.

(4) The Defendants agree not to violate the Act in the future.

The Division has recommended that the Commission accept the offer of settlement of the Defendants.

The Commission, having considered the record herein, the offer of settlement of the Defendants, and the recommendation of the Division, is of the opinion that the Defendants' offer should be accepted.

Accordingly, IT IS ORDERED THAT:

(1) The offer of the Defendants in settlement of the matter set forth herein be, and it is hereby, accepted;

(2) The Defendants fully comply with the aforesaid terms and undertakings of this settlement; and

(3) The Commission shall retain jurisdiction in this matter for all purposes, including the institution of a show cause proceeding, or taking such other action it deems appropriate, on account of the Defendants' failure to comply with the terms and undertakings of the settlement.

**CASE NO. SEC-2010-00003
APRIL 12, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
EDDIE J. WARD, SR.
and
THE NEW DIMENSION GROUP, LLC,
Defendants

SETTLEMENT ORDER

The Division of Securities and Retail Franchising ("Division") of the State Corporation Commission ("Commission") conducted an investigation of Eddie J. Ward, Sr. ("Ward"), and The New Dimension Group, LLC ("New Dimension") (collectively, "Defendants"), pursuant to § 13.1-518 of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia. Based on its investigation, the Division alleges as follows:

New Dimension is a Virginia limited liability company with its principal office located in Annandale, Virginia. New Dimension was a company that purported to rehabilitate real estate properties. Pursuant to § 13.1-1050.1 of the Code of Virginia, New Dimension's company existence was automatically terminated by the Clerk of the Commission on December 31, 2009, for failure to pay its annual registration fee. Ward is the Member Manager of New Dimension and is a Virginia resident.

An investigation was initiated after receiving a complaint from an attorney on behalf of his client, an Afghanistan War veteran ("Investor"), who invested with Ward. The Investor and Ward were members of the same church and Ward prepared the Investor's tax return.

In 2007, the Investor received proceeds from his wife's life insurance policy and invested these life insurance proceeds, as well as some of his retirement funds, in Ward's company, New Dimension. The investments were in the form of New Dimension promissory notes. The Investor made eight (8) separate investments between October 2007 and March 2009.

Ward deposited the funds into a personal joint checking account and not the New Dimension business account. Ward did not disclose this to the Investor. Additionally, Ward told the Investor that there was no loss potential because real estate property titled under New Dimension secured the note. Ward failed to provide proper risk disclosures. Further, promissory notes provided to other investors guaranteed a return, again without any risk disclosures.

The Investor, through his attorney, requested a return of funds from Ward. Ward responded to the Investor's attorney on November 2, 2009, acknowledged the receipt of funds from the Investor, and requested additional time to return the funds. To date, the Investor has not received the return of his principal.

During the course of the investigation Ward was cooperative and responded promptly to the Division's requests for information. Ward offered and sold securities to a total of thirty-six (36) investors. These securities were not registered or exempt from registration under the Act.

Ward filed with the U.S. Bankruptcy Court of the Eastern District of Virginia (Court) under Chapter 13 of the Bankruptcy Code on October 19, 2010, and on December 17, 2010. On April 7, 2011, an order was issued by that Court converting the bankruptcy from Chapter 13 to Chapter 11 of the Bankruptcy Code.

On December 7, 2011, Ward filed a Financial Disclosure Affidavit with the Division for consideration of a reduction of fees and penalties. Based on the conduct as described above, it is alleged that (i) Ward violated § 13.1-502 (2) of the Act by directly or indirectly obtaining money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; (ii) Ward violated § 13.1-504 A (i) of the Act by acting as an unregistered agent; (iii) New Dimension violated § 13.1-504 B of the Act by employing an unregistered agent in the offer and sale of securities; and (iv) the Defendants violated § 13.1-507 of the Act by offering or selling securities that were not registered under the Act or exempt from registration.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

If the standards of the statute are met, the Commission is authorized by § 13.1-506 of the Act to revoke a defendant's registration, by § 13.1-519 of the Act to issue temporary or permanent injunctions, by § 13.1-518 A of the Act to impose costs of investigation, by § 13.1-521 A of the Act to impose certain monetary penalties, by § 13.1-521 C of the Act to order a defendant to make rescission and restitution, and by § 12.1-15 of the Code of Virginia to settle matters within its jurisdiction.

The Defendants admit to these allegations and to the Commission's jurisdiction and authority to enter this Settlement Order.

As a proposal to settle all matters arising from these allegations, the Defendants have made an offer of settlement to the Commission wherein the Defendants will abide by and comply with the following terms and undertakings:

(1) The Defendants will pay to the Treasurer of the Commonwealth of Virginia, within twelve (12) months of the date of entry of this Order, the amount of Eight Thousand Dollars (\$8,000) in monetary penalties.

(2) The Defendants will pay to the Treasurer of the Commonwealth of Virginia, within twelve (12) months of the date of entry of this Order, the amount of Three Thousand Dollars (\$3,000) to defray the costs of investigation.

(3) The Defendants will provide a copy of this Settlement Order to each investor within thirty (30) days of the date of its entry.

(4) The Defendants will be permanently enjoined from registering or transacting business as a broker-dealer, agent of a broker-dealer, agent of an issuer, investment advisor, or investment advisor representative, as defined by the Act, and from offering and selling securities in the Commonwealth of Virginia unless otherwise authorized by the Commission.

(5) The Defendants will not violate the Act in the future.

The Division has recommended that the Commission accept the offer of settlement of the Defendants.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendants, and the recommendation of the Division, is of the opinion that the Defendants' offer should be accepted.

Accordingly, IT IS ORDERED THAT:

(1) The offer of the Defendants in settlement of the matter set forth herein be, and it is hereby, accepted;

(2) The Defendants fully comply with the aforesaid terms and undertakings of this settlement; and

(3) The Commission shall retain jurisdiction in this matter for all purposes, including the institution of a show cause proceeding, or taking such other action it deems appropriate, on account of the Defendants' failure to comply with the terms and undertakings of the settlement.

**CASE NO. SEC-2010-00084
JANUARY 20, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
GLENN DILLON,
Defendant

SETTLEMENT ORDER

The Division of Securities and Retail Franchising ("Division") of the State Corporation Commission ("Commission") conducted an investigation of Glenn Dillon ("Dillon"), pursuant to § 13.1-518 of the Virginia Securities Act ("Act"), §§ 13.1-501 *et seq.* of the Code of Virginia.

The investigation concerned the offer and sale of certain private placements of securities to investors within the Commonwealth of Virginia. These transactions involved Dillon, as well as BOTJ Investment Group, Inc. ("BOTJIG"), and Community Bankers Securities, LLC ("CB Securities"), which provided broker-dealer services under a "networking agreement" with BOTJIG, certain officers of CB Securities, and other agents of CB Securities. Additionally, these transactions involved the offer and sale of the following securities (collectively, "Securities"): (i) Medical Provider Financial Corporation II through IV, and Medical Provider Funding Corporation V and VI Notes (together, "Med Cap Notes"); (ii) Evolution Capital Advisors, LLC Secured Three- and Five-Year Notes and Evolution Investment Group, LLC Secured Promissory Notes (together, "Evolution Notes"); and (iii) Cash Ready, LLC Secured Twelve-, Thirty-, and Sixty-Month Notes.

Based upon the investigation, the Division alleges that Dillon committed violations of the Act in conjunction with the offer and sale of the Securities to investors in the Commonwealth of Virginia. Specifically, the Division alleges that Dillon violated: (i) § 13.1-507 of the Act in that he offered and sold the Securities, which were not registered under the Act nor exempt from registration; (ii) § 13.1-502(2) of the Act by omitting certain material facts necessary in order to make the statements made to potential investors, in light of the circumstances under which they were made, not misleading, in that he failed to provide adequate risk warnings to potential investors and failed to verify material company information which now has been alleged to be fraudulent; and (iii) Rule 21 VAC 5-20-280 B(6) by recommending that investors purchase the Securities without reasonable grounds to believe that such recommendations were suitable for the investors based upon reasonable inquiry concerning the investors' investment objectives, financial situation, risk tolerance and needs, and other relevant information.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

As part of its investigation, the Division notes that Dillon provided evidence that most investors who purchased Evolution Notes were able to redeem those Securities and did so through the assistance and help of Dillon. The Division also notes that Dillon cooperated with the investigation of the Evolution Notes.

If the standards of the statute are met, the Commission is authorized by § 13.1-506 of the Act to revoke a defendant's registration, by § 13.1-519 of the Act to issue temporary or permanent injunctions, by § 13.1-518 A of the Act to impose costs of investigation, by § 13.1-521 A of the Act to impose certain monetary penalties, by § 13.1-521 C of the Act to order a defendant to make rescission and restitution, and by § 12.1-15 of the Code of Virginia to settle matters within its jurisdiction.

Dillon neither admits nor denies the Division's allegations but admits to the Commission's jurisdiction and authority to enter this Settlement Order.

As a proposal to settle all matters arising in connection with the Division's investigation regarding the Securities, Dillon has made an offer of full and final settlement to the Commission wherein Dillon will abide by and comply with the following terms and undertakings:

(1) Dillon will return all commissions that he received from investors who purchased Med Cap Notes from him and, as of the date of this Order, have not otherwise settled and released Dillon in regard to any claims relating to the Med Cap Notes ("Investors"). Dillon shall return these commissions in the amount of Fifty-one Thousand Four Hundred Nine Dollars (\$51,409). Dillon will divide the returned commissions and make payments to each investor in a *pro rata* amount directly to each investor at the investor's last known addresses within three (3) years of the date of entry of this Order.

(2) Within sixty (60) days following entry of this Order, Dillon will notify each investor of the settlement and provide a copy of this Settlement Order to each investor.

(3) Within thirty (30) days of returning all commissions, as required under Paragraph 1 above of this Order, Dillon will submit to the Division an affidavit stating that each of the investors has been provided with a copy of the Settlement Order, along with certified mail receipts of such mailing as well as a copy of the checks as proof that the payments required under Paragraph 1 have been satisfied.

(4) Dillon agrees not to offer or sell any private placement securities or other securities issued under Regulation D, Rule 506 (17 CFR § 230.506 of the Securities Act of 1933), within the Commonwealth of Virginia after the date of entry of this Order.

(5) Should Dillon submit an application to the Division for registration upon employment and the application otherwise satisfies the requirements for registration, Dillon may be registered following the entry of this Order. As a condition of registration with the Division, however, Dillon will be required to comply with the following reporting requirements for thirty-six (36) months:

(a) Within five (5) business days following notification or receipt by him, Dillon shall report in writing to the Division any disciplinary proceeding, internal review, or exception report generated by Dillon's employer. Dillon also shall report within ten (10) business days following notification or receipt by him, any complaint, dispute, settlement or arbitration against Dillon based upon investment services provided by him; and

(b) Every six (6) months after entry of this Order, Dillon will provide a transaction log record showing his securities transactions for the preceding six (6) months.

(6) Dillon will complete training courses pertaining to (1) investor suitability and (2) securities fraud. Prior to enrolling in such course(s), Dillon will obtain approval from the Division regarding the sufficiency of the courses. Following completion of the training, Dillon shall submit evidence of such completion to the Division within one hundred twenty (120) days from the date of entry of this Order.

(7) Dillon agrees not to violate the Act in the future.

(8) This Settlement Order is a full and final settlement between the Division and Dillon regarding his offer and sale of the Securities, and without prejudice to any additional action that the Division may pursue regarding CB Securities, CB Securities' affiliates and control persons, or other agents of CB Securities.

The Division has recommended that the Commission accept Dillon's offer of settlement.

The Commission, having considered the record herein, the offer of settlement of Dillon, and the recommendation of the Division, is of the opinion that Dillon's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The offer of Glenn Dillon in the settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Glenn Dillon fully comply with the aforesaid terms and undertakings of this settlement; and
- (3) The Commission shall retain jurisdiction in this matter for all purposes, including the institution of a show cause proceeding, or taking such other action it deems appropriate, on account of Dillon's failure to comply with the terms and undertakings of the settlement.

**CASE NO. SEC-2010-00085
MAY 4, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

GERALD DEWITT,
Defendant

SETTLEMENT ORDER

The Division of Securities and Retail Franchising ("Division") of the State Corporation Commission ("Commission") conducted an investigation of Gerald DeWitt ("DeWitt"), pursuant to § 13.1-518 of the Virginia Securities Act ("Act"), §§ 13.1-501 *et seq.* of the Code of Virginia.

The investigation concerned the offer and sale of certain private placements of securities to investors within the Commonwealth of Virginia. These transactions involved DeWitt, as well as BOTJ Investment Group, Inc. ("BOTJIG"), Community Bankers Securities, LLC ("CB Securities"), which provided broker-dealer services under a "networking agreement" with BOTJIG, certain officers of CB Securities, and other agents of CB Securities. Additionally, these transactions involved the offer and sale of the following securities (collectively, "Securities"): (i) Medical Provider Financial Corporation II through IV, and Medical Provider Funding Corporation V and VI Notes (together, "Med Cap Notes"); (ii) Evolution Capital Advisors, LLC Secured Three- and Five-Year Notes and Evolution Investment Group, LLC Secured Promissory Notes (together, "Evolution Notes"); and (iii) Cash Ready, LLC Secured Twelve-, Thirty-, and Sixty-Month Notes.

Based upon the investigation, the Division alleges that DeWitt committed violations of the Act in conjunction with the offer and sale of the Securities to investors in the Commonwealth of Virginia. Specifically, the Division alleges that DeWitt violated: (i) § 13.1-507 of the Act in that he offered and sold the Securities, which were not registered under the Act nor exempt from registration; (ii) § 13.1-502(2) of the Act by omitting certain material facts necessary in order to make the statements made to potential investors, in the light of the circumstances under which they were made, not misleading, in that he failed to provide adequate risk warnings to potential investors and failed to verify material company information which now has been alleged to be fraudulent; and (iii) Rule 21 VAC 5-20-280 B(6), *Prohibited business conduct*, of the Division's Rules governing Broker-Dealers, Broker-Dealer Agents and Agents of the Issuer, 21 VAC 5-20-10 *et seq.*, by recommending that investors purchase the Securities without reasonable grounds to believe that such recommendations were suitable for the investors based upon reasonable inquiry concerning the investors' investment objectives, financial situation, risk tolerance and needs, and other relevant information.

As part of its investigation, the Division notes that DeWitt provided evidence that most investors who purchased Evolution Notes were able to redeem those Securities and did so through the assistance and help of DeWitt. The Division also notes that DeWitt cooperated with the investigation of the Evolution Notes.

If the standards of the statute are met, the Commission is authorized by § 13.1-506 of the Act to revoke a defendant's registration, by § 13.1-519 of the Act to issue temporary or permanent injunctions, by § 13.1-518 A of the Act to impose costs of investigation, by § 13.1-521 A of the Act to impose certain monetary penalties, by § 13.1-521 C of the Act to order a defendant to make rescission and restitution, and by § 12.1-15 of the Code of Virginia to settle matters within its jurisdiction.

DeWitt neither admits nor denies the Division's allegations but admits to the Commission's jurisdiction and authority to enter this Settlement Order.

As a proposal to settle all matters arising in connection with the Division's investigation regarding the Securities, DeWitt has made an offer of full and final settlement to the Commission wherein DeWitt will abide by and comply with the following terms and undertakings:

(1) DeWitt will return all commissions that he received from investors who purchased Med Cap Notes from him and, as of the date of this Order, have not otherwise settled and released DeWitt in regard to any claims relating to the Med Cap Notes. DeWitt shall return these commissions in the amount of Thirty-Nine Thousand Nine Hundred and Fifty-two Dollars (\$39,952). DeWitt will divide the returned commissions and make payments to each investor in a *pro rata* amount directly to each investor at the investor's last known addresses within three (3) years of the date of entry of this Order.

(2) Within sixty (60) days following entry of this Order, DeWitt will notify each investor of the settlement and provide a copy of this Settlement Order to each investor.

(3) Within thirty (30) days of returning all commissions as required under Paragraph 1 above of this Order, DeWitt will submit to the Division an affidavit stating that each of the investors has been provided with a copy of the Settlement Order, along with certified mail receipts of such mailing, as well as a copy of the checks as proof that the payments required under Paragraph 1 have been satisfied.

(4) DeWitt agrees not to offer or sell any private placement securities or other securities issued under Regulation D, Rule 506 (17 CFR § 230.506 of the Securities Act of 1933), within the Commonwealth of Virginia after the date of entry of this Order.

(5) Should DeWitt submit an application to the Division for registration upon employment and the application otherwise satisfies the requirements for registration, DeWitt may be registered following the entry of this Order. As a condition of registration with the Division, however, DeWitt will be required to comply with the following reporting requirements for thirty-six (36) months:

(a) Within five (5) business days following notification of or receipt by him, DeWitt shall report in writing to the Division any disciplinary proceeding, internal review, or exception report generated by DeWitt's employer. DeWitt also shall report within ten (10) business days following notification or receipt by him, any complaint, dispute, settlement or arbitration against DeWitt based upon investment services provided by him;

(b) Every six (6) months after entry of this Order, DeWitt will provide a transaction log record showing his securities transactions for the preceding six (6) months; and

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

(c) DeWitt will complete training courses pertaining to (1) investor suitability and (2) securities fraud. Prior to enrolling in such course(s), DeWitt will obtain approval from the Division regarding the sufficiency of the courses. Following completion of the training, DeWitt shall submit evidence of such completion to the Division within one hundred twenty (120) days from the date of registration.

(6) DeWitt agrees not to violate the Act in the future.

(7) This Settlement Order is a full and final settlement between the Division and DeWitt regarding his offer and sale of the Securities, and without prejudice to any additional action that the Division may pursue regarding CB Securities, CB Securities' affiliates and control persons, or other agents of CB Securities.

The Division has recommended that the Commission accept DeWitt's offer of settlement.

The Commission, having considered the record herein, the offer of settlement of DeWitt, and the recommendation of the Division, is of the opinion that DeWitt's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The offer of Gerald DeWitt in the settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Gerald DeWitt fully comply with the aforesaid terms and undertakings of this settlement; and
- (3) The Commission shall retain jurisdiction in this matter for all purposes, including the institution of a show cause proceeding, or taking such other action it deems appropriate, on account of DeWitt's failure to comply with the terms and undertakings of the settlement

**CASE NO. SEC-2011-00006
MAY 16, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
VERITRAX CORPORATION
and
DALE TOLER,
Defendants

JUDGMENT ORDER

On May 19, 2011, the State Corporation Commission ("Commission") issued a Rule to Show Cause ("Rule") against Veritrax Corporation and Dale Toler (collectively, "Defendants"). The Rule summarized allegations by the Division of Securities and Retail Franchising ("Division"). Specifically, the Division alleged that the Defendants failed to comply with a subpoena which was issued by the Commission on March 22, 2011 ("Subpoena"), in accordance with § 13.1-518 of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.*, of the Code of Virginia ("Code").

The Rule, among other things, assigned the matter to a Hearing Examiner and scheduled an evidentiary hearing for July 14, 2011. Additionally, the Rule ordered the Defendants to file a responsive pleading on or before June 10, 2011, in which each Defendant was required to expressly admit or deny the allegations in the Rule and present any affirmative defenses that they intended to assert. The Rule also advised the Defendants that they may be found in default if they failed to either timely file a responsive pleading or if they failed to appear at the hearing.

An evidentiary hearing on the Rule was held on July 14, 2011. The Division was represented by its counsel, Gauhar R. Naseem, Esquire. The Defendants failed to appear after receiving notice of the hearing. The proof of service of the Rule was offered into the record as an exhibit. The Division presented the testimony of Gail Moore, Senior Investigator in the enforcement section of the Division, along with documentary proof to provide the facts necessary to prove the allegations set forth in the Rule.

On August 9, 2011, the Hearing Examiner issued her report ("Report"), which thoroughly summarized the factual and procedural history of this case, as well as the evidence and arguments presented at the hearing. In her Report, the Hearing Examiner found that: (i) the Rule was properly served in accordance with § 12.1-19.1 of the Code; (ii) the Defendants were in default; (iii) the Defendants were subject to penalty pursuant to § 12.1-33 of the Code for failing or refusing to obey the Commission's Subpoena; (iv) The Defendants should be fined in the amount of Ten Thousand Dollars (\$10,000) for failing or refusing to obey the Commission's Subpoena; (v) the Defendants should be ordered to produce the documents specified in the Subpoena within ten (10) days following the entry of this Order; (vi) the penalty should be waived if the Defendants produce the documents specified in the Subpoena within ten (10) days following the entry of this Order; (vii) the Defendants should be advised that they will be subject to a separate fine of Ten Thousand Dollars (\$10,000) for each day that they fail or refuse to obey the Commission's Order; and (viii) the Commission should retain jurisdiction over this matter for the assessment of additional fines in accordance with § 12.1-33 of the Code if appropriate.

The Report allowed the Defendants twenty-one (21) days in which to provide comments. The Defendants did not file comments.

On October 3, 2011, the Commission entered an Order ("October 3 Order") adopting the findings and recommendations of the Hearing Examiner, ordered the Defendants to pay Ten Thousand Dollars (\$10,000) in penalties for failing or refusing to obey the Commission's Subpoena and to produce the documents specified in the Subpoena within fifteen (15) days following the entry of the October 3 Order. Additionally, the October 3 Order subjected the Defendants to a separate fine of Ten Thousand Dollars (\$10,000) for each day that they failed or refused to obey the Commission's October 3 Order by failing to produce the documents specified in the Subpoena.

On April 3, 2012, the Division, by counsel, filed a Motion Requesting Order for Penalties ("Motion"). In the Motion, the Division reported that as of March 21, 2012, the Defendants had failed to produce the documents in accordance with the October 3 Order. Attached to the Motion was the affidavit of Gail Moore, Senior Investigator with the Division, attesting to the Defendants failure to produce the requested documents. The Division moved the Commission to enter an order penalizing the Defendants in accordance with the October 3 Order at a rate of Ten Thousand Dollars (\$10,000) per day from the dates of October 18, 2011 to March 21, 2012, for a total amount of One Million Five Hundred Fifty Thousand Dollars (\$1,550,000).

The Defendants filed no response to the Division's Motion.

NOW THE COMMISSION upon consideration of the Division's Motion is of the opinion and finds that the Division's request should be granted.

Accordingly, IT IS ORDERED THAT:

(1) The Defendants are hereby fined in the amount of One Million Five Hundred Fifty Thousand Dollars (\$1,550,000) for failing or refusing to obey the Commission's October 3 Order; and

(2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

CASE NOS. SEC-2011-00010 AND SEC-2011-00011 OCTOBER 1, 2012

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

WILLIAM M. SOMERINDYKE, Jr.,
ANITA C. TRIBBLE,
Defendants

JUDGMENT ORDER

On March 23, 2011, the State Corporation Commission ("Commission") entered a Rule to Show Cause ("Rule") against William M. Somerindyke, Jr. ("Somerindyke"), and Anita C. Tribble ("Tribble") (collectively, "the Defendants") based upon allegations of the Division of Securities and Retail Franchising ("Division"). Specifically, the Division alleged that Somerindyke and Tribble violated § 13.1-502 (3) of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia, by engaging in transactions, acts, or practices that operated as a fraud or deceit against the purchasers. The Division also alleged that Somerindyke: (1) violated § 13.1-507 of the Act by offering and selling unregistered, non-exempt promissory notes and equity membership interests, (2) violated § 13.1- 504 A of the Act by offering and selling securities without being registered to do so, and (3) violated § 13.1-502 (2) of the Act by making material misrepresentations and omissions in the offer and sale of securities.

Somerindyke and Tribble were principals for several affiliated companies, HotSpot Marketing, LLC ("HotSpot"), Bad Ideas, Ltd.,¹ and Croesus Capital Inc. ("Croesus").² Prior to forming and running these companies, Somerindyke and Tribble were employed as securities agents for a Virginia-registered broker dealer.³

Of the companies, only HotSpot had business operations.⁴ HotSpot's business was an interactive, touch-screen marketing technology with a coupon feature in computer kiosks placed in high-traffic, visual locations in a number of locations in Virginia and the Mid-Atlantic region.⁵ To provide capital for HotSpot, Somerindyke offered and sold investors equity interests and promissory notes. Tribble, acting as the COO, ran HotSpot's financial operations.⁶

In the Rule, the Commission directed the Defendants to file a responsive pleading on or before April 25, 2011. The Commission also directed the Defendants to appear at a hearing scheduled to begin on June 3, 2011. The Rule assigned the matter to a Hearing Examiner to conduct further proceedings on behalf of the Commission and to file a final report ("Report").

¹ Later Tarlton Companies, Ltd.

² See Requests for Admissions ("RFA"), June 30, 2011, admitted into record by Hearing Examiner's Ruling, November 30, 2011. Somerindyke was President of Croesus and Tarlton, and Chief Executive Officer of HotSpot. Tribble was Treasurer of Croesus and Chief Operating Officer ("COO") of HotSpot.

³ Exs. 53 and 54.

⁴ Croesus and Tarlton were formed as funding companies for HotSpot. Transcript ("Tr.") 395:12-17.

⁵ Tr. p. 397:6-13.

⁶ Exs. 24C and 106C, RFA #22.

On April 25, 2011, Somerindyke and Tribble each filed an Answer to the Rule, along with a Request for a Bill of Particulars and Denial of Allegations, and a Motion to Continue the Date of the Proposed Procedure Before a Hearing Examiner.⁷

The evidentiary hearing in this case was convened, as noticed and scheduled, on February 22 and 23, 2012, in Virginia Beach, Virginia. John F. Kane, Esquire, appeared on behalf of the Defendants. Debra M. Bollinger, Esquire, and Donnie L. Kidd, Esquire, appeared on behalf the Division.

During the hearing, the Division offered, and the Hearing Examiner accepted into evidence, numerous exhibits and testimony through witnesses, including: (1) witnesses who authenticated and described certain bank records associated with HotSpot (and other companies associated with the Defendants and HotSpot), at SunTrust Bank, Wells Fargo Bank, Branch Banking & Trust, and RBC Bank, USA; (2) the testimony and associated documents of two (2) investor witnesses, George Kotarides ("Kotarides") and Dr. James Nottingham ("Nottingham"); (3) the testimony and associated documents of several non-investor witnesses, John Corey, Kurt Werth, and James Davis; and (4) the testimony, associated documents, and analysis of financial data by the Division's investigator Tom Bayly.

The Defendants offered numerous exhibits and testimony through their witnesses, including: (1) Martin Ganderson, a former HotSpot attorney; (2) Mark Riennerth, a HotSpot investor and business colleague of the Defendants; and (3) Somerindyke.

By Ruling dated April 10, 2012, simultaneous post-hearing briefs were due to be filed on June 11, 2012. A timely post-hearing brief was filed by the Division on June 11, 2012. The Defendants did not file a post-hearing brief.⁸

On July 2, 2012, the Hearing Examiner issued her Report. In her Report, the Hearing Examiner found that: (1) Somerindyke committed four (4) violations of §13.1-507 of the Act when he offered and sold unregistered, non-exempt securities to Kotarides and Nottingham; (2) Somerindyke committed four (4) violations of § 13.1-504 A of the Act by offering and selling securities to Kotarides and Nottingham without being registered to do so; (3) Somerindyke committed two (2) violations of §13.1-502 (2) of the Act by making material omissions to Nottingham in the offer and sale of securities; (4) Somerindyke and Tribble each committed two (2) violations of § 13.1-502 (3) of the Act by engaging in a course of business operating as a fraud or deceit against Nottingham; and (5) Somerindyke and Tribble should each be permanently enjoined from violating the Act in the future.⁹ The Hearing Examiner recommended that the Commission enter an order adopting the findings of her Report and dismissing the case from the Commission's docket of active cases. Comments to the Hearing Examiner's Report were due on or before July 23, 2012.

On July 20, 2012, counsel for the Defendants filed a request for an additional two (2) weeks to file Comments and for permission to expand the record. By Order dated August 23, 2012, the Commission granted the Defendants' request for additional time and required both the Defendants and the Division to file comments by August 6, 2012.

On August 6, 2012, the Division filed its Comments to the Report. In its Comments, the Division requested that the Commission clarify certain conclusions and legal interpretations discussed by the Hearing Examiner in the Report. Specifically, the Division requested that the Commission clarify: (1) the distinction between omissions under § 13.1-502 (2) of the Act and violations of the registration provisions of § 13.1-507 of the Act; (2) whether § 13.1-502 (2) of the Act is limited to a veracity standard; and (3) the standard for the materiality test under § 13.1-502 (2) of the Act. The Division further stated that these clarifications would not alter the Hearing Examiner's findings and recommendations.

On August 17, 2012, the Defendants filed a Renewed Motion to Allow Late Filing ("Renewed Motion") along with Comments on the Report of the Hearing Examiner; Objection to Proposed Findings and Appeal; and a Request for Oral Argument. On August 21, 2012, the Division filed its objections to the Defendants' Renewed Motion and late-filed Comments.

⁷ See Hearing Examiner's Report at p. 2. Following the Defendants' request and response by the Division, the Hearing Examiner issued a Ruling on June 9, 2011, granting the Defendants' request for a Bill of Particulars. The Division filed a Bill of Particulars on June 24, 2011. In the interim, the Defendants filed a number of motions to which the Division responded, resulting in a ruling dated June 17, 2011, which reset the hearing date for December 14, 2011.

Throughout the second half of 2011, both the Defendants and the Division filed and responded to procedural motions and discovery requests pursuant to the Commission's Rules of Practice and Procedure, 5 VAC 5-20-10 *et seq.* ("Rules of Practice"). By Hearing Examiner's Ruling dated May 9, 2011, the Defendants were granted a continuance of the June 3, 2011 hearing, and in the same ruling the Hearing Examiner granted the Defendants' May 5, 2011 request for extension of the required filing dates. On August 24, 2011, by Hearing Examiner's Ruling, the Defendants were directed to respond to the Division's Motion to Compel and Motion to Admit Requests for Admission ("RFA" sent on June 30, 2011) by September 6, 2011. On September 6, 2011, the Defendants filed their opposition to the discovery and filed responses to the Division's discovery requests. By Hearing Examiner's Ruling dated September 22, 2011, the Hearing Examiner directed the Defendants to respond to certain RFAs, submit separate, delineated answers or objections to the Division's interrogatories, and provide the documents requested by the Division by October 4, 2011.

On October 20, 2011, the Defendants filed a Motion to Admit Late Filing of their Supplemental Responses ("Motion to Admit Late Filing," filed on October 12, 2011) as directed by the Hearing Examiner, among other motions, including a request for the hearing location to be moved to Virginia Beach, Virginia. By Ruling dated November 3, 2011, the Hearing Examiner granted the Defendants' request for a change of location (necessitating a change of hearing date) and directed the Defendants to file replies to the Division's response to their October 20, 2011 Motion to Admit Late Filing.

After numerous Rulings were entered with regard to these procedural and discovery issues, the Hearing Examiner canceled the December 14, 2011 hearing date, in a Ruling dated November 22, 2011, and scheduled a new hearing date of February 22, 2012, in Virginia Beach, Virginia. In addition, by Ruling dated November 10, 2011, the Defendants' request for dismissal of the Rule, prior to the evidentiary hearing, was denied. Furthermore, by a Ruling entered on November 30, 2011, the Hearing Examiner granted the Defendant's motion for extension of discovery responses, permitted the Defendants to substitute their supplemental discovery responses for their prior responses, and deemed as admitted various factual matters alleged by the Division.

⁸ On June 12, 2012, the day after the post-hearing briefs were due, the Defendants filed a Motion for Extension of Time to File Post Hearing Brief. On June 29, 2012, the Division filed a response opposing the Defendants' motion. The Hearing Examiner, in her Report, denied as untimely the Defendants' motion, finding that the Defendants failed to state good cause for an extension.

⁹ Report at p. 25.

NOW THE COMMISSION, upon consideration of the matter, is of the opinion and finds that the Hearing Examiner's findings and recommendations are reasonable, supported by the evidentiary record, and should be adopted. We do not adopt the Hearing Examiner's conclusions and interpretations of law on the limited issues raised in the Division's Comments as they do not affect the outcome of this case. Good cause having not been shown, we deny the Defendants' July 20, 2012 request to expand the record, as well as the Defendants' August 17, 2012 Renewed Motion.

Accordingly, IT IS ORDERED THAT:

- (1) The findings and recommendations of the July 2, 2012, Hearing Examiner's Report are hereby adopted.
- (2) In accordance with the Commission's regulatory duties and powers pursuant to § 13.1-521 A of the Act, a judgment is entered for the Commonwealth against the Defendants for their violations of the Act.
- (3) As a result of this judgment, the Defendants are permanently enjoined pursuant to § 13.1-519 of the Act from violating the Act in the future.
- (4) No monetary penalties were imposed pursuant to § 13.1-521 A of the Act nor was the cost of investigation assessed in the bringing of this case pursuant to § 13.1-518 of the Act.¹⁰
- (5) The Defendants' July 20, 2012 request to expand the record and its August 17, 2012 Renewed Motion are hereby denied, and all documents attached thereto are not admitted into the record herein.

¹⁰ This Order does not preclude any civil action by a private litigant or affect any civil liability arising under § 13.1-522 of the Act, which allows a person who has purchased securities or investment advice to pursue a private cause of action for up to two years after the transaction upon which it is based.

**CASE NO. SEC-2011-00035
FEBRUARY 9, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

MORGAN ASSET MANAGEMENT, INC., and
MORGAN KEEGAN & COMPANY, INC.,
Defendants

CONSENT ORDER

Morgan Keegan & Company, Inc. ("MKC"), is a registered broker-dealer in the Commonwealth of Virginia; and

Morgan Asset Management, Inc. ("MAM"), is an affiliate of MKC and notice-filed as an investment adviser in the Commonwealth of Virginia;
and

James C. Kelsoe, Jr. ("Kelsoe") was, at relevant times, employed by MAM and a registered agent through MKC; and

Coordinated investigations into the activities of MKC, MAM and Kelsoe, in connection with certain violations of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia and other states' securities acts, and certain business practices, have been conducted by a multistate task force ("Task Force") and an additional investigation has been conducted by the United States Securities and Exchange Commission ("SEC") and the Financial Industry Regulatory Authority ("FINRA") (collectively, the "Regulators"); and

MKC and MAM have cooperated with the Task Force conducting the investigations by responding to inquiries, providing documentary evidence and other materials, and providing Regulators with access to facts relating to the investigations; and

MKC and MAM have advised the Regulators of their agreement to resolve the investigations; and

MKC and MAM elect to permanently waive any right to a hearing and appeal under the Act, with respect to this Consent Order ("Consent Order"); and

MKC and MAM admit the jurisdictional allegations herein, and MKC and MAM admit to the allegations in paragraphs 41 through 43 of Section II, relating to the maintenance of books and records, but, except as admitted above, otherwise neither admit nor deny any of the findings of fact, allegations, assertions or conclusions of law that have been made herein in this proceeding;

NOW, THEREFORE, the State Corporation Commission ("Commission"), as administrator of the Act, hereby enters this Consent Order:

I. DEFENDANTS AND PERSONS/ENTITIES AFFILIATED WITH THE DEFENDANTS

1. Defendant MKC (CRD No. 4161), a Tennessee corporation, is a registered broker-dealer with the Commission's Division of Securities and Retail Franchising ("Division") and the SEC, as well as a federally registered investment adviser with the SEC. At all relevant times MKC was properly registered and notice-filed with the Division. MKC is a wholly owned subsidiary of Regions Financial Corporation ("RFC") which is headquartered in Birmingham, Alabama. MKC's primary business address is 50 Front Street, Morgan Keegan Tower, Memphis, Tennessee 38103-9980.

2. Defendant MAM, a Tennessee corporation, is a federally registered investment adviser with the SEC (CRD No. 111715) and at all relevant times was properly notice-filed with the Division. MAM is a wholly owned subsidiary of MK Holding, Inc., a wholly owned subsidiary of RFC. MAM is headquartered in Alabama with a principal business address of 1901 6th Avenue North, 4th Floor, Birmingham, Alabama 35203.

3. Wealth Management Services ("WMS"), a division of MKC, developed, recommended, and implemented asset allocation strategies for MKC and was to perform due diligence on traditional and alternative funds and fund managers for the benefit of MKC, its Financial Advisers (alternatively referred to as "FAs", "sales force" or "agents"), and certain investor clients.

4. James C. Kelsoe (CRD No. 2166416) was Senior Portfolio Manager of the Funds, as defined in paragraph II.5 below, and was responsible for selecting and purchasing the holdings for the Funds. Kelsoe was an employee of MAM and a registered agent through MKC.

II. FINDINGS OF FACT

5. The seven (7) funds at issue are Regions Morgan Keegan Select Intermediate Bond Fund ("Intermediate Bond Fund"), Regions Morgan Keegan Select High Income Fund ("Select High Income Fund"), Regions Morgan Keegan Advantage Income Fund ("Advantage Income Fund"), Regions Morgan Keegan High Income Fund ("High Income Fund"), Regions Morgan Keegan Multi-Sector High Income Fund ("Multi-Sector High Income Fund"), Regions Morgan Keegan Strategic Income Fund ("Strategic Income Fund"), and Regions Morgan Keegan Select Short Term Bond Fund ("Short Term Bond Fund") (collectively, the "Funds").

6. Six (6) of the seven (7) Funds were largely invested in mezzanine and lower subordinated "tranches," or slices, of structured debt instruments, which carry more risk than the senior tranches.¹ The Funds were comprised of many of the same holdings. On June 30, 2007, approximately two-thirds (2/3) of the holdings of the four (4) closed-end funds and the Select High Income Fund were substantially identical. Approximately one quarter (1/4) of the Intermediate Bond Fund's holdings corresponded to the holdings of the five (5) high yield Funds. The Funds were highly correlated, meaning they behaved like each other under similar market conditions. The combination of subordinated tranche holdings and the high correlation of the Funds caused investors owning more than one (1) of these funds to have a heightened risk of over concentration.

7. The Funds were created and managed by Kelsoe. Kelsoe was also principally responsible for the purchase and sale of all of the holdings in the Funds.

8. When WMS ceased reporting and dropped its coverage of the Select Intermediate Bond Fund and Select High Income Fund in July, 2007, it failed to announce the drop in coverage in writing until November, 2007. WMS did not publish a withdrawal of its prior analysis or recommend the Funds' replacement.

9. On January 19, 2007, WMS announced it was reclassifying the Intermediate Bond Fund on the Select List from "Fixed Income" to "Non-Traditional Fixed Income." Meanwhile, WMS profiles for the Intermediate Bond Fund continued to label it as the "Intermediate Gov't/Corp Bond."

10. Certain of the Funds' annual, semi-annual, and quarterly reports filed with the SEC did not adequately disclose the risks of subordinated tranches and the quantity of subordinated tranches held within the Funds.

11. MAM produced quarterly glossies for all seven (7) Funds. In the glossies, MAM did not adequately describe the risks of owning the lower tranches of structured debt instruments or the quantity of such holdings within the Funds.

12. MKC, through WMS, produced quarterly Fund Profiles for the Intermediate Bond Fund, the Select High Income Fund, and the Short Term Bond Fund that did not adequately describe the risks of owning the lower tranches of structured debt instruments or the quantity of such holdings within the Funds.

13. In SEC filings and state notice filings of March and June 2007 involving the Funds, Four Hundred Million Dollars (\$400,000,000.00) of what MAM characterized as corporate bonds and preferred stocks were, in fact, the lower, subordinated tranches of asset-backed structured debt instruments. MAM eventually reclassified certain of these structured debt instruments in the March 2008 Form N-Q Holdings Report for the three (3) open-end funds.

14. In SEC filings, MAM compared the four (4) closed-end funds and the Select High Income Fund (collectively the "RMK high-yield funds"), which contained approximately two-thirds (2/3) structured debt instruments, to the Lehman Brothers U.S. High Yield Index ("Lehman Ba Index"). The Lehman Ba Index is not directly comparable to the RMK high-yield funds given the fact that the Lehman Ba Index contained only corporate bonds and no structured debt instruments.

15. Certain marketing materials and reports minimized the risks and volatility associated with investing in funds largely comprised of structured debt instruments. In the June 30, 2007 glossy, and in previous quarterly glossies created by MAM, and MKC marketed the Intermediate Bond Fund as a fund appropriate for "Capital Preservation & Income." MAM later revised the Intermediate Bond Fund glossy in September 2007 by removing the caption "Capital Preservation & Income" and replacing it with "Income & Growth," and by removing the word "stability," which had previously been used to describe the fund.

16. The Intermediate Bond Fund glossies dated June 30, 2007, and September 30, 2007, stated that the Intermediate Bond Fund "...does not invest in speculative derivatives." However, the Intermediate Bond Fund did use derivatives, including interest-only strips, and collateralized debt obligations (CDOs), which were derived from the mezzanine and lower tranches of other debt securities.

17. MKC through WMS labeled the Intermediate Bond Fund with varying names. None of the three labels "Taxable Fixed Income", "Enhanced Low-Correlation" and "Intermediate Gov't/Corp Bond" used by MKC adequately portrayed the nature of the Intermediate Bond Fund, of which approximately two-thirds (2/3) of the portfolio was invested in the mezzanine or lower subordinated tranches of structured debt instruments. The label "Gov't/Corp Bond," which first appeared on the December 31, 2006 profile sheet, was never changed after that date.

¹ The seventh, the Short Term Bond Fund, had significant investments in mezzanine and subordinated tranches of structured debt instruments.

A. SUPERVISION AND SUPERVISORY DUE DILIGENCE

18. During the period January 1, 2007 through July 31, 2007, preceding the collapse of the subprime market, MAM made two-hundred sixty-two (262) downward price adjustments for the purpose of adjusting the net asset value of the Funds. In some instances, MAM's communications led MKC, through its sales force, to actively discourage investors from selling the Funds—even while fund prices continued to decline -- by advising investors to "hold the course." Some members of MKC, MAM, and their management personnel continued during this period to advise FAs and investors to buy the Funds through, *inter alia*, statements that characterized the decline as "a buying opportunity."

19. MKC and MAM failed to adequately supervise the flow of information to the MKC sales force concerning the Funds. For example, in conference calls with the sales force, the senior portfolio manager for the Funds cited sub-prime fears and liquidity as the primary factors for a decline in the net asset value of the Funds without fully explaining the market impact on certain securities held by the Funds.

20. WMS did not complete a thorough annual due diligence report of the open-end funds and the management of the open-end funds in 2007. A fixed income analyst for WMS, attempted to complete an annual due diligence review of the open-end funds and the management of the open-end funds in the summer of 2007, but was unsuccessful due to Kelsoe's and MAM's failure to provide sufficient information and Kelsoe's failure to be available for a meeting during normal operating hours. Subsequently, WMS failed to notify the MKC sales force of WMS's failure to complete the annual on-site due diligence review. An incomplete draft of WMS's annual due diligence report for internal use only was submitted by the WMS analyst, but it was neither completed nor released to the sales force.

21. On July 31, 2007, WMS dropped coverage of all proprietary products, which included the funds for which WMS could not produce a thorough report. This fact was not disclosed in writing to the sales force until November 2007.

22. Based on WMS's one (1) page, one (1) paragraph report of the August 18, 2006 on-site due diligence review, the due diligence visits by the WMS fixed income analysts were not "detailed, thorough, and exhaustive," as advertised by MKC. There are two (2) WMS profiles of the Intermediate Bond Fund dated September 30, 2006. The sections titled "investment philosophy" in the profile sheets contain substantial differences. The first WMS profile for the Intermediate Bond Fund, based on the information for the quarter ending September 30, 2006, is titled "Taxable Fixed Income." The first profile, much like previous quarterly profiles, does not refer to any of the holdings as "inferior tranches." Neither does it mention potential lack of demand and lack of liquidity. Further, it includes the statement that "The fund does not use derivatives or leverage."

23. WMS's changing of the Intermediate Bond Fund profile label indicated WMS's inability and lack of supervision in the creation of these marketing pieces to accurately categorize the Intermediate Bond Fund. Within one (1) quarter, WMS identified the Intermediate Bond Fund three (3) different ways:

September 30, 2006 - Taxable Fixed Income
September 30, 2006 - Enhanced Low Correlations Fixed Income
December 31, 2006 - Intermediate Gov't/Corp Bond

24. The "Gov't/Corp Bond" label implied that the Intermediate Bond Fund holdings were predominately government and corporate bonds carrying a certain degree of safety. This improper labeling indicates a failure to conduct proper due diligence, a duty of MKC.

25. In addition, all profiles for the Intermediate Bond Fund from March 31, 2006, through June 30, 2007, stated that Kelsoe was joined by Rip Mecherle ("Mecherle") as assistant portfolio manager. Mecherle left MAM in 2004. The failure to detect the errors in promotional materials relating to management does not reflect the "detailed, thorough, and exhaustive due diligence" claimed by MKC in its sales and promotional material distributed to investors.

B. SUITABILITY OF RECOMMENDATIONS

26. MAM indicated that risks and volatility were minimized in the Intermediate Bond Fund portfolio. In the June 30, 2007 glossy, and previous quarterly glossies created by MAM, Defendants marketed the Intermediate Bond Fund's broad diversification of asset classes three (3) times on the first page of each of the glossies, when in fact, approximately two-thirds (2/3) of the Intermediate Bond Fund portfolio was composed of structured debt instruments which included risky assets. The four (4) closed-end funds also advertised diversification among asset classes, despite the similarities in asset classes as set forth in Section C below.

27. Furthermore, the glossies emphasized the Select High Income Fund's net asset value as being less volatile than typical high-yield funds. The glossies failed to state that a reason for any lower volatility was that the structured debt instruments within the Select High Income Fund were not actively traded, and that the daily fair value adjustments of certain holdings were imprecise in a market that became illiquid.

28. In certain cases, MKC and its sales force failed to obtain adequate suitability information regarding risk tolerance that was necessary to determine suitability for using the Funds for regular brokerage account customers. New account forms for regular brokerage accounts provided a menu of four (4) investment objectives to choose from: Growth, Income, Speculation, and Tax-Advantaged. Risk tolerance was not addressed by the form, was not noted by the sales force whose records were examined during the investigation, and may not have been taken into consideration when the sales force made its recommendations.

29. In at least one instance, an agent of MKC provided a customer with a self-made chart assuming the hypothetical growth of One Hundred Thousand Dollars (\$100,000.00) over five (5) years, and comparing the rate of return on CDs to the return on the Intermediate Bond Fund. The chart failed to address any risks of investing in the fund, save the caption "Not FDIC Insured."

C. ADVERTISEMENTS BY DEFENDANTS

30. Marketing glossies prepared by MAM for the Intermediate Bond Fund and Select High Income Fund contained allocation pie charts dividing the categories of holdings by percentages of the total portfolio. Between June 2004 and March 2005, the pie charts for both funds changed

significantly: MAM divided the category originally titled "asset-backed securities" into multiple categories. These changes indicated that the holdings of these Funds were more diversified than they actually were because the majority of the portfolios continued to be invested in asset-backed securities.

- a. In the Intermediate Bond Fund glossy dated June 30, 2004, the Asset-Backed Securities (ABS) and Commercial Mortgage Backed Securities (CMBS) are listed under a single heading comprising seventy percent (70%) of the portfolio.
 - b. In the Intermediate Bond Fund glossy dated December 31, 2004, the pie chart was revised and the ABS and CMBS are shown as separate categories, but together still comprise seventy-six percent (76%) of the portfolio.
 - c. The Intermediate Bond Fund glossies dated March 31, 2005, show the ABS category further split into six (6) categories that, together with CMBS, comprised seventy-seven percent (77%) of the portfolio. Those six (6) categories were: "Manufactured Housing Loans," "Home Equity Loans," "Franchise Loans," "Collateralized Debt Obligations," "Collateralized Equipment Leases," and "Other." Subsequent glossies continue to show the ABS split into six (6) categories.
 - d. In the Select High Income Fund glossy dated June 30, 2004, the ABS and CMBS are listed under a single heading comprising sixty percent (60%) of the portfolio.
 - e. In the Select High Income Fund glossy dated December 31, 2004, the pie chart was revised and the ABS and CMBS are shown as separate categories, but together still comprise fifty-nine percent (59%) of the portfolio.
 - f. The Select High Income Fund glossy dated March 31, 2005, shows the ABS category further split into six (6) categories which, together with CMBS, comprised sixty-four (64%) of the portfolio. Those six (6) categories were: "Collateralized Debt Obligations," "Manufactured Housing Loans," "Collateralized Equipment Leases," "Franchise Loans," "Home Equity Loans," and "Other." Subsequent glossies continue to show the ABS split into six (6) categories.
31. The pie charts in the glossies for the High Income Fund were also changed in a similar manner between June 2004 and March 2005.
32. Similar changes were also made to pie charts in glossies for the Advantage Income Fund and the Strategic Income Fund between December 2004 and March 2005.
33. MKC used different index comparisons in the Select High Income Fund "Profile" sheets produced by WMS. These profile sheets compared the Select High Income Fund to the Credit Suisse First Boston High Yield Index, as well as the Merrill Lynch US High Yield Cash BB Index. These two indices only contain corporate bonds and no structured debt instruments. The Select High Income Fund contained substantially different risks than the portfolios within either of the two indices, and therefore these benchmarks were not directly comparable.

D. REQUIRED EXAMINATIONS OF CUSTOMER ACCOUNTS TO DETECT AND PREVENT IRREGULARITIES OR ABUSES

34. While the models for WMS managed accounts limited the use of the Intermediate Bond Fund to certain percentages, usually no more than fifteen percent (15%) of any client's portfolio, there was no such limitation for non-managed accounts. Additionally, no guidance was provided to the FAs regarding limiting concentrations of the Intermediate Bond Fund in non-managed accounts. As a result, certain customer accounts contained in excess of a twenty percent (20%) concentration of the Intermediate Bond Fund.
35. The four closed-end funds, the Select High Income Fund and the Intermediate Bond Fund were all highly correlated. However, MKC provided limited guidance to the FAs regarding limiting concentrations of combinations of the Funds in non-managed accounts.
36. Up until six (6) months before the collapse of the fund, WMS classified the Intermediate Bond Fund as "Core Plus" in the Fixed Income section of the Select List. At that time it was reclassified as "Alternative Fixed Income" in the Non-Traditional section of the Select List. Yet MKC's concentration for many of its non-WMS managed accounts continued to be above twenty percent (20%) which could indicate its use as a core holding. An e-mail chain from Gary S. Stringer of WMS states as follows:

From: Stringer Gary [Gary.Stringer@morgankeegan.com]

Sent: Tuesday, May 15, 2007 4:10 PM

To: Hennek, Roderick

Subject: Re: RMK Intermediate Bond Fund

Rod,

I did notice that you didn't cc anyone on your email, and I appreciate that. We've always had good, candid conversation.

You have a good point in that we have some low correlation equity strategies on the Traditional side. What worries me about this bond fund is the tracking error and the potential risks associated with all that asset-backed exposure. **Mr & Mrs Jones don't expect that kind of risk from their bond funds. The bond exposure is not supposed to be where you take risks. I'd bet that most of the people who hold that fund have no idea what's it's actually invested in. I'm just as sure that most of our FAs have no idea what's in that fund either.** They think the return are great because the PM is so smart. He definitely is smart, but it's the same as thinking your small cap manager is a hero because he beat the S&P for the last 5 years.

If people are using RMK as their core, or only bond fund, I think it's only a matter of time before we have some very unhappy investors.

(Emphasis added.).

Certain MKC brokers and branch managers interviewed during the investigation stated that they received limited or no guidance as to appropriate concentrations of the Funds to use within clients' accounts.

E. REQUIREMENT TO CONDUCT AN ADEQUATE AND THOROUGH CORRESPONDENCE REVIEW

37. An agent of MKC provided one known customer with a self-made chart assuming the hypothetical growth of One Hundred Thousand Dollars (\$100,000.00) over five (5) years, and comparing the rate of return on CDs to the return on the Intermediate Bond Fund. The chart failed to address any risks of investing in the fund, save the caption "Not FDIC Insured."

38. The MKC agent referred to in the preceding paragraph created a sales illustration in which he compared the returns for the Intermediate Bond Fund to the returns for traditional bank CDs. The agent used the illustration in order to market the Intermediate Bond Fund to bank customers. The agent stated that he created the illustration and that the illustration was not reviewed or approved by appropriate supervisory personnel of MKC. The chart fails to address any risks of investing in the Intermediate Bond Fund, save the caption "Not FDIC Insured."

F. SUPERVISION

39. Carter Anthony, President of MAM from 2001 until the end of 2006, has testified under oath that he conducted performance reviews of all MAM mutual fund managers that included reviews of their portfolios and trading. However, he testified that he did not conduct the same supervisory review and oversight of Kelsoe and the Funds because he was instructed to "leave Kelsoe alone." MAM denies that any such instruction was given.

40. In December 2001, Kelsoe signed a new account form as branch manager, when he, in fact, was never a branch manager nor held any supervisory/compliance licenses. Proper supervision of Kelsoe's activities would have detected such an unauthorized action on his part.

G. MAINTENANCE OF REQUIRED BOOKS AND RECORDS

41. MAM's Fund Management fundamental and qualitative research was touted in marketing and research material.

42. MAM, through its Portfolio Managers, selected securities for investments by the Funds' portfolios. MAM was consulted regarding the fair valuation of certain securities held by the portfolios. Adequate documentation was not retained as to pricing adjustments recommended by MAM to be made to certain of the securities.

43. WMS performed annual due diligence reviews of certain of the Funds and Fund management (MAM and Kelsoe). In mid-2007, MAM and Kelsoe did not provide sufficient information to allow completion of the 2007 annual due diligence review conducted by MKC through WMS. Kelsoe did not make himself available for a meeting during normal operating hours, further delaying the completion of WMS's on-site due diligence review. As a consequence, the report for two of the open-end funds was not completed. By August 2007, WMS dropped coverage of proprietary products and a report for 2007 was never released to the MKC sales force.

H. RESPONSIBILITIES AND CONDUCT OF KELSOE

44. In addition to his duties regarding management of the Funds and selection of investments, Kelsoe was responsible for reviewing information regarding holdings of the Funds to be included in marketing materials and filings with the SEC. Kelsoe also was responsible for supervising his staff's involvement with these processes, as well as their interaction with third parties. Kelsoe had the most knowledge at MAM about the nature of the holdings of the Funds, including the types of securities being purchased or sold for the Funds, the risks associated with the holdings, and the correlation of the holdings among the Funds. Kelsoe and his staff provided information for the preparation of regulatory filings, marketing materials, reports and communications about the Funds. Kelsoe contributed to and delivered commentaries for the Funds and management discussions of fund performance. The SEC filings for the Funds, for which Kelsoe and his staff furnished information regarding holdings of each of the Funds, were provided to Kelsoe for his review prior to filing.

45. Kelsoe contributed to and was aware of the usage of the glossies and certain other marketing materials for the Funds by MAM, as described above, including the descriptions of the Funds, the allocation pie charts, the use of benchmarks, and characterizations of risks and features of the Funds.

46. Kelsoe's involvement in the fair valuation process for securities held by the Funds during the period from January 1, 2007 to July 31, 2007, including influencing some dealer confirmations that were returned, contributed to certain inaccurate valuations of selected holdings on various dates during that period.

47. From January 1, 2007 through July 31, 2007, Kelsoe did not retain documentation relating to his recommendations of price changes of certain securities held by the Funds. These recommendations were used on occasion in the calculation of the daily net asset values of the Funds.

48. From January 1, 2007 through July 31, 2007, Kelsoe failed to review and approve certain emails and other communications of his staff that characterized the downturn of the market for certain securities contained within the Funds as a "buying opportunity," which were circulated to certain MKC FAs.

III. CONCLUSIONS OF LAW

1. The Commission is responsible for the enforcement of laws governing the issuance, sale, and other transactions relative to securities pursuant to the Act.

2. In violation of Commission Rules 21 VAC 5-20-260 A, 21 VAC 5-80-170 A, 21 VAC 5-20-280 G and 21 VAC 5-80-200 C, MKC and/or MAM conducted and participated in the following practices:

- a. MAM failed to adequately disclose in quarterly, semi-annual and annual reports filed with the SEC prior to late 2007 some of the risks associated with investment in the Funds.
- b. In SEC disclosure filings, MAM classified approximately Four Hundred Million Dollars (\$400,000,000.00) of asset-backed securities as corporate bonds and preferred stocks, when they were the lower tranches of asset-backed structured debt instruments.
- c. MKC and MAM used industry benchmarks not directly comparable to the Funds.

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- d. In certain marketing and disclosure materials, MKC and MAM did not correctly characterize the Funds and their holdings.
 - e. In certain instances, MKC and MAM failed to adequately disclose to retail customers the Funds' risks of volatility and illiquidity.
 - f. In certain instances, MKC, through some of its FAs, inappropriately compared the returns of the Intermediate Bond Fund to the returns of certificates of deposit and other low risk investments.
 - g. In certain marketing materials, MKC and MAM used charts and visual aids that demonstrated a level of diversification in the Funds that did not exist.
3. In violation of Commission Rule 21 VAC 5-20-260 A and Rule 21 VAC 5-80-170 A, MKC and/or MAM failed to reasonably supervise their agents, employees and associated persons in the following manner:
 - a. In certain instances, MKC and MAM allowed the Funds' manager, Kelsoe, to operate outside of the firm's organizational supervisory structure.
 - b. In certain instances, MAM and MKC failed to perform adequate supervisory reviews of Kelsoe.
 - c. MKC, through WMS, and MAM failed to perform sufficient due diligence reviews of the Funds.
 - d. MAM and MKC allowed Kelsoe to improperly influence the net asset value calculations of the Funds in certain instances during the period from January through July of 2007.
 - e. MKC failed to assure adequate training and supervision of certain agents in the composition and true nature of the funds.
 - f. MKC allowed agents to recommend (or in discretionary accounts, to purchase) an overconcentration of the Funds in some client accounts.
 4. In violation of Commission Rules 21 VAC 5-20-280 A 3 and 21 VAC 5-80-200 A 1, MKC and/or MAM failed to make suitable recommendations to some investors as demonstrated by the following:
 - a. MKC allowed agents to recommend (or in discretionary accounts, to purchase) an overconcentration of the Funds in some client accounts.
 - b. MAM and MKC recommended and sold the Intermediate Bond Fund and the Short Term Bond Fund to clients as a low risk, stable principal, liquid investment opportunity.
 - c. In a number of instances, MKC sold or recommended investments to retail investors without determining the risk tolerances of the investors.
 5. In violation of Commission Rule 21 VAC 5-20-260 B, MKC failed to enforce their supervisory procedures in the following manner:
 - a. MKC failed to review certain customer accounts for over concentration and proper diversification pursuant to Commission Rule 21 VAC 5-20-260 D 2.
 - b. MKC failed to adequately determine suitability of the Funds as it related to the investment needs of certain of their clients pursuant to Commission Rule 21 VAC 5-20-280 A 3.
 6. In violation of Commission Rules 21 VAC 5-20-260 D 3 and 21 VAC 5-80-170 D 3, MKC and/or MAM in many instances failed to review correspondence and marketing materials used by associated persons to sell the Funds:
 - a. MKC failed to discover that an agent used a comparison of the return of the Intermediate Bond Fund to the returns of a bank certificate of deposit.
 - b. MAM and MKC allowed marketing materials containing inaccurate representations relating to the composition of the Funds to be used by their agents.
 - c. MAM and MKC allowed marketing materials that represented that no derivative products were contained in the Select Intermediate Fund to be used by agents, when in fact some derivative products were contained in the Fund.
 7. In violation of Commission Rules 21 VAC 5-20-280 A 3 and 21 VAC 5-80-200 A 1, in certain cases, MAM and MKC inappropriately recommended the purchase of the Funds for client portfolios without reasonable justification that said recommendation was suitable for the client.
 8. In violation of Commission Rules 21 VAC 5-20-280 G and 21 VAC 5-80-200 C, MKC distributed marketing materials and MAM distributed disclosure materials that were inaccurate:
 - a. MAM failed to adequately disclose in quarterly, semi-annual and annual reports filed with the SEC prior to late 2007 some of the risks associated with investment in the Funds.
 - b. In SEC disclosure filings, MAM classified approximately Four Hundred Million Dollars (\$400,000,000.00) of asset-backed securities as corporate bonds and preferred stocks, when they were the lower tranches of asset-backed structured debt instruments.
 - c. MKC and MAM used industry benchmarks not directly comparable to the Funds.
 - d. In certain marketing and disclosure materials, MKC and MAM did not correctly characterize the Funds and their holdings.
 - e. In certain instances, MKC, through some of its FAs, inappropriately compared the returns of the Intermediate Bond Fund to the returns of certificates of deposit and other noncomparable lower risk investments.
 9. As a result of the foregoing, the Commission finds this Consent Order and the following relief appropriate and in the public interest, and consistent with the Act.

IV. ORDER

On the basis of the Findings of Fact, Conclusions of Law, and MKC's and MAM's consent to the entry of this Order, IT IS HEREBY ORDERED THAT:

(1) Entry of this Consent Order concludes the investigation by the Commission's Division and any other action that the Commission could commence under the Act on behalf of the Commission as it relates to MKC and MAM, any of their affiliates, and any of their past or present employees or other agents in any way relating to the Funds, and acceptance by the Commission of the settlement offer and payments referenced in this Consent Order shall be in satisfaction of and preclude any action that the Commission could commence under the Act against the foregoing; provided however, that excluded from and not covered by this paragraph are (a) individual sales practice violations that could have been brought even had the violations asserted herein against MKC, MAM, or Kelsoe not occurred, and (b) any claims by the Commission arising from or relating to violations of the provisions contained in this Consent Order. Nothing in this paragraph shall preclude the Commission from opposing a request for expungement by a past or present employee or other agent before a regulatory or self-regulatory entity, any court of competent jurisdiction, or any hearing officer, under circumstances it deems appropriate.

(2) This Consent Order is entered into for the purpose of resolving in full the referenced multistate investigation with respect to the Defendants who have executed this Consent Order and any of their affiliates.

(3) MKC and MAM will not violate the Act, and will comply with the Act.

(4) Pursuant to this Consent Order and related Consent Orders of the states of Alabama (SC-2010-0016), South Carolina (File No.: 08011), Kentucky (Agency Case No.: 2010-AH-021/Administrative Action No.: 10-PPC0267), Tennessee Consent Order (Docket No.: 12.06-107077J/Order No. 11-005), and Mississippi (Administrative Proceedings File No. S-08-0050), the offer of settlement in SEC Administrative Proceeding (File No. 3-13847) (the "SEC Order") and the FINRA Letter of Acceptance, Waiver and Consent No. 2007011164502, MKC and MAM has or shall pay in resolution of all of these matters, within ten (10) days of the entry of the SEC Order the sum of Two Hundred Million Dollars (\$200,000,000.00) to be distributed as follows: 1) One Hundred Million Dollars (\$100,000,000.00) to the SEC's Fair Fund to be established in this matter for the benefit of investors in the Funds that are the subject of the SEC Order; and 2) One Hundred Million Dollars (\$100,000,000.00) to a States' Fund to be established in this matter for the benefit of investors in the Funds that are the subject of this Consent Order. Any costs, expenses, and charges associated with the Fair Fund and States' Fund management and distributions shall be paid by MKC and MAM and shall not diminish the fund corpus. The Fair Fund and the States' Fund shall be distributed pursuant to distribution plans drawn up by the administrator(s) ("Fair Fund Administrator" for the SEC's portion and "Fund Administrator" for the States' portion). The administrator(s) are to be respectively chosen by a representative designated by the state agencies of Alabama, Kentucky, Tennessee, South Carolina and Mississippi ("States' Fund Representative"), and the SEC. Nothing in this paragraph shall require or limit the SEC's and the States' choice of fund administrators which may or may not be the same entity or person for both funds.

(5) MKC and MAM shall pay the sum of Eighty-five Thousand Nine Hundred Seventy-three dollars (\$85,973.00) to the Treasurer of Virginia as a monetary penalty, which amount constitutes the Commonwealth of Virginia's share of the state settlement amount of Ten Million Dollars (\$10,000,000.00). All funds shall be delivered to the office of the Division within ten (10) days of the execution of this Consent Order. In the event another state securities regulator determines not to accept the settlement offer, the total amount of the payment to the Commonwealth of Virginia shall not be affected.

(6) If the payment is not made by MKC or MAM, the Commission may vacate this Consent Order, at its sole discretion, upon thirty (30) days notice to MKC and/or MAM and, without opportunity for a hearing, enter a final order or decree if such default is not cured to the satisfaction of the Commission after the thirty (30) day notice period. Any dispute related to any payments required under this Consent Order shall be construed and enforced in accordance with, and governed by, the laws of the Commonwealth of Virginia without regard to any choice of law principles.

(7) This Consent Order shall not disqualify MKC and MAM, or any of their affiliates or registered representatives from any business that they otherwise are qualified or licensed to perform under any applicable state law and is not intended to and shall not form the basis for any disqualification or suspension in any state. Further, this Consent Order is not intended to and shall not form the basis for any disqualifications contained in the federal securities law, the rules and regulations thereunder, the rules and regulations of self-regulatory organizations, or various states' securities laws including but not limited to any disqualifications from relying upon the registration exemptions or safe harbor provisions.

(8) MKC, MAM, and all of their existing and future affiliates and subsidiaries are prohibited from creating, offering or selling a proprietary fund² that is a registered investment company and is marketed and sold to investors other than institutional and other qualified investors as defined in Section 3(a)(54) of the Securities Exchange Act of 1934, 15 U.S.C. § 78c(a)(54), ("proprietary fund") for a period of two (2) years from the entry of the first of the State Consent Orders to be entered in this matter. MKC, MAM, their affiliates or subsidiaries, may seek permission to resume offering or begin offering a proprietary fund in Virginia after the lapse of the first year of the prohibition, but may not proceed with the offer and sale of such proprietary fund in Virginia prior to receiving the express written consent and approval of the Commission's Division.

(9) State Regulatory Audits or Examinations as authorized by the Act. In addition to any state regulatory audits or examinations authorized by State statute, the state regulatory authority may conduct appropriate audits or examinations of the offices and branch offices of the Defendants MKC and MAM. Appropriate costs associated with such audits or examinations conducted within two (2) years from the date of this Consent Order, shall be borne by MKC and/or MAM. This provision in no way limits the assessment of costs by states which routinely assess registrants with the costs of audits.

²Any such proprietary fund is specifically deemed to be subject to the oversight in paragraph 10.

(10) If, prior to January 1, 2016, MKC and/or MAM shall again form and sell any proprietary investment products³, they shall at that time retain, for a period of three (3) years, at their own expense, an independent auditor, acceptable to the representative designated by the state agencies of Alabama, Kentucky, Mississippi, Tennessee, and South Carolina ("States' Representative") and the SEC. The independent auditor cannot be an affiliated entity of MKC or MAM. Further, to ensure the independence of the independent auditor, MKC and/or MAM: (a) shall not have the authority to terminate the independent auditor without prior written approval of the States' Representative; (b) shall not be in and shall not have an attorney-client relationship with the independent auditor and shall not seek to invoke the attorney-client or any other privilege or doctrine to prevent the independent auditor from transmitting any information, reports, or documents to the States; and (c) during the period of engagement and for a period of two (2) years after the engagement, shall not enter into any employment, customer, consultant, attorney-client, auditing, or other professional relationship with the independent auditor.

The scope of the independent auditor's engagement shall be approved by the States' Representative prior to the commencement of the audit, and shall include, but is not limited to, reviews and examinations of:

- a. All firm policies and procedures, relating to proprietary products and/or proprietary offerings including, but not limited to, supervisory, books and records, compliance and document retention policies and procedures;
- b. The composition of each proprietary fund sold or recommended to clients at least annually;
- c. All proprietary product and/or proprietary offering marketing materials used or distributed by their agents, representatives, or other employees or affiliates, at least quarterly;
- d. Potential/actual conflicts of interest with any affiliates, including Regions Morgan Keegan Trust, F.S.B., MKC and MAM, or affiliated persons/control persons. Said review shall be annual unless an increased frequency is deemed necessary by state, federal, and SEC entities; and

(11) Further, the independent auditor shall:

- a. Consult with the States' Representative and the SEC about areas of concern prior to entering into an engagement document with MKC and MAM;
- b. Draft and provide reports as often as may be agreed upon by the States' Representative and the independent auditor with an assessment of the status, compliance, and recommendations pertaining to the organizational, procedural, and policy issues that are the subject of the engagement;
- c. Simultaneously distribute copies of the reports from paragraph 11b above to MKC, MAM, the States' Representative and the SEC; the States' Representative may distribute the report to NASAA members as the States' Representative deems appropriate. These reports will be deemed confidential and, upon receipt of any legal process or request pursuant to a state's public information statute or a federal Freedom of Information Act ("FOIA") request for access, the state regulator shall promptly notify MKC and/or MAM, in order that the Defendants have an opportunity to challenge the release of the information;
- d. Submit copies of all drafts, notes, and other working papers to coincide with the issuance of the reports;
- e. Issue recommendations for changes to policies, procedures, compliance, books and records retention programs, and all other areas that are the subject of the engagement;
- f. Establish reasonable deadlines for the implementation of the recommendations provided in the report; and
- g. For any recommendations noted but not included in the final report, provide justification for excluding the recommendation from the final report.

(12) MKC and MAM shall:

- a. Review the reports submitted by the independent auditor;
- b. Within sixty (60) days of the issuance of an audit report, submit, in writing, to the States' Representative and the SEC any objections to implementation of any of the recommendations made by the independent auditor;
- c. If no objection to a recommendation is made within the sixty (60) day deadline, the recommendation will be implemented within the time frame established for the recommendation by the independent auditor in the report; and
- d. If objection is timely made to a recommendation, the States' Representative and the SEC will consider the objections, review the recommendation and determine jointly whether implementation shall be required over the objections of MKC and MAM.

³ The term "proprietary investment product" or "proprietary product" or "proprietary fund", as used in this Consent Order, refers to those investment products or offerings which MKC and/or MAM have created or may create and for which they or any of their existing or future affiliates is the issuer and lead underwriter. This definition, however, shall not apply to proprietary products or offerings in existence at the time of affiliation with MKC or MAM through any future acquisition, merger or other form of business combination with an entity not currently under common control with MKC or MAM. Nor shall this definition apply to future proprietary products or offerings that are created following such acquisition, merger or other form of business combination, unless such proprietary products are created by MKC or MAM.

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(13) MKC and MAM shall retain within sixty (60) days of the entry of this Consent Order (if not already retained pursuant to Consent Orders of states in the Task Force),⁴ at their own expense, an independent consultant ("Consultant"), acceptable to the States' Representative, and the SEC. The Consultant shall review MKC's and/or MAM's: (i) current written supervisory and compliance procedures concerning product suitability; (ii) current written supervisory and compliance procedures regarding recommendations and disclosures relating to registered investment companies; (iii) current written supervisory and compliance procedures relating to advertising and sales literature regarding the purchase and sale of registered investment companies; and (iv) the implementation and effectiveness of (i) through (iii); provided that the lookback period for (i) through (iii) shall not exceed the twelve (12) month period prior to the entry of this Consent Order.

- a. Within one hundred twenty (120) days after the entry of this Consent Order, the Consultant shall make an Initial Report with recommendations thereafter on such policies and procedures and their implementation and effectiveness. The Initial Report shall describe the review performed and the conclusions reached, and will include any recommendations for reasonable changes to policies and procedures. MKC and MAM shall direct the Consultant to submit the Initial Report and recommendations to the States' Representative and the SEC at the same time it is submitted to MKC and MAM.
- b. The parties hereto recognize that the Consultant will have access to privileged or confidential trade secrets and commercial or financial information and customer identifying information the public dissemination of which could place MKC and MAM at a competitive disadvantage and expose their customers to unwarranted invasions of their personal privacy. Therefore, it is the intention of the parties that such information shall remain confidential and protected, and shall not be disclosed to any third party, except to the extent provided by applicable FOIA statutes or other regulations or policies.
- c. Within thirty (30) days of receipt of the Initial Report, MKC and MAM shall respond in writing to the Initial Report. In such response, MKC and MAM shall advise the Consultant, the States' Representative, and the SEC, the recommendations from the Initial Report that MKC and MAM have determined to accept and the recommendations that they consider to be unduly burdensome. With respect to any recommendation that MKC and MAM deem unduly burdensome, MKC and MAM may propose an alternative policy, procedure or system designed to achieve the same objective or purpose.
- d. MKC and MAM shall attempt in good faith to reach agreement with the Consultant within sixty (60) days of the date of the receipt of the Initial Report with respect to any recommendation that MKC and MAM deem unduly burdensome. If the Consultant and MKC and MAM are unable to agree on an alternative proposal, MKC and MAM shall submit, in writing, to the States' Representative and the SEC, their objections and any alternative proposal(s) made to the Consultant, and the States' Representative and the SEC shall determine jointly whether implementation shall be required over the objections of MKC and MAM or whether to accept the alternative proposal(s). Within ninety (90) days of the date of the receipt of the Initial Report or, in instances in which an alternative proposal is submitted, ninety (90) days from a joint decision by the States' Representative and the SEC regarding any objectionable portions of the Initial Report, MKC and MAM shall, in writing, advise the Consultant, the States' Representative, and the SEC of the recommendations and proposals that they are adopting.
- e. No later than one (1) year after the date of the Consultant's Initial Report, MKC and MAM shall cause the Consultant to complete a follow-up review of MKC's and MAM's efforts to implement the recommendations contained in the Initial Report, and MKC and MAM shall cause the Consultant to submit a Final Report to the States' Representative, and the SEC. The Final Report shall set forth the details of MKC's and MAM's efforts to implement the recommendations contained in the Initial Report, and shall state whether MKC and MAM have fully complied with the recommendations in the Initial Report.
- f. MKC and MAM shall cause the Consultant to complete the aforementioned review and submit a written Final Report to MKC, MAM, the States' Representative, and the SEC within three hundred sixty (360) days of the date of the Initial Report. The Final Report shall recite the efforts the Consultant undertook to review MKC's and MAM's policies, procedures, and practices; set forth the Consultant's conclusions and recommendations; and describe how MKC and MAM are implementing those recommendations.
- g. To ensure the independence of the Consultant, MKC and/or MAM: (a) shall not have the authority to terminate the Consultant without prior written approval of the States' Representative; (b) shall compensate the Consultant, and persons engaged to assist the Consultant, for services rendered pursuant to this Order at their reasonable and customary rates; (c) shall not be in and shall not have an attorney-client relationship with the Consultant and shall not seek to invoke the attorney-client or any other privilege or doctrine to prevent the Consultant from transmitting any information, reports, or documents to the States; and (d) during the period of engagement and for a period of two (2) years after the engagement, shall not enter into any employment, customer, consultant, attorney-client, auditing, or other professional relationship with the Consultant. Notwithstanding the foregoing, the Consultant may serve as a Consultant for both MKC and MAM.

(14) MKC and MAM shall provide, for a period of three (3) years,⁵ to all of their registered agents and investment adviser representatives mandatory, comprehensive, and ongoing (i) product/offering training on each of the proprietary products/offering that they sell or recommend to clients, and (ii) training on suitability and risks of investments generally. The training required pursuant to this paragraph shall be in addition to any continuing education training required to maintain the registrations of the registered agents and investment adviser representatives and shall include, at a minimum, training on all of the following:

- a. Suitability as it applies to the various types of products/offering, proprietary or otherwise, the FA sells at MKC;

⁴ Time periods for retention of the Consultant, reports thereof, and other remedial obligations herein may run from the entry of earlier Consent Orders entered by states within the Task Force and shall not create duplicative obligations upon the Consultant or Defendants.

⁵ The time period for training may begin to run upon the entry of earlier Consent Orders by states within the Task Force and shall not create duplicative obligations on the Defendants.

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- b. The type and nature of the holdings and risks attendant thereto in any proprietary product/offering sold by the firm, for which the firm or any affiliate purchased the underlying holdings, that the registered person will be selling or recommending to clients;
- c. The risks associated with the proprietary product/offering; and
- d. Conflicts of interest that may arise as a result of the sale/recommendation of the proprietary product/offering.

(15) For training related to proprietary products/offerings, MKC and MAM shall develop and implement course evaluations to be completed by each FA in order to assess the effectiveness of the training.

(16) MKC and MAM shall;

- a. Maintain a log of each agent/representative's completed courses, copies of which they shall provide to the States' Representative upon request;
- b. Only allow agents/representatives to sell/recommend proprietary products and/or proprietary offerings for which they have completed and verified training;
- c. Maintain an archive of all training material that may be accessed by agents/representatives on an as-needed basis after training is completed, copies of which they shall provide to the States' Representative upon request;
- d. Maintain current training materials on proprietary products and/or proprietary offerings being offered or sold to any of their clients, copies of which they shall provide to the States' Representative upon request;
- e. Maintain a manned product/offering help desk that is available to answer questions from agents/representatives during regular business hours, the person manning such shall be registered with a minimum of a Series 65 or 7 license or registration; and
- f. Provide to the Division an annual certification that MKC and MAM are in compliance with the required training and maintenance of training materials.

(17) One person shall not simultaneously hold the positions of General Counsel and Chief Compliance Officer for either MKC or MAM.

(18) Nothing herein shall preclude the Commonwealth of Virginia, its departments, agencies, boards, commissions, authorities, political subdivisions, and corporations (collectively "State Entities"), other than the Commission and only to the extent set forth herein, from asserting any claims, causes of action, or applications for compensatory, nominal and/or punitive damages, administrative, civil, criminal, or injunctive relief against MKC and MAM in connection with the marketing and sales practices of the Funds at MKC or MAM.

(19) Any dispute or default other than related to the payment as referenced in paragraph 6 related to this Consent Order shall be construed and enforced in accordance with, and governed by, the laws of the Commonwealth of Virginia without regard to any choice of law principles.

(20) Unless otherwise stipulated, the parties intend that the monies allocated through the SEC's Fair Fund and/or States' Fund, including the money allocated pursuant to this Consent Order, to the investors of any given State will be treated as an offset against any order for MKC or MAM to pay any amount to investors that is compensatory in nature. Notwithstanding the foregoing, and except as delineated in paragraphs 41 through 43, this Consent Order is presumed to be treated as a settlement for evidentiary purposes and not as evidence of either damage or liability itself. MKC and MAM further agree that in the event they should enter into a consent order prior to an adjudication on the merits with another State's securities regulator which provides each investor a higher return of losses per invested dollar than under the terms of this Consent Order, then the Commission may, at its option, obtain the same payout of losses per invested dollar for the investors of this State.

(21) MKC and MAM agree not to make or permit to be made any public statement denying, directly or indirectly, any finding in this Consent Order or creating the impression that this Consent Order is without factual basis. Nothing in this Paragraph affects MKC's or MAM's: (i) testimonial obligations, or (ii) right to take legal or factual positions in defense of litigation or arbitration or in defense of other legal proceedings in which the Commission is not a party.

(22) Nothing herein shall affect any statutory authority of the Commission, including but not limited to, inspections, visits, examinations, and/or the production of documents.

(23) This Consent Order shall be binding upon MKC and MAM and their successors and assigns, with respect to all conduct subject to the provisions above and all future obligations, responsibilities, undertakings, commitments, limitations, restrictions, events, and conditions.

**CASE NO. SEC-2011-00044
JANUARY 10, 2012**

COMMONWEALTH OF VIRGINIA, *ex. rel.*
STATE CORPORATION COMMISSION

v.

EDWARD L. PINNEY,
Defendant

SETTLEMENT ORDER

The Division of Securities and Retail Franchising ("Division") of the State Corporation Commission ("Commission") conducted an investigation of Edward L. Pinney ("Defendant") pursuant to § 13.1-518 of the Virginia Securities Act ("Act"), §§ 13.1-501 *et seq.* of the Code of Virginia. Based upon the investigation, the Division alleges that the Defendant borrowed funds and accepted personal loans totaling approximately \$205,000 ("Loans") from two customers of the brokerage firm that employed the Defendant at the time of the loans. The Division alleges that this conduct violates Commission Rule 21 VAC 5-20-280 B 1.

If the standards of the statute are met, the Commission is authorized by § 13.1-506 of the Act to revoke a Defendant's registration, by § 13.1-519 of the Act to issue temporary or permanent injunctions, by § 13.1-518 A of the Act to impose costs of investigation, by § 13.1-521 A of the Act to impose certain monetary penalties, by § 13.1-521 C of the Act to order a Defendant to make rescission and restitution, and by § 12.1-15 of the Code of Virginia to settle matters within its jurisdiction.

The Defendant neither admits nor denies these allegations but admits to the Commission's jurisdiction and authority to enter this Settlement Order.

As a proposal to settle all matters arising from these allegations, the Defendant has made an offer of settlement to the Commission wherein the Defendant will abide by and comply with the following terms and undertakings:

- (1) Within thirty (30) days of the date of entry of this Order, the Defendant will pay to the Treasurer of the Commonwealth of Virginia the amount of Five Thousand Dollars (\$5,000) in monetary penalties.
- (2) The Defendant shall repay the Loans in full and provide proof of payment to the Division.
- (3) The Defendant will be enjoined from transacting business as a broker-dealer agent, investment advisor, or investment adviser representative for (i) a period of three (3) months (concurrently served with the three-month suspension imposed by the Financial Industry Regulatory Authority with the Defendant's consent), or (ii) until such time as the Defendant has repaid the Loans and provided proof of payment to the Division, whichever is later.
- (4) The Defendant will not violate the Act in the future.

The Division has recommended that the Commission accept the offer of settlement of the Defendant.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Division, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The offer of the Defendant in the settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) The Defendant fully complies with the aforesaid terms and undertakings of this settlement; and
- (3) The Commission shall retain jurisdiction in this matter for all purposes, including the institution of a show cause proceeding, or taking such other action it deems appropriate, on account of the Defendant's failure to comply with the terms and undertakings of the settlement.

**CASE NO. SEC-2012-00003
JANUARY 25, 2012**

APPLICATION OF
ANABAPTIST FINANCIAL

For an Order of Exemption under § 13.1-514.1 B of the Code of Virginia

ORDER OF EXEMPTION

This matter came before the State Corporation Commission ("Commission") for consideration by written application of Anabaptist Financial ("Anabaptist"), which the Commission received December 2, 2011, with attached exhibits. The application requested that the unsecured investment agreements be exempted from the securities registration requirements of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia and that the officers and directors of Anabaptist be exempted from the agent registration requirements of the Act.

Based upon the information submitted, the following facts, in addition to others not enumerated herein, appear to exist: (i) Anabaptist is a Pennsylvania corporation operating not for private profit but exclusively for religious, charitable and educational purposes; (ii) Anabaptist intends to offer

and sell the unsecured investment agreements in an approximate aggregate amount of up to \$55,000,000 on terms and conditions as more fully described in the Prospectus filed as a part of the application; and (iii) said securities are to be offered and sold by officers and directors of Anabaptist who will not be compensated for their sales efforts.

Based on the facts asserted by Anabaptist in the written application and exhibits, and upon the recommendation of the Division of Securities and Retail Franchising, the Commission is of the opinion and finds, and does hereby ADJUDGE and ORDER that, pursuant to the provisions of § 13.1-514.1 B of the Act, the securities described above are exempt from the securities registration requirements of the Act, and the officers and directors of Anabaptist are exempt from the agent registration requirements of § 13.1-504 of the Act.

**CASE NO. SEC-2012-00006
APRIL 30, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
E*TRADE SECURITIES, LLC,
Defendant

CONSENT ORDER

E*TRADE Securities, LLC ("Defendant"), is a broker-dealer registered in the Commonwealth of Virginia; and

The Defendant's activities regarding the sale of auction rate securities ("ARS") have been the subject of coordinated investigations conducted by a multi-state task force; and

The Defendant has provided documentary evidence and other materials and provided regulators with access to information relevant to their investigations; and

On October 18, 2011, the Defendant and the multi-state task force reached an agreement to resolve the investigations relating to the Defendant's sale of ARS to certain customers; and

The Defendant agrees, among other things, to purchase certain ARS from customers and to make certain payments; and

The Defendant elects to permanently waive any right to a hearing and appeal under § 12.1-39 of the Code of Virginia with respect to this Consent Order ("Order"); and

The Defendant admits to the jurisdiction of the State Corporation Commission ("Commission") and consents to the entry of this Order by the Commission; and

The Defendant has voluntarily agreed to purchase, or arrange to have purchased, ARS from certain customers, as described in Section IV below; and

The Defendant neither admits nor denies the Findings of Fact and Conclusions of Law contained in this Order.

NOW, THEREFORE, the Commission, as administrator of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.*, of the Code of Virginia hereby enters this Order:

I.
THE DEFENDANT

(1) The Defendant (**CRD #29106**) was, at all times material herein, a limited liability company organized under the laws of Delaware with its principal place of business in New York, New York.

II.
FINDINGS OF FACT

(2) The Defendant is in the business of effecting transactions in securities in the Commonwealth of Virginia as a "broker-dealer" within the meaning of the Act.

(3) The Defendant has customers located across the United States of America, including in the Commonwealth of Virginia.

(4) The Defendant's business model centers upon customers who use the firm's website to buy and sell securities, generally known as on-line stock trading.

(5) Although the Defendant is an on-line trading firm, it also has about 30 branch offices across the country, at least some of which were purchased from earlier on-line trading firms.

(6) Despite the focus of its business model upon on-line retail trading, the Defendant maintained fewer than 20 financial advisors ("FAs") who were authorized to provide investment advice to clients regarding ARS. The FAs are assigned to an Investment Specialist Group supervised by a branch manager. The FAs are alternatively referred to herein as "investment specialists" or "registered representatives."

(7) The Defendant's FAs are permitted to recommend only those types of investments that have been previously approved by the Defendant's management.

ARS

(8) ARS, or auction rate securities, are fixed income long-term securities whose dividend rates are reset periodically at Dutch-style auctions that take place at set intervals, typically every 7, 28, or 35 days.

(9) ARS are considered non-conventional investments ("NCIs") in that they do not fall in the traditional categories of stocks, bonds, or mutual funds.

(10) ARS were introduced to the market in 1984 as a way for issuing entities to diversify their investor base and in the process lower their borrowing costs. ARS essentially allowed issuers to achieve long-term financing at short-term interest rates.

(11) As of the end of 2007, there were approximately \$330 Billion of ARS outstanding. Three categories of issuers dominated the market. Municipalities accounted for approximately half the market. Student loan trusts made up approximately 25% of the market. Closed-end mutual bond funds, seeking to leverage their portfolios by issuing preferred shares, made up approximately 20% of the market.

(12) Initially, a high minimum investment precluded all but institutional investors from purchasing ARS. However, as the minimum investment declined to Twenty-five Thousand Dollars (\$25,000), wealthy retail investors became a significant source of demand for the product.

(13) ARS are designed to trade at a set price (par value) of Twenty-five Thousand Dollars (\$25,000) per unit, but the interest rate fluctuates based upon bids made at periodic auctions. The rate that is sufficient to clear all the ARS offered for sale at any given auction is known as the "clearing rate." The clearing rate, however, cannot exceed the instrument's maximum or default interest rate (also known as the "penalty" rate), which is typically pegged to a short term index such as the LIBOR. If, at any given auction, the rate necessary to clear all shares for sale exceeds the maximum rate, then the auction "fails" and the maximum rate becomes the rate of interest the ARS earns until the next successful auction, at which time the rate is reset during the bidding process.

(14) As is generally the case in the capital markets, issuers and investors are connected via intermediaries or financial institutions that serve in various capacities in the ARS marketplace. The major roles of intermediaries in the ARS market are: (1) large broker-dealers who act as ARS underwriters and often also serve as auction dealers; (2) auction agents selected by the underwriters to collect orders and match buyers with sellers; (3) major broker-dealers who trade in ARS and act as wholesalers; and (4) downstream broker-dealers who place retail customer orders through the wholesalers trading in ARS.

(15) The Defendant did not perform any of the major intermediary functions identified as (1) through (3) above. Rather, from 2003 to February 2008, it acted as a downstream broker-dealer that relayed retail customer orders to Oppenheimer & Co. ("Oppenheimer"), which was a wholesaler trading in Auction Rate Preferred Securities ("ARPS"). Oppenheimer then transmitted the Defendant's customer orders to auction dealers to complete the purchase or sale.

ARPS

(16) Of the types of ARS that were available from 2003 through February 2008, the Defendant generally sold ARPS to its customers. ARPS are preferred stock issued by closed-end mutual funds. Because ARPS are preferred shares, they have no maturity date and there is no obligation upon the issuer to redeem shares on demand. Therefore, their period of existence is "in perpetuity."

(17) Prior to February 2008 when the market for ARS (including ARPS) collapsed, ARPS were generally perceived to be a relatively safe and liquid fixed income investment. The primary benefit was a higher rate of interest than could typically be achieved by investing in Treasury bills or money market accounts. As a general rule, ARPS could be expected to pay a rate of at least 50 basis points, or one-half percent interest, in excess of what a money market account was paying at the same time.

(18) ARPS were seen as a relatively safe credit risk because, by law, issuers had to maintain reserves sufficient to cover twice the amount of money outstanding in issued ARPS. If reserves fell below that amount, issuers were required by law to either increase their reserves or redeem sufficient ARPS to restore the 200% ratio. Because of these and other factors, credit rating agencies typically gave ARPS high credit ratings.

(19) The Defendant chose to offer for sale only those ARPS that carried an AAA credit rating, which is the highest rating awarded by the credit rating agencies.

(20) Liquidity risk is different from credit risk, and an AAA credit rating does not speak to the security's liquidity risk. Liquidity means the ability to sell a security quickly at the par value. Liquidity risk, therefore, is the possibility that an ARPS cannot be sold or traded upon demand. Thus, although an ARPS might have a low credit risk because the issuer is financially sound and is likely to continue to make the required interest payments, the ARPS might have high liquidity risk if, for whatever reason, it cannot be sold or otherwise liquidated quickly. Liquidity risk is an important feature of a security because, even if the security has good credit risk, it may have little value to an investor if the investor cannot sell it when necessary.

The Defendant's Sale of ARPS

(21) Due to their relative safety in terms of credit risk and perceived liquidity, the Defendant chose to engage in the sale of ARPS to its retail customers, but generally eschewed sales of riskier types of ARS, especially those involving debt-backed securities.

(22) Contrary to its practice of making traditional stocks, bonds and mutual funds available for sale online, the Defendant opted to sell ARPS only through its FAs. A customer seeking financial advice might have called directly or have been referred to an FA by a local E*Trade office, or alternatively, an FA might have initiated a call to a particular customer if the FA felt that the customer had a particular need. For example, an FA who noticed that a client had a large cash account balance might have called the client to suggest moving the cash to an investment with a better rate of return.

(23) Procedurally, when an FA received a buy or sell order from a client, the FA completed a trade ticket and forwarded it to the Fixed Income Desk located in the same office. The Fixed Income Desk then forwarded the buy or sell order to the intermediary broker-dealer, Oppenheimer & Co. ("Oppenheimer"). Oppenheimer then aggregated the various buy and sell orders received from all client broker-dealers and forwarded them to the auction agent for presentation at the next available auction.

(24) If the auction was successful and the buy or sell order was executed, a trade confirmation was prepared and forwarded back to the investor.

(25) In recommending ARPS for investors' consideration, certain FAs described ARPS as "7-day paper" with "daily liquidity" that was as safe as a money market account. Although FAs also referred to ARPS as "auction rate preferreds," they rarely, if ever, explained that ARPS were, in fact, long-term securities that could only be sold at auction, nor mentioned that if an auction failed, ARPS would lose liquidity.

The Dutch Auction Process

(26) ARS, including ARPS, are not traded on the New York Stock Exchange or any other open securities exchange. Rather, ARS (including ARPS) were, prior to the ARS market collapse in February 2008, traded through a "Dutch auction" process.

(27) If, at any given auction, there are insufficient buyers to purchase all the ARS available for sale at a clearing rate below the maximum rate, the auction is said to have "failed." An investor who has been unable to sell his or her ARS at a failed auction must then wait until the next periodic auction to again offer them for sale. Until the ARS are sold at a successful auction, the interest rate paid on that ARS is the maximum or default rate.

(28) Because ARS are typically long-term instruments, and in the case of ARPS, are of perpetual maturity, their liquidity depends upon the ability of holders to sell the instruments at auction. If auctions fail, or if the auction process collapses entirely as it did in February 2008, liquidity is severely impaired.

(29) Because there is no established market for ARS apart from the auction process, there is limited ability to liquidate ARS outside that process. The ARS issuer may decide to redeem those shares if it is economically advantageous to do so, but there is no obligation upon issuers to do so. Alternatively, an ARS holder may be able to arrange a sale on an *ad hoc* basis outside the auction process. However, such sales are on a case by case basis and often involve discounts to the par value of the ARS, resulting in a financial loss to the holder.

(30) Consequently, the liquidity of ARS (including ARPS) depended upon the continued success of the Dutch auction process.

Collapse of the Dutch Auction Process

(31) The Dutch auction process functioned with very few auction failures for many years after the introduction of ARS in 1984. Over the years, there had been approximately thirteen (13) auction failures, typically arising when an issuer lost its creditworthiness, thus eliminating buyer interest in that security. However, prior to February 2008, there had not been an ARPS auction failure, nor had there been a total collapse of the ARS auction market.

(32) Beginning in August 2007, deteriorating economic conditions and tightening credit markets caused a strain on the ARS market, resulting in a number of ARS auction failures. However, prior to February 2008, these failures did not involve the ARPS auction markets because ARPS were generally considered safer and more creditworthy investments.

(33) However, in February 2008, an event occurred that caused the wholesale collapse of the ARS auction market, including ARPS. The triggering event was the decision by a major underwriter, Goldman-Sachs, to stop submitting cover bids. Large underwriters, like Goldman-Sachs, found that due to deteriorating financial conditions, they could no longer afford to carry large balances of ARS on their books and thus they stopped buying ARS for their own accounts. Once Goldman-Sachs stopped submitting cover bids at auction, all the other large underwriters followed suit.

(34) Without the support of the large underwriters, insufficient buy bids were received at most auctions to cover all the ARS offered for sale, and as a result the auction market totally collapsed. The ARPS auction market was particularly hard hit because the maximum, or default, rates for ARPS were generally very low, and therefore there was insufficient investor interest to sustain the market in the absence of the underwriter's cover bids.

(35) As of February 13, 2008, the Defendant's investors nationwide held a balance of approximately \$581 Million in ARPS, and approximately \$870 Million altogether in the ARS market, that had lost liquidity as the result of the collapse of the auction process.

Failure to Supervise

(36) The Defendant had a policy of hiring experienced FAs who, presumably, had been trained by other employers with regard to the securities they handled. However, the Defendant provided no formal training to its FAs with respect to ARPS.

(37) The Defendant's FAs were directly supervised by a branch manager whose supervisory responsibilities were set out in Branch Policies and Procedures manuals. In addition, FAs were provided with a Registered Representatives Manual that governed their professional practice. None of these documents specifically addressed the need for FAs to advise ARPS customers of the risks of auction failure and loss of liquidity. The Defendant maintained a policy of reviewing FA-investor phone conversations and account records on a random basis and providing feedback. Despite these supervisory reviews, FAs continued to advise ARPS investors that ARPS were highly liquid "7-day paper," without the additional context that ARPS were, in fact, long term instruments that could only be liquidated at successful Dutch-style auctions.

(38) Even when the significant risk of auction failure with regard to other types of ARS became apparent, FAs were not instructed to provide any warning about the risk of ARPS' illiquidity.

(39) The Defendant should have known that its FAs marketed ARS to customers as highly liquid and as an alternative to cash or money market funds without adequately disclosing that ARS are complex securities that may become illiquid.

(40) In connection with the marketing of ARS, the Defendant failed to adopt policies and procedures reasonably designed to ensure that its FAs recommended ARS only to customers who had stated investment objectives that were consistent with their purchase of ARS. Some of the Defendant's FAs recommended ARS to customers as a liquid, short-term investment. As a result, some of the Defendant's customers who needed short-term access to funds invested in ARS even though ARS had long-term or no maturity dates.

III. CONCLUSIONS OF LAW

(41) The Commission has jurisdiction over this matter pursuant to the Act.

(42) By engaging in the acts and conduct set forth in Paragraphs II.2 through II.40, the Defendant failed to reasonably supervise its financial advisors in connection with the marketing of ARS and ARPS to its customers, in violation of Commission Rule 21 VAC 5-20-260 B.

IV. ORDER

On the basis of the Findings of Fact, Conclusions of Law, and the Defendant's consent to the entry of this Order, without admitting or denying the facts or conclusions herein,

Accordingly, IT IS ORDERED THAT:

(1) This Order concludes the investigation by the Commission's Division of Securities and Retail Franchising and precludes any other action that the Commission or Staff could commence against the Defendant under applicable Virginia law, on behalf of the Commonwealth of Virginia, as it relates to the Defendant's sale of ARS or ARPS prior to February 13, 2008.

(2) This Order is entered into solely for the purpose of resolving the above-referenced multi-state investigation and is not intended to be used for any other purpose.

(3) The Defendant will refrain from violating Commission Rule 21 VAC 5-20-260 B and will not violate Commission Rule 21 VAC 5-20-260 B.

(4) Within ten (10) days from the date of entry of this Order, the Defendant shall pay the sum of One Hundred Sixteen Thousand Nine Hundred Thirty-two Dollars and Sixty-nine Cents (\$116,932.69) to the Treasurer of the Commonwealth of Virginia pursuant to § 13.1-521 A of the Act, which amount constitutes Virginia's proportionate share of the total state settlement amount of \$5 Million. In the event another state securities regulator determines not to accept the Defendant's settlement offer, the total amount of the payment to the Commonwealth of Virginia shall not be affected.

(5) The Defendant shall take certain measures with respect to current and former customers with respect to "Eligible Auction Rate Securities," as defined below in Paragraph IV.6.

(6) "Eligible Auction Rate Securities." For purposes of this Order, "Eligible Auction Rate Securities" means ARS or ARPS that the Defendant's customers purchased through the Defendant, or through an entity acquired by the Defendant, on or before February 13, 2008, and that have failed at auction at least once since February 13, 2008.

(7) "Eligible Investors." For purposes of this Order, "Eligible Investors," shall mean the following:

(a) Current and former account holders who purchased Eligible Auction Rate Securities through the Defendant on or before February 13, 2008, whether or not such Eligible Auction Rate Securities were transferred away from the Defendant, and held those securities on February 13, 2008.

(b) As for customers who purchased Eligible Auction Rate Securities from an entity acquired by the Defendant, only those customers who became customers of the Defendant and transferred their ARS or ARPS holdings to the Defendant following the acquisition shall be considered "Eligible Investors."

(8) Not Included in the Definition of "Eligible Investors." "Eligible Investors" for the purposes of this Order, shall not include the following:

(a) Senior management of the Defendant and its predecessors or the Defendant's financial advisors/registered representatives.

(b) Customers who, as a result of prior legal proceedings with E*TRADE Securities, LLC, have previously had claims adjudicated.

(c) Customers who received par value for their ARS through a sale, issuer redemption, or payment from the Defendant.

(9) Purchase Offer. The Defendant shall offer to purchase (or offer to arrange a third party to purchase), at par plus accrued and unpaid dividends/interest, from Eligible Investors, their Eligible Auction Rate Securities that have failed at auction at least once since February 13, 2008 ("Purchase Offer").

(10) Notification and Buyback Procedures.

(a) The Defendant shall create a written notice related to the Purchase Offer ("Notice"). The Notice shall explain the relevant terms of this Order and describe what Eligible Investors must do to accept, in whole or in part, the Purchase Offer, including how Eligible Investors may accept the Purchase Offer.

(b) Initial Notice:

- (i) The Defendant shall have provided the Notice to Eligible Investors who purchased Eligible Auction Rate Securities with the Defendant by January 16, 2012.
- (ii) Furthermore, by January 16, 2012, the Defendant shall have undertaken its best efforts to identify and locate customers who purchased Eligible Auction Rate Securities with the Defendant but who transferred such Eligible Auction Rate Securities away from the Defendant between February 13, 2008 and November 16, 2011. The Defendant shall have provided any such customers the Purchase Offer described in Section IV.9, the Notification and Buyback Procedures described in Section IV.10, and the other terms described in Sections IV.11, IV.12, and IV.13.

(c) Second Notice: With respect to each Eligible Investor that the Defendant sent the Notice required by Paragraph IV.10.b above and who did not respond, the Defendant shall provide a second copy of the Notice on or before March 30, 2012.

(d) Offer Period:

- (i) The Defendant shall keep the Purchase Offer open until May 15, 2012 ("Offer Period").
- (ii) Eligible Investors may accept the Purchase Offer by notifying the Defendant as described in the Purchase Offer, at any time before 11:59 P.M. Eastern Time, on or before the last day of the Offer Period. For those Eligible Investors who accept the Purchase Offer within the Offer Period, the Defendant shall purchase or arrange to have purchased their Eligible Auction Rate Securities by no later than five (5) business days following the Defendant's receipt of such Eligible Investor's acceptance.

(e) An Eligible Investor may revoke their acceptance of the Defendant's Purchase Offer at any time up until the Defendant's purchase of such Eligible Investor's Eligible Auction Rate Securities.

(f) The Defendant's obligation to those Eligible Investors who transferred their Eligible Auction Rate Securities away from the Defendant prior to November 16, 2011, shall be contingent on: (1) the Defendant receiving reasonably satisfactory assurances from the financial institution currently holding the Eligible Investor's Eligible Auction Rate Securities that the bidding rights associated with such Eligible Auction Rate Securities will be transferred to the Defendant; and (2) the transfer to, and receipt in good order by, the Defendant of Eligible Auction Rate Securities.

(g) The Defendant shall use its best efforts to identify, contact and assist any Eligible Investor who has transferred the Eligible Auction Rate Securities out of the Defendant's custody in returning such ARS to the Defendant's custody, and shall not charge such Eligible Investor any fees relating to or in connection with the return to the Defendant or custodianship by the Defendant of such Eligible Auction Rate Securities.

(11) Customer Assistance. By no later than the date of the Initial Notice, the Defendant shall have established a dedicated toll-free telephone assistance line and website to provide information and to respond to questions concerning the terms of this Order, and to provide information concerning the terms of this Order and, via an e-mail address or other reasonable means, to respond to questions concerning the terms of this Order. The Defendant shall maintain the telephone assistance line until August 16, 2012.

(12) Relief for Eligible Investors Who Sold Below Par. By January 16, 2012, the Defendant shall have used its best efforts to identify each Eligible Investor who: (i) purchased Eligible Auction Rate Securities from the Defendant on or before February 13, 2008; and (ii) who sold those Eligible Auction Rate Securities below par between February 13, 2008 and November 16, 2011 ("Below Par Sellers"). By January 31, 2012, the Defendant shall have paid to each Below Par Seller, the difference between par and the price at which the Below Par Seller sold the Eligible Auction Rate Securities, plus reasonable interest thereon. Furthermore, the Defendant shall have paid promptly, the difference between par and the price at which the Below Par Seller sold the Eligible Auction Rate Securities, plus reasonable interest thereon to any Below Par Sellers identified after January 31, 2012.

(13) Consequential Damages Arbitration Process.

(a) The Defendant shall consent to participate in a special arbitration process ("Arbitration") for the exclusive purpose of arbitrating any Eligible Investor's consequential damages claim arising from their inability to sell Eligible Auction Rate Securities. In the Arbitration, the Special Arbitration Process applicable to firms that have entered into settlements with state regulators ("State SAP") will be available for the exclusive purpose of arbitrating any Eligible Investor's consequential damages claim. By January 16, 2012, the Defendant shall have notified Eligible Investors of the terms of the Arbitration process through the Notice as set forth in Paragraph IV.10.b.

(b) The Arbitration shall be conducted under the auspices of Financial Industry Regulatory Authority ("FINRA"), pursuant to the NASD Code of Arbitration Procedures for Customer Disputes, effective April 16, 2007. The Defendant shall pay all applicable forum and filing fees.

(c) Any Eligible Investors who choose to pursue such claims in the Arbitration shall bear the burden of proving that they suffered consequential damages and that such damages were caused by their inability to access funds invested in Eligible Auction Rate Securities. In the Arbitration, the Defendant shall be able to defend itself against such claims provided, however, that the Defendant shall not contest liability for the illiquidity of the underlying ARS position or use as part of its defense any decision by the Eligible Investor not to borrow money from the Defendant.

(d) Eligible Investors who elect to use the Arbitration provided for herein shall not be eligible for punitive damages, or for any other type of damages other than consequential damages. However, the State SAP will govern the availability of attorney's fees.

(14) Loan Interest Expense. By January 16, 2012, the Defendant shall have utilized its best efforts to identify Eligible Investors that obtained a loan through the Defendant (or its affiliates) secured by Eligible Auction Rate Securities that were not successfully auctioning at the time the loan was taken and who paid more in interest on the loan than the Eligible Investor received in interest or dividends from the Eligible Auction Rate Securities during the

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time the loan was outstanding ("Negative Carry"). The Defendant, on or before January 16, 2012, will have reimbursed the Eligible Investor the amount of Negative Carry actually paid.

(15) Reports and Meetings.

(a) The Defendant shall submit quarterly reports to the Colorado Division of Securities detailing the Defendant's progress with respect to the provisions of this Order within ten (10) days from the month when a quarterly report is due, beginning with a report covering the quarter ending December 31, 2011, and continuing through and including a report covering the quarter ending December 31, 2012.

(b) Beginning December 21, 2011, the Defendant shall confer via telephone at least quarterly with the Colorado Division of Securities regarding the Defendant's progress with respect to the provisions of this Order. Such quarterly telephone conferences shall continue until December 31, 2012.

(c) The reporting and telephone conference deadlines set forth above may be amended or modified with written permission from the Colorado Division of Securities.

(d) At the conclusion of the Purchase Offer, the Defendant shall provide a report to the Colorado Division of Securities concerning all customers nationwide impacted by the Defendant's Purchase Offer and/or reimbursement to those who sold below par.

(16) This Order is not intended to indicate that the Defendant or any of its affiliates or current or former officers, directors, trustees, agents, members, partners, or employees (and of any of the Defendant's parent companies, subsidiaries or affiliates) shall be subject to any disqualifications contained in the federal securities laws, the rules and regulations thereunder, the rules and regulations of self regulatory organizations or various states' securities laws including any disqualifications from relying upon the registration exemptions or safe harbor provisions. In addition, this Order is not intended to form the basis for any such disqualifications.

(17) Except in an action by the Commission to enforce the obligations of the Defendant in this Order, this Order may neither be deemed nor used as an admission of or evidence of any alleged fault, omission, or liability of the Defendant in any civil, criminal, arbitration, or administrative proceeding in any court, administrative agency, or tribunal. For any person or entity not a party to this Order, this Order does not limit or create any private rights or remedies against the Defendant or any of its affiliates or current or former officers, directors, trustees, agents, members, partners, or employees (and of any of the Defendant's parent companies, subsidiaries, or affiliates) including, without limitation with respect to the use of any emails or other documents of the Defendant or of others concerning the marketing and/or sales of ARS, limit or create liability of the Defendant, or limit or create defenses of the Defendant to any claims.

(18) This Order is not intended to disqualify the Defendant or any of its affiliates or current or former officers, directors, trustees, agents, members, partners, or employees (and of any of the Defendant's parent companies, subsidiaries, or affiliates) from any business that they otherwise are qualified or licensed to perform under applicable state securities law and this Order is not intended to form the basis for any disqualification. This Order may not be read to indicate that the Defendant or any of its affiliates or current or former officers, directors, trustees, agents, members, partners, or employees (and of any of the Defendant's parent companies, subsidiaries, or affiliates) engaged in fraud or to serve as the basis for any future independent action to establish a violation of any federal laws, the rules or regulations thereunder, or the rules and regulations of self-regulatory organizations. In addition, this Order is not intended to form the basis of a statutory disqualification under Section 3(a)(39) of the Securities Exchange Act of 1934.

**CASE NO. SEC-2012-00007
MARCH 14, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

WINDOW WORLD, INC.,
Defendant

SETTLEMENT ORDER

Based on an investigation conducted by the Division of Securities and Retail Franchising ("Division"), it is alleged that Window World, Inc. ("Defendant"): (i) violated § 13.1-560 of the Virginia Retail Franchising Act ("Act"), § 13.1-557 *et seq.* of the Code of Virginia, by selling or offering to sell franchises in the Commonwealth of Virginia prior to registering under the provisions of the Act; and (ii) violated § 13.1-563 (4) of the Act by failing to, directly or indirectly, provide franchisees with (i) the franchise agreement, and (ii) such disclosure documents as may be required by rule or order of the State Corporation Commission ("Commission").

If the standards of the statute are met, the Commission is authorized by § 13.1-562 of the Act to revoke a defendant's registration, by § 13.1-568 of the Act to issue temporary or permanent injunctions, by § 13.1-570 of the Act to impose certain monetary penalties and to request a defendant make rescission and restitution, and by § 12.1-15 of the Code of Virginia to settle matters within its jurisdiction.

The Defendant neither admits nor denies these allegations but admits to the Commission's jurisdiction and authority to enter this Settlement Order.

Prior to the entry of this Order, the Defendant voluntarily offered rescission to each of the Virginia franchisees. The Division does not object to the voluntary rescission process followed by the Defendant and nothing herein shall adversely impact the offer of rescission previously tendered by the Defendant to its Virginia licensees. As a proposal to settle all matters arising from these allegations, the Defendant has made an offer of settlement to the Commission wherein the Defendant will abide by and comply with the following terms and undertakings:

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(1) The Defendant will pay to the Treasurer of the Commonwealth of Virginia, contemporaneously with the entry of this Order, the amount of Six Thousand Dollars (\$6,000) in monetary penalties.

(2) The Defendant will pay to the Treasurer of the Commonwealth of Virginia, contemporaneously with the entry of this Order, the amount of Two Thousand Dollars (\$2,000) to defray the costs of investigation.

(3) The Defendant will provide each Virginia franchisee with a copy of this Settlement Order within thirty (30) days of the entry of this Order and mail a copy to the last known address for each current Virginia franchisee.

(4) The Defendant will not violate the Act in the future.

The Division has recommended that the Commission accept the offer of settlement of the Defendant.

The Commission, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Division, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

(1) The offer of the Defendant in settlement of the matter set forth herein is hereby accepted;

(2) The Defendant fully comply with the aforesaid terms and undertakings of this settlement; and

(3) This case is dismissed and the papers herein shall be placed in the file for ended causes.

Dismissal of this case does not relieve the Defendant from its reporting obligations to any regulatory authority.

**CASE NO. SEC-2012-00008
FEBRUARY 9, 2012**

APPLICATION OF
CATHOLIC UNITED INVESTMENT TRUST

For an Order of Exemption under § 13.1-514.1 B of the Code of Virginia

ORDER OF EXEMPTION

This matter came before the State Corporation Commission ("Commission") for consideration by written application of Catholic United Investment Trust ("CUIT"), which the Commission received January 19, 2012, with attached exhibits. The application requested that Catholic United Investment Trust's Shares ("Shares") be exempted from the securities registration requirements of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia.

Based upon the information submitted, the following facts, in addition to others not enumerated herein, appear to exist: (i) CUIT is a nonprofit organization established under a trust agreement dated February 18, 1983, exclusively for religious, charitable and educational purposes; (ii) CUIT was converted by operation of law to a Delaware statutory trust on December 30, 2011; (iii) CUIT serves member religious organizations of the Roman Catholic Church which are eligible to be listed in the Official Kenedy Catholic Directory and are exempt from federal income tax under § 501(c)(3) of the Internal Revenue Code; (iv) CUIT intends to offer the Shares to eligible Roman Catholic-related entities in Virginia, up to a maximum aggregate amount of \$300,000,000, on terms and conditions more fully described in the Offering Memorandum filed as a part of the application; and (v) the Shares are to be offered and sold only by broker-dealers registered under the Act.

Based on the facts asserted by CUIT in the written application and exhibits, and upon the recommendation of the Division of Securities and Retail Franchising, the Commission is of the opinion and finds, and does hereby ADJUDGE and ORDER that, pursuant to the provisions of § 13.1-514.1 B of the Act, the securities described above are exempt from the securities registration requirements of the Act.

**CASE NO. SEC-2012-00009
FEBRUARY 14, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

Ex Parte: In the matter of Adopting a Revision to the Rules Governing the Virginia Securities Act

ORDER TO TAKE NOTICE

Section 12.1-13 of the Code of Virginia provides that the State Corporation Commission ("Commission") shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction. Section 13.1-523 of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia, provides that the Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of the Act.

The rules and regulations issued by the Commission pursuant to the Act are set forth in Title 21 of the Virginia Administrative Code. A copy also may be found at the Commission's website: www.scc.virginia.gov/case.

On September 7, 2011, the Commission adopted a new regulation, 21 VAC5-80-215, to recognize changes in federal laws and regulations governing investment advisors adopted under the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"). The adopted regulation addressed the regulatory gap created by the Dodd-Frank Act for certain advisors. During the interim, the Division of Securities and Retail Franchising ("Division"), working as a member in conjunction with the other member states of the North American Securities Administrators Association, has developed a regulation to complete the transition from prior law to conform to the Dodd-Frank Act.

Accordingly, the Division has submitted to the Commission proposed revisions to Chapter 80 of Title 21 of the Virginia Administrative Code entitled "Rules and Forms Governing the Virginia Securities Act" ("Rules").

Rule 21 VAC 5-80-215 will be amended to repeal the stopgap provision adopted last year in Case No. SEC-2011-00034 and adopt the new model rule exemption for investment advisors to private funds. The purpose of this proposed regulation is to provide for an exemption for certain types of investment advisors who advise private funds from the requirement to be registered under § 13.1-504 A of the Act. The advisors exempted by this rule will still be subject to the anti-fraud provisions of the Act.

The rule adopted in Case No. SEC-2011-00034 will be extensively revised.

Rule 21 VAC 5-80-215 will be amended to add the new exemption provisions. Section A, subsections 1-5 define key terms specific to this exemption. The definitions are structured such that the types of private funds covered under the rule will include funds excluded from the definition of investment company under Sections 3(c)(1) and 3(c)(7) of the Investment Company Act of 1940, along with other private funds that would satisfy the statutory requirements found in these exclusions.

Section B 1 of the proposed new rule explains that in order to claim the exemption from registration, the advisor and its affiliates must not be subject to a "bad boy" disqualification. A "bad boy" disqualification is defined in Rule 262 of SEC Regulation A, 17 C.F.R. § 230.262. In addition, Section B 2 requires that the private advisor file a report to the Commission as required by the Securities and Exchange Commission ("SEC") for advisors to venture capital funds and private funds with less than \$150 million in assets under management. Section B 3 requires that the advisor pay a notice filing fee of \$250.

Section C of the proposed new rule and its subsections place additional conditions upon advisors to 3(c)(1) funds. Specifically, in order to qualify for the exemption from investment advisor registration, the 3(c)(1) fund must be comprised entirely of "qualified clients" under SEC Rule 205-3. This means that individual investors must have either \$1 million in investments managed by the advisor or at least \$2 million in net worth. The rule states that the value of the primary residence is not included in calculating net worth. The value of the primary residence will be an estimate of the fair market value at the time the net worth calculation is conducted. Section C also requires the advisor to deliver annual audited financial statements to investors in the fund, along with specific disclosures to those investors.

Section D of the proposed new rule notes that federal covered advisors who are registered with the SEC are not eligible for this exemption.

Section E of the proposed new rule establishes an exemption from registration for investment advisor representatives who are employed by the exempt investment advisor.

Section F of the proposed new rule requires the reports filed by the advisors to be filed with the Commission through the Investment Advisor Registration Depository ("IARD"). IARD is the registration system operated by the Financial Industry Regulatory Authority that maintains the registration and regulatory records for the state regulatory jurisdictions. The report will be accompanied by the annual \$250 filing fee.

Section G of the proposed new rule provides a grace period for exempt advisors to become registered if that advisor no longer qualifies for the exemption.

Section H of the proposed new rule is a grandfather provision that would allow advisors to private funds currently exempt under the Act to remain exempt provided that the advisor files the reports required under the rule, and the advisor no longer accepts new investors that do not meet the financial requirements imposed by the rule, and provides the required disclosures to investors.

The Division has recommended to the Commission that the proposed revisions should be considered for adoption with an effective date of May 1, 2012, in order to allow private fund investment advisors to make the transition or be registered once the stopgap regulation expires. The Division also has recommended to the Commission that a hearing should be held only if requested by those interested parties who specifically indicate that a hearing is necessary and the reasons therefore.

A copy of the proposed revisions may be requested by interested parties from the Division by telephone, mail, or e-mail request and also can be found at the Division's website: www.scc.virginia.gov/srf. Any comments to the proposed rules must be received by April 12, 2012.

Accordingly, IT IS ORDERED that:

- (1) The proposed revisions are appended hereto and made a part of the record herein.
- (2) Comments or requests for hearing on the proposed revisions must be submitted in writing to Joel H. Peck, Clerk of the Commission, c/o Document Control Center, P. O. Box 2118, Richmond, Virginia 23218, on or before April 12, 2012. A request for hearing shall state why a hearing is necessary and why the issues cannot be adequately addressed in written comments. All correspondence shall contain reference to Case No. SEC-2012-00009. Interested persons desiring to submit comments electronically may do so by following the instructions available at the Commission's website: <http://www.scc.virginia.gov/case>.

(3) The proposed revisions shall be posted on the Commission's website at <http://www.scc.virginia.gov/case> and on the Division's website at <http://www.scc.virginia.gov/srf>. Interested persons may also request a copy of the proposed revisions from the Division by telephone, mail, or e-mail.

AN ATTESTED COPY HEREOF, together with a copy of the proposed revisions, shall be sent to the Registrar of Regulations for publication in the Virginia Register.

NOTE: A copy of Attachment A entitled "Revision to the Rules Governing the Virginia Securities Act" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

CASE NO. SEC-2012-00009
MAY 4, 2012

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

Ex Parte: In the matter of Adopting a Revision to the Rules Governing the Virginia Securities Act

ORDER ADOPTING AMENDED RULES

By Order entered on February 14, 2012, all interested persons were ordered to take notice that the State Corporation Commission ("Commission") would consider the adoption of a revision to Chapter 80 of Title 21 of the Virginia Administrative Code ("Regulations") entitled "Rules and Forms Governing Virginia Securities Act" ("Order to Take Notice"). On February 16, 2012, the Division of Securities and Retail Franchising ("Division") mailed the Order to Take Notice of the proposed Regulations to all interested parties pursuant to the Virginia Securities Act, § 13.1-501 *et seq.* of the Code of Virginia. The Order to Take Notice described the proposed regulation and afforded interested parties an opportunity to file comments.

The proposed amendment to Commission Rule ("Rule") 21 VAC 5-80-215 replaces the temporary registration exemption for investment advisors created by the Commission in 2011. The temporary registration exemption was necessitated by the adoption of federal law known as the Dodd Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank"). When the bill became law, a portion of Dodd-Frank increased regulation over private fund advisors that were previously unregulated under state and federal law by eliminating the private advisor exemption under Section 203 (b) (3) of the Investment Advisors Act of 1940. Dodd-Frank instructed the Securities and Exchange Commission ("SEC") to promulgate rules to implement the new legislation, and while the SEC was crafting a new exemption for federal covered advisors, it granted an extension to private fund advisors formerly exempt prior to the adoption of Dodd-Frank.

The adoption of the SEC extension necessitated that Virginia address that portion of its regulations. The Commission addressed the gap in 2011 by amending Rule 21 VAC 5-80-210 A 7, to remove the old exclusion for investment advisors that were exempt from registration under prior federal law and adopting an interim exemption, Rule 21 VAC 5-80-215, to comport with the interim SEC exemption. This interim exemption expired on March 30, 2012.

The North American Securities Administrators Association, Inc. ("NASAA"), the trade association for the state securities regulators, assisted the states with the drafting of a model uniform exemption for state covered advisors. The proposed exemption allows certain specifically defined private fund advisors to be exempt from registration if the advisors provide specific disclosures and financial information to their customers. The proposed exemption was substantially vetted nationwide before being adopted by state regulators as the model rule. The model rule is a uniform approach to the exemption of certain private fund advisors who meet the express criteria in the proposed amended Rule 21 VAC 5-80-215. Adoption of this exemption provides the investment advisory industry the ability to be uniformly regulated from state to state.

The Division received timely filed comments from three law firms and one investment advisory trade association. None of those commenting requested a hearing.

The California law firm of Gunderson Dettmer ("Gunderson") requested that: (1) the Commission clarify that the definition of "3 (c) (1) fund"¹ in Paragraph A. 4 of the proposed Rule does not include a § 3 (c) (7) fund; the Commission replace the definition of "qualified client" in Paragraph C. 1 of the proposed Rule with the definition of accredited investor found in 17 C.F.R. § 230.501 of the Securities Act of 1933 that is used for defining investors qualified for private offerings under the federal law; the Commission revise the proposed disclosure requirements of Paragraph C. 2 of the proposed Rule to only apply to non-accredited investors;² and the Commission should revise the proposed Rule, Paragraph H, a grandfathering provision to be effective on May 1, 2013.

The Virginia law firm of Hirschler Fleischer ("Hirschler") filed comments. Hirschler also requested that the "qualified client" definition be replaced with "accredited investor." The firm further requested that separate entities and accounts that follow a "private fund strategy" but do not qualify for the exemption be allowed to claim the exemption. In addition, Hirschler requested that "fund of funds" or feeder funds³ not be required to provide audited financial statements unless the funds that the feeder fund invests in also produced audited financial statements.

¹ A 3 (c) (1) fund is a fund that is eligible for the exclusion from the definition of an investment company under § 3 (c) (a) of the Investment Company Act of 1940.

² This request assumes that the Commission would replace the definition of "qualified client" with "accredited investor."

³ Fund of funds or feeder funds are companies that invest in other fund companies and make no direct investments.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The third comment was from the Virginia law firm of Hunton and Williams ("Hunton"). The firm's comments also included a request that the "qualified client" definition be replaced with the "accredited investor" definition. In addition, Hunton commented that the proposed exemption was different from that proposed by the SEC and that venture capital funds appear to have distinguishing treatment. Further, Hunton stated that the mandated disclosures in Paragraph C. 2 are vague. Finally, Hunton requested that the grandfathering provision in Paragraph H. 4 be extended.

On April 26, 2012, the Division filed a response to the comments filed with the Commission in which it addressed each of the commenter's suggested revisions. The Division recommended that the Commission adopt the Rule as proposed, primarily because the changes requested would be detrimental to private fund advisors claiming the exemptions. The Division states that non-uniformity among states could cause confusion and difficulty with compliance for private fund advisors.

NOW THE COMMISSION, upon consideration of the proposed amendment to the Rule, the filed comments, the Division's response, and the record in this case, is of the opinion and finds that the proposed amendment to the Rule should be adopted.

Accordingly, IT IS ORDERED THAT:

- (1) The proposed Rule is attached hereto, made a part hereof, and is hereby ADOPTED effective May 7, 2012.
- (2) This matter is dismissed from the Commission's docket, and the papers herein shall be placed in the file for ended causes.

NOTE: A copy of Attachment A entitled "Rules Governing the Virginia Securities Act" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. SEC-2012-00010
FEBRUARY 17, 2012**

APPLICATION OF
THE SOLOMON FOUNDATION

For an Order of Exemption under § 13.1-514.1 B of the Code of Virginia

ORDER OF EXEMPTION

This matter came before the State Corporation Commission ("Commission") for consideration by written application of The Solomon Foundation ("TSF"), which the Commission received January 5, 2012, with attached exhibits. The application requested that TSF's Demand Certificates and Time Certificates (collectively, "Certificates") be exempted from the securities registration requirements of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia, and that the officers of TSF be exempted from the agent registration requirements of the Act.

Based upon the information submitted, the following facts, in addition to others not enumerated herein, appear to exist: (i) TSF is a Colorado corporation operating not for private profit but exclusively for religious, charitable, benevolent and educational purposes; (ii) TSF intends to offer and sell the Certificates in an approximate aggregate amount of up to \$100,000,000 on terms and conditions as more fully described in the Offering Circular filed as a part of the application; and (iii) said securities are to be offered and sold by officers of TSF who will not be compensated for their sales efforts.

Based on the facts asserted by TSF in the written application and exhibits, and upon the recommendation of the Division of Securities and Retail Franchising, the Commission is of the opinion and finds, and does hereby ADJUDGE and ORDER that, pursuant to the provisions of § 13.1-514.1 B of the Act, the securities described above are exempt from the securities registration requirements of the Act, and the officers of TSF are exempt from the agent registration requirements of § 13.1-504 of the Act.

**CASE NO. SEC-2012-00011
MARCH 5, 2012**

APPLICATION OF
THE NATURE CONSERVANCY

For an Order of Exemption under § 13.1-514.1 B of the Code of Virginia

ORDER OF EXEMPTION

This matter came before the State Corporation Commission ("Commission") for consideration by written application of The Nature Conservancy ("TNC"), which the Commission received February 7, 2012, with attached exhibits. Such application, as subsequently amended, requested that its Conservation Notes ("Notes") be exempted from the securities registration requirements of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia, and that the officers, directors, and managers of TNC be exempted from the agent registration requirements of the Act.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Based upon the information submitted, the following facts, in addition to others not enumerated herein, appear to exist: (i) TNC is a non-stock District of Columbia corporation operating not for private profit but exclusively for charitable and educational purposes;¹ (ii) TNC intends to offer and sell the Notes in an approximate aggregate amount of up to \$25,000,000 on terms and conditions as more fully described in the Offering Circular filed as a part of the application; (iii) said securities are to be offered and sold by officers, directors, and managers of TNC who will not be compensated for their sales efforts; and (iv) the Notes may also be offered and sold by broker-dealers registered under the Act.

Based on the facts asserted by TNC in the written application and exhibits, and upon the recommendation of the Division of Securities and Retail Franchising, the Commission is of the opinion and finds, and does hereby ADJUDGE and ORDER that, pursuant to the provisions of § 13.1-514.1 B of the Act, the securities described above are exempt from the securities registration requirements of the Act, and the officers, directors and managers of TNC are exempt from the agent registration requirements of § 13.1-504 of the Act.

¹ While TNC's bylaws also state a scientific purpose, a review of its corporate documents as well as information obtained about the company show that its scientific activities are not an independent purpose but are subsumed within and integral to its charitable and educational missions. TNC's stated mission is to "preserve plants, animals, and natural communities that represent the diversity of life on Earth by protecting the lands and waters they need to survive." TNC's approach to conservation is stated as "Conservation by Design" which is a science-based approach to setting goals and priorities for preservation projects, developing strategies to reach those goals, taking conservation action, and measuring results to make sure that the strategies achieve the goals set. The scientific aspects are not substantial in their own right but solely in furtherance of and incidental to its charitable and educational purposes. The decision reached herein is limited to the facts of this case, and any different facts or conditions may require a different conclusion in a future matter.

**CASE NO. SEC-2012-00013
MARCH 19, 2012**

APPLICATION OF
NATIONAL COVENANT PROPERTIES

For an Order of Exemption under § 13.1-514.1 B of the Code of Virginia

ORDER OF EXEMPTION

This matter came before the State Corporation Commission ("Commission") for consideration by written application of National Covenant Properties ("NCP"), which the Commission received March 1, 2012, with attached exhibits. The application requested that 5-Year Fixed Rate Renewable Certificates, Variable Rate Certificates, Demand Investment Accounts, Individual Retirement Account Certificates, Health Savings Account Certificates, and 403(b) Certificates (collectively, "Certificates") be exempted from the securities registration requirements of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia, and that officers of NCP be exempted from the agent registration requirements of the Act.

Based upon the information submitted, the following facts, in addition to others not enumerated herein, appear to exist: (i) NCP is a nonprofit Illinois corporation operating not for private profit but exclusively for religious, charitable, and educational purposes; (ii) NCP intends to offer and sell the Certificates in an approximate aggregate amount of up to \$100,000,000 on terms and conditions as more fully described in the Offering Circular filed as a part of the application; (iii) said securities are to be offered and sold by officers of NCP who will not be compensated for their sales efforts; and (iv) NCP will discontinue issuer transactions for all Certificates previously exempted by the Commission upon the grant of the exemption for the offering of the Certificates described herein. Additionally, solicitation for the sale of the Certificates will be through direct mailings of an Offering Circular and advertising materials to current, past and prospective investors by officers of NCP.

Based on the facts asserted by NCP in the written application and exhibits, and upon the recommendation of the Division of Securities and Retail Franchising, the Commission is of the opinion and finds, and does hereby ADJUDGE and ORDER that, pursuant to the provisions of § 13.1-514.1 B of the Act, the securities described above are exempt from the securities registration requirements of the Act, and officers of NCP are exempt from the agent registration requirements of § 13.1-504 of the Act

**CASE NO. SEC-2012-00014
MARCH 27, 2012**

APPLICATION OF
BAPTIST GENERAL CONFERENCE CORNERSTONE FUND, d/b/a CONVERGE CORNERSTONE FUND

For an Order of Exemption under § 13.1-514.1 B of the Code of Virginia

ORDER OF EXEMPTION

This matter came before the State Corporation Commission ("Commission") for consideration by written application of Baptist General Conference Cornerstone Fund d/b/a Converge Cornerstone Fund ("Fund"), which the Commission received March 1, 2012, with attached exhibits. The application requested that Fixed Rate Certificates, Demand Certificates, and Individual Retirement Account Certificates (collectively, "Certificates") be exempted from the securities registration requirements of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia, and that the officers of the Fund be exempted from the agent registration requirements of the Act.

Based upon the information submitted, the following facts, in addition to others not enumerated herein, appear to exist: (i) the Fund is an Illinois corporation operating not for private profit but exclusively for religious, charitable, and educational purposes; (ii) the Fund intends to offer and sell the Certificates in an approximate aggregate amount of up to \$100,000,000 on terms and conditions as more fully described in the Offering Circular filed as a

part of the application; (iii) said securities are to be offered and sold by officers of the Fund who will not be compensated for their sales efforts; and (iv) the Fund will discontinue issuer transactions for all Certificates previously exempted by the Commission upon the grant of the exemption for the offering of Certificates described herein.

Based on the facts asserted by the Fund in the written application and exhibits, and upon the recommendation of the Division of Securities and Retail Franchising, the Commission is of the opinion and finds, and does hereby ADJUDGE and ORDER that, pursuant to the provisions of § 13.1-514.1 B of the Act, the securities described above are exempt from the securities registration requirements of the Act, and the officers are exempt from the agent registration requirements of § 13.1-504 of the Act.

**CASE NO. SEC-2012-00019
APRIL 11, 2012**

APPLICATION OF
UT FREDERICKSBURG PARTNERS, LLC

For registration of securities pursuant to § 13.1-510 of the Code of Virginia

ORDER EFFECTING REGISTRATION OF SECURITIES BY QUALIFICATION

This matter came before the State Corporation Commission ("Commission") for consideration by written application of UT Fredericksburg Partners, LLC ("UTFP"), dated February 28, 2012, with attached exhibits, and subsequently amended, requesting that certain securities ("Units") be registered by qualification pursuant to § 13.1-510 of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia. The requisite fee of Two Hundred Fifty Dollars (\$250) has been paid.

Based upon the information submitted, the following facts, in addition to others not enumerated herein, appear to exist: (i) UTFP is a Virginia limited liability company whose primary asset is a membership interest in UT Fredericksburg, LLC, a Virginia licensed settlement and title insurance agency; and (ii) UTFP intends to offer and sell 242 Units for an aggregate amount of up to \$7,500. The Units will be offered and sold by an agent of the issuer.

NOW THE COMMISSION, based on the facts asserted by UTFP in the written application and exhibits, and upon the recommendation of the Division of Securities and Retail Franchising, is of the opinion and finds, and does hereby ADJUDGE and ORDER that, the securities described above are registered for offer and sale in Virginia through a Confidential Offering Memorandum, a copy of which is filed as a part of the record.

No material change in UTFP's conditions or terms of offering may be made in the Confidential Offering Memorandum without prior submission to the Division of Securities and Retail Franchising and acceptance by the Commission.

**CASE NO. SEC-2012-00020
APRIL 18, 2012**

APPLICATION OF
COLUMBIA UNION REVOLVING FUND

For an Order of Exemption under § 13.1-514.1 B of the Code of Virginia

ORDER OF EXEMPTION

This matter came before the State Corporation Commission ("Commission") for consideration by written application of Columbia Union Revolving Fund ("Fund"), which the Commission received on March 27, 2012, with attached exhibits, as subsequently amended. The application requested that the Fund's 90-day Demand Promissory Notes ("Notes") be exempted from the securities registration requirements of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia.

Based upon the information submitted, the following facts, in addition to others not enumerated herein, appear to exist: (i) the Fund is a Delaware corporation operating not for private profit but exclusively for religious, charitable, and educational purposes; (ii) the Fund intends to offer and sell the Notes in an approximate aggregate amount of up to \$30 million on terms and conditions as more fully described in the Offering Circular filed as a part of the application; (iii) said securities are to be offered and sold by a registered agent of the Fund; and (iv) the Fund will discontinue issuer transactions for all notes previously exempted by the Commission upon the grant of the exemption for the offering of the Notes described herein.

Based on the facts asserted by the Fund in the written application and exhibits, and upon the recommendation of the Division of Securities and Retail Franchising, the Commission is of the opinion and finds, and does hereby ADJUDGE and ORDER that, pursuant to the provisions of § 13.1-514.1 B of the Act, the securities described above are exempt from the securities registration requirements of the Act. IT IS FURTHER ORDERED that the Fund will discontinue issuer transactions for all notes previously exempted by the Commission.

CASE NO. SEC-2012-00021
APRIL 17, 2012

APPLICATION OF
TUFTS UNIVERSITY

For an Order of Exemption under § 13.1-514.1 B of the Code of Virginia

ORDER OF EXEMPTION

This matter came before the State Corporation Commission ("Commission") for consideration by written application of Tufts University ("Tufts"), which the Commission received March 28, 2012, with attached exhibits, as subsequently amended. The application requested that Tufts' Taxable Bonds, Series 2012A ("Bonds") be exempted from the securities registration requirements of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia.

Based upon the information submitted, the following facts, in addition to others not enumerated herein, appear to exist: (i) Tufts is a Massachusetts corporation operating not for private profit but exclusively for educational purposes; (ii) Tufts intends to offer and sell the Bonds in an approximate aggregate amount of up to \$250,000,000 on terms and conditions as more fully described in the Offering Circular filed as a part of the application; and (iii) said securities are to be offered and sold by registered broker-dealers.

Based on the facts asserted by Tufts in the written application and exhibits, and upon the recommendation of the Division of Securities and Retail Franchising, the Commission is of the opinion and finds, and does hereby ADJUDGE and ORDER that, pursuant to the provisions of § 13.1-514.1 B of the Act, the securities described above are exempt from the securities registration requirements of the Act

CASE NO. SEC-2012-00023
APRIL 30, 2012

APPLICATION OF
MISSION INVESTMENT FUND OF THE EVANGELICAL LUTHERAN CHURCH IN AMERICA

For an Order of Exemption under § 13.1-514.1 B of the Code of Virginia

ORDER OF EXEMPTION

This matter came before the State Corporation Commission ("Commission") for consideration by written application of Mission Investment Fund of the Evangelical Lutheran Church in America ("Mission Fund"), which the Commission received April 4, 2012, with attached exhibits. The application requested that Mission Fund's Demand Investments, Fixed and Adjustable Interest Term Investments, MIF4KIDZ Investments, and IRA/CESA/HSA program (collectively, "Mission Investments") be exempted from the securities registration requirements of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia.

Based upon the information submitted, the following facts, in addition to others not enumerated herein, appear to exist: (i) Mission Fund is a Minnesota corporation operating not for private profit but exclusively for religious, charitable, and educational purposes; (ii) Mission Fund intends to offer and sell the Mission Investments in an approximate aggregate amount of up to \$250,000,000 on terms and conditions as more fully described in the Offering Circular filed as a part of the application; (iii) said securities are to be offered and sold by registered securities sales agents for Mission Fund in the Commonwealth of Virginia; and (iv) Mission Fund will discontinue issuer transactions for all other securities previously exempted by the Commission upon the grant of the exemption for the offering of the Mission Investments described herein.

Based on the facts asserted by Mission Fund in the written application and exhibits, and upon the recommendation of the Division of Securities and Retail Franchising, the Commission is of the opinion and finds, and does hereby ADJUDGE and ORDER that, pursuant to the provisions of § 13.1-514.1 B of the Act, the securities described above are exempt from the securities registration requirements of the Act.

CASE NO. SEC-2012-00024
SEPTEMBER 7, 2012

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
EVAPORITE SYSTEMS, INC.
and
DARRIN HASLEM,
Defendants

SETTLEMENT ORDER

The Division of Securities and Retail Franchising ("Division") of the State Corporation Commission ("Commission") conducted an investigation of EvapoRite Systems, Inc. ("EvapoRite") and Darrin Haslem ("Haslem") (collectively, "Defendants") pursuant to § 13.1-518 of the Virginia Securities Act ("Act"), §§ 13.1-501 *et seq.* of the Code of Virginia ("Code").

EvapoRite manufactures evaporation equipment specifically designed to support oil, gas and mining production operations. Haslem has been the president of EvapoRite since the company incorporated in December 2005. In 2006, EvapoRite began offering and selling its stock to investors in Virginia, including its employees as well as others who were not affiliated with the company. By 2010, EvapoRite began to experience difficulties in its business that have continued to the present. To date, EvapoRite has dissolved its existence in its home state of Illinois and is no longer operational in Virginia.

Based upon the investigation, the Division alleges that the Defendants offered and sold a significant amount of unregistered stock to a large number of investors. Relying upon information that the Division received from the Defendants and investors, EvapoRite and Haslem sold at least \$1.5 million of securities in the form of stock to at least 258 investors, including 146 who are residents of the Commonwealth of Virginia ("Commonwealth"). The Defendants' securities were not registered with the Division, nor were the securities exempt from registration. Although the Defendants disclosed that EvapoRite had hired two law firms to assist with registration and exemption of the securities, the Division never received any filings and the facts do not support any claim for exemption.

Based upon the investigation, the Division alleges that the Defendants committed violations of the Act in conjunction with the offer and sale of securities to investors in the Commonwealth. Specifically, the Division alleges that Haslem violated § 13.1-504 A (i) of the Act by transacting business in the Commonwealth as an agent without duly being registered with the Division. The Division further alleges that EvapoRite violated § 13.1-504 B of the Act by employing Haslem, an unregistered agent, in the offer and sale of securities. Additionally, the Division alleges that the Defendants violated § 13.1-507 of the Act by offering or selling securities that were not registered under the Act or exempt from registration.

If the standards of the statute are met, the Commission is authorized by § 13.1-506 of the Act to revoke a defendant's registration, by § 13.1-519 of the Act to issue temporary or permanent injunctions, by § 13.1-518 A of the Act to impose costs of investigation, by § 13.1-521 A of the Act to impose certain monetary penalties, by § 13.1-521 C of the Act to order a defendant to make rescission and restitution, and by § 12.1-15 of the Code to settle matters within its jurisdiction.

The Defendants admit to these allegations and to the Commission's jurisdiction and authority to enter this Settlement Order ("Order").

As a proposal to settle all matters arising from these allegations, the Defendants have made an offer of settlement to the Commission wherein the Defendants will abide by and comply with the following terms and undertakings:

(1) Haslem shall be enjoined from registering or transacting business as a broker-dealer, agent of a broker-dealer, agent of an issuer, investment advisor, or investment advisor representative and from selling securities within the Commonwealth for a period of ten (10) years from the date of entry of this Order.

(2) Within sixty (60) days of the date of entry of this Order, the Defendants will notify each investor of the settlement as well as provide a copy of the Order to each investor.

(3) The Defendants will not violate the Act in the future.

The Division has recommended that the Commission accept the offer of settlement of the Defendants.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendants, and the recommendation of the Division, is of the opinion that the Defendants' offer should be accepted.

Accordingly, IT IS ORDERED THAT:

(1) The offer of EvapoRite Systems, Inc. and Darrin Haslem in settlement of the matter set forth herein be, and it is hereby, accepted.

(2) EvapoRite Systems, Inc. and Darrin Haslem shall fully comply with the aforesaid terms and undertakings of this settlement.

(3) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

Dismissal of this case does not relieve EvapoRite Systems, Inc. or Darrin Haslem from their reporting obligations to any regulatory authority.

**CASE NO. SEC-2012-00026
JUNE 11, 2012**

APPLICATION OF
NBT BANCORP, INC.

For an official interpretation pursuant to § 13.1-525 of the Code of Virginia

OFFICIAL INTERPRETATION

THIS MATTER came before the State Corporation Commission ("Commission") for consideration by letter-application of NBT Bancorp, Inc. ("Applicant"), received on March 23, 2012, and filed pursuant to § 13.1-525 of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia, by its counsel and upon payment of the requisite fee. The Applicant has requested a determination that the proposed securities transaction described below be exempted from the securities registration requirements of the Act pursuant to § 13.1-514 B 15 of the Act. The pertinent information contained in the application is summarized as follows:

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Applicant intends to merge NBT Bank, N.A. ("NBT Bank") and Hampshire First Bank ("Hampshire First") in a statutory merger pursuant to Delaware General Corporation Law § 252 and New York Business Corporation Law § 907 ("Merger").

The Applicant is a Delaware bank holding company incorporated in 1986 and registered with the Board of Governors of the Federal Reserve System as a financial holding company since June 22, 2000. As a bank holding company, the Applicant is empowered to offer an array of banking and financial services. The Applicant offers its banking services through its wholly owned national bank subsidiary, NBT Bank. The Applicant's common stock is traded on the NASDAQ Quotation Trading System under the symbol "NBTB."

Hampshire First is a New Hampshire corporation, chartered in 2006 to engage primarily in commercial banking activities in central and southern New Hampshire. Hampshire First is regulated by the Federal Deposit Insurance Corporation and the New Hampshire Banking Department. Hampshire First's common stock is quoted on the Over the Counter market under the symbol "HFBN."

The shareholders of Hampshire First approved the Merger at a shareholders meeting on April 10, 2012, in accordance with New Hampshire state law. The Office of the Comptroller of the Currency approved the Merger on February 9, 2012. The New Hampshire Banking Department approved the Merger on May 4, 2012.

As amended and declared effective on March 2, 2012, the terms of the Merger between NBT Bank and Hampshire First Bank are described in detail in the Applicant's Registration Statement on Form S-4 filed with the Securities and Exchange Commission on December 21, 2011. A copy of the document is on file with the Commission's Division of Securities and Retail Franchising ("Division").

The terms of the Merger are summarized as follows:

On November 16, 2011, Hampshire First entered into an Agreement and Plan of Merger ("Merger Agreement") with the Applicant and NBT Bank pursuant to which Hampshire First will be merged with and into NBT Bank, with NBT Bank as the surviving corporation.

The holders of Hampshire First common stock will be given the opportunity to receive, for their shares of Hampshire First common stock: (i) all cash in the amount of \$15.00 per share, without interest ("Cash Consideration"); (ii) all NBT Bancorp common stock, at an exchange ratio of 0.7019 of a share of NBT Bancorp common stock for each share of Hampshire First common stock ("Stock Consideration"); or (iii) a mix of Cash Consideration for 35% of their shares and Stock Consideration for 65% of their shares. The exchange ratio of 0.7019 of a share of NBT Bancorp stock for one share of Hampshire first stock is subject to adjustment based on changes in the market price of NBT Bancorp stock if NBT Bancorp's common stock falls outside a certain range of its stock value on November 10, 2011, and other terms as described in the Merger Agreement. Hampshire First's shareholders will receive NBT Bancorp common stock with a minimum value of \$12.00 and a maximum value of \$18.00 for each share of Hampshire First common stock exchanged for Stock Consideration in connection with the Merger. The total consideration to be paid by the Applicant for the Merger is subject to the requirement that 35% of the Hampshire First common stock be acquired for the Cash Consideration and that 65% be acquired for the Stock Consideration.

The Applicant noted that NBT Bancorp's common stock issued pursuant to the Merger will not be issued by any form of general solicitation or advertisement to the public. The new shares will only be issued to the existing shareholders of Hampshire First who will receive these shares as a part of the Merger consideration in accordance with the Form S-4 registration statement. The Applicant will not be acting as a broker or dealer in this transaction since it will be facilitating an exchange of its shares for the shares of Hampshire First. The Applicant noted that there is one individual shareholder of Hampshire First stock in Virginia, representing less than one percent (1%) of all Hampshire First shareholders. There are approximately three (3) financial institutions or depositories who hold shares for its customers located in many other undisclosed locations.

Section 13.1-514 B 15 of the Act provides an exemption from the securities, broker-dealer and agent registration requirements of the Act for "[a]ny transaction incident to a right of conversion or statutory or judicially approved reclassification, recapitalization, reorganization, quasi-reorganization, stock split, reverse stock split, merger, consolidation, sale of assets, or exchange of securities[.]" This exemption recognizes that the benefits of registration under the Act are unnecessary in connection with a transaction that is controlled by a statutory or judicial proceeding, and which affords adequate investor protection.

Requiring registration of the NBT Bancorp common stock is not in the public interest or necessary for the protection of the Hampshire First shareholders since: (1) the Hampshire First shareholders are protected by the statutory approval process of the states of Delaware and New Hampshire; (2) the Merger is subject to the review and approval of multiple bank regulators representing the interests of the U.S. Government and the State of New Hampshire; (3) the Hampshire First shareholders have voted to approve the merger; (4) there will be no general solicitation or advertising for the NBT Bancorp common stock; and (5) there is a Registration Statement on Form S-4 that discusses the Merger, in significant detail, which will assist shareholders in reaching an informed decision concerning how they may vote at their respective shareholders' meetings.

NOW THE COMMISSION, upon consideration of this matter and in reliance upon the facts and representations contained in the application, is of the opinion and finds that the securities transactions contained in the proposed reorganization and conversion are within the purview of § 13.1-514 B 15 of the Act.

Accordingly, IT IS ORDERED THAT the proposed transactions described above are exempt from the securities, broker-dealer and agent registration requirements of the Act pursuant to § 13.1-514 B 15 of the Act.

**CASE NO. SEC-2012-00027
NOVEMBER 26, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
TRIUNE, LLC,
Defendant

SETTLEMENT ORDER

The Division of Securities and Retail Franchising ("Division") of the State Corporation Commission ("Commission") conducted an investigation of Defendant Triune, LLC ("Triune"), pursuant to § 13.1-518 of the Virginia Retail Franchising Act ("Act"), § 13.1-557 *et seq.* of the Code of Virginia ("Code"). Based on its investigation, the Division alleges as follows:

(1) The Defendant, on more than one occasion, violated § 13.1-560 of the Act by selling unregistered franchises in the Commonwealth of Virginia ("Commonwealth"). The Defendant also violated § 13.1-563 (2) of the Act, in connection with the offer and sale of franchises, by: (i) falsely stating in disclosure documents provided to Virginia franchisees that the franchise being offered was registered in the Commonwealth; and (ii) failing to provide material information pertaining to an unfavorable independent auditors report that had to be disclosed to potential franchisees.

(2) The Defendant further violated § 13.1-563 (4) of the Act by failing to provide Virginia franchisees with disclosure documents cleared by the Division and also violated 21 VAC 5-110-95 of the Commission's Retail Franchising Act Rules ("Rules"), 21 VAC 5-110-10 *et seq.*, by failing to provide franchisees with a Division-cleared franchise disclosure document at least fourteen (14) calendar days before entering into the sale of a franchise.

(3) Triune is a franchisor formed under the laws of California that offers franchising opportunities in the food services industry. Franchises in the Commonwealth include fast food restaurants such as Baja Fresh Mexican Grill. Triune is headquartered in Irvine, California.

(4) Triune registered its franchise with the Division to be offered and sold in the Commonwealth on May 23, 1997. Pursuant to this registration, Triune submitted and had approved by the Division a Franchise Disclosure Document ("FDD")¹ to be provided to potential franchisees seeking to purchase a Triune franchise. The FDD contained material disclosures pertaining to the franchisor and the franchise opportunity offered in accordance with the Commission's Rules.

(5) Triune operated in the Commonwealth offering and selling registered franchises for more than a decade. Accordingly, Triune has operated in the Commonwealth with knowledge of the franchising laws and regulations, including all registration and disclosure requirements. During this time and in accordance with the Act, Triune annually submitted an application to renew its franchise registration with the Division, which included providing updated information in the FDD to the Division.

(6) Triune, pursuant to Commission Rules, was required to submit its financial statements audited by an independent public accountant as part of the updated information in the renewal FDD. Triune routinely provided this information to the Division year after year in accordance with their annual registration renewal. Triune's registration was renewed by the Division without any limitations or conditions. This renewal continued because, in addition to satisfying all other regulatory requirements, Triune's financial statements showed that it was solvent and not in danger of becoming insolvent. A franchisor subject to significant financial hardship is under the threat of failing to meet its obligations to potential franchisees and may accordingly have its registration revoked or renewal registration refused by the Commission pursuant to § 13.1-562 A of the Act.

(7) Until May of 2009, Triune's franchise registration was renewed annually along with the updated FDD, in part, because the audit report accompanying its financial statements indicated the franchisor was not in an unsound financial condition. Beginning in late 2008, Triune's Parent Company began to experience significant financial difficulty, which had the substantial potential to threaten Triune's ability to operate as a going concern. Consequently, by the spring of 2009, due to the Parent Company's financial difficulties, the substantial possibility existed that Triune could default on its financial obligations and could fail to provide assistance to its existing franchisees and to any potential franchisees that chose to purchase a Triune franchise. Triune's questionable financial status would have been material to any potential franchisee seeking to purchase a Triune franchise, and therefore, its financial condition would have been required to be disclosed under the Act.

(8) The Parent Company's financial difficulties during this time period and its substantial potential impact on Triune were reported in an independent auditor's report provided to Triune by its auditors on April 15, 2009, as part of its financial statements audit. Despite having this audit report, Triune offered and sold franchises after this date to Virginia franchisees without disclosing the report or the information pertaining to Triune's questionable financial condition as provided in the report.

(9) Triune submitted this audit report to the Division with its application for registration renewal in May of 2009. On May 11, 2009, Triune was furnished with a letter by the Division's franchise registration examiner in response to Triune's registration renewal application. In the letter, the Division examiner expressed doubts about renewing Triune's registration due to the Parent Company's financial difficulties and, thus, Triune's questionable financial condition. At the suggestion of the Division, Triune promptly withdrew its registration renewal application and allowed its franchise registration to expire in June of 2009. Triune had full knowledge that it would no longer be able to lawfully offer and sell franchises in the Commonwealth following this date.

(10) Nevertheless, after its franchise registration had expired and over the course of the next two months, Triune continued to offer and sell franchises in the Commonwealth. Triune offered and sold unregistered franchises to Virginia franchisees without making any disclosures regarding the Parent Company's questionable financial condition and the substantial potential impact this could have on Triune. Triune also supplied these franchisees with a stale and expired FDD. The FDD falsely stated that the Triune franchise being offered was registered in the Commonwealth. This misled the

¹ Prior to July of 2007, an FDD was referred to as a Uniform Franchise Offering Circular ("UFOC"). For purposes of this Settlement Order, the terms "FDD" and "UFOC" are interchangeable.

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franchisees into believing that the FDD had been cleared by the Division and was, thus, in compliance with all statutory and regulatory disclosure requirements.

(11) Separately, in 2009, Triune failed to furnish Virginia franchisees with a Division cleared FDD at least fourteen (14) calendar days before entering into the sale of the franchises.

If the standards of the statute are met, the Commission is authorized by § 13.1-562 of the Act to revoke a defendant's registration, by § 13.1-568 of the Act to issue temporary or permanent injunctions, by § 13.1-570 of the Act to impose certain monetary penalties and to request a defendant make rescission and restitution, and by § 12.1-15 of the Code to settle matters within its jurisdiction.

The Defendant neither admits nor denies these allegations but admits to the Commission's jurisdiction and authority to enter this Settlement Order.

As a proposal to settle all matters arising from these allegations, the Defendant has made an offer of settlement to the Commission wherein the Defendant will abide by and comply with the following terms and undertakings:

- (1) The Defendant will pay to the Treasurer of the Commonwealth the amount of Twenty-five Thousand Dollars (\$25,000) in monetary penalties upon entry of this Order.
- (2) The Defendant will pay to the Treasurer of the Commonwealth the amount of Five Thousand Dollars (\$5,000) to defray the costs of investigation upon entry of this Order.
- (3) The Defendant will make an offer of rescission to the Virginia franchisees identified by the Division to the Defendant prior to the entry of this Order, pursuant to the following:
 - (a) Within thirty (30) days of the date of this Settlement Order, the Defendant will make a written offer of rescission sent by certified mail to each existing Virginia franchisee, which will include an offer to repay the initial franchise fee, and a provision that gives each existing Virginia franchisee thirty (30) days from the date of receipt of the rescission offer to provide the Defendant with written notification of their decision to accept or reject the offer.
 - (b) The Defendant will provide to the Division a copy of the written offer of rescission for its review and comment at least ten (10) days before sending it to each Virginia franchisee.
 - (c) The Defendant will include with the written offer of rescission a copy of this Settlement Order.
 - (d) If the rescission offer is accepted by the Virginia franchisee, the Defendant will forward the payment of the initial franchise fee to each accepting Virginia franchisee within fifteen (15) days of receipt of the acceptance.
 - (e) Within ninety (90) days from the date of entry of this Settlement Order, the Defendant will submit to the Division proof of certified mailing of the offer of rescission and an affidavit, executed by the Defendant, which contains the date on which each Virginia franchisee received the offer of rescission, each Virginia franchisee's response, and, if applicable, the amount and the date that payment was sent to each accepting Virginia franchisee.
- (4) The Defendant will not violate the Act in the future.

The Division has recommended that the Commission accept the offer of settlement of the Defendant.

The Commission, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Division, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The offer of the Defendant in settlement of the matter set forth herein is hereby accepted.
- (2) The Defendant shall fully comply with the aforesaid terms and undertakings of this settlement.
- (3) The Commission shall retain jurisdiction in this matter for all purposes, including the institution of a show cause proceeding, or taking such other action it deems appropriate, on account of the Defendant's failure to comply with the terms and undertakings of the settlement.

**CASE NO. SEC-2012-00028
OCTOBER 23, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

BANKERS LIFE AND CASUALTY COMPANY and BLC FINANCIAL SERVICES, INC.,
Defendants

CONSENT ORDER

WHEREAS, state regulators from multiple jurisdictions ("state regulators") conducted coordinated investigations of Bankers Life and Casualty Company ("Bankers Life") and BLC Financial Services, Inc. ("BLCFS") (collectively, "Bankers"), to determine whether Bankers should have been registered as a broker-dealer and investment advisor pursuant to state securities laws of the state regulators between January 1, 2005, and December 2, 2011; and

WHEREAS, the state regulators determined that Bankers has acted as a broker-dealer and investment advisor in those jurisdictions without being registered, exempt from registration, or a federal covered advisor, and has employed or associated with agents and investment advisor representatives who were not so registered on behalf of Bankers; and

WHEREAS, Bankers has engaged in similar conduct in the Commonwealth of Virginia ("Commonwealth"), in violation of § 13.1-504 A, B, and C of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.*, Code of Virginia; and

WHEREAS, the conduct addressed herein has resulted in no known direct consumer harm, and the parties understand that registered agents or representatives of registered broker-dealers or investment advisors other than Bankers participated in all securities transactions and at locations that were registered with the appropriate securities authorities as broker-dealer locations of broker-dealers other than Bankers; and

WHEREAS, Bankers has cooperated with state regulators conducting the investigations by responding to inquiries, providing documentary evidence, and halting further receipt of broker-dealer and investment advisor-related compensation while the investigations were pending; and

WHEREAS, Bankers, in order to avoid protracted and expensive proceedings in numerous states, has agreed to resolve the investigations through a multistate settlement which includes this Consent Order; and

WHEREAS, Bankers, as part of this settlement, agrees to comply with all state and federal licensing, registration, and other securities laws; and

WHEREAS, Bankers, without admitting or denying the Conclusions of Law set forth below and solely for the purposes of this Consent Order, admits the jurisdiction of the State Corporation Commission ("Commission"), admits the Findings of Fact set forth in paragraphs 1-11 below, voluntarily consents to the entry of this Consent Order, and waives any right to a hearing or to judicial review regarding this Consent Order;

NOW THEREFORE, the Commission hereby enters this Consent Order.

I. FINDINGS OF FACT

1. Bankers Life is a life insurance company located in Illinois that has never been registered as a broker-dealer or investment advisor.
2. BLCFS is a wholly owned subsidiary of Bankers Life that also is located in Illinois. BLCFS (CRD No. 126638) has been a member of either the National Association of Securities Dealers ("NASD") or the Financial Industry Regulatory Authority ("FINRA") since 2003 and is registered as a broker-dealer only in Illinois. During its existence, BLCFS has had no business activity other than as described herein. BLCFS has never been registered as a broker-dealer or investment advisor in the Commonwealth, and it has not registered any agents or investment advisor representatives in the Commonwealth.
3. Effective January 1, 2005, Bankers Life entered into a Financial Services Agreement with UVEST Financial, Inc. ("UVEST") ("UVEST Agreement"), under which insurance agents of Bankers Life who became licensed as registered representatives and/or investment advisor representatives of UVEST would provide brokerage and investment advisory services out of Bankers Life branch office locations. At all relevant times, UVEST has been a broker-dealer registered in the Commonwealth and, through an affiliate, a federal covered investment advisor. The UVEST Agreement specified that UVEST would "exercise exclusive control" over the broker-dealer and investment advisory activities of the dual agents and assigned Bankers Life several securities-related roles, which Bankers Life did perform, including:
 - a. appointing the persons to be dual agents and having sole discretion to withdraw appointments at any time;
 - b. determining with UVEST the number and identity of dual agents at each office;
 - c. determining with UVEST the compensation to be paid to each agent;
 - d. determining with UVEST the "brokerage product offerings available for distribution" by the dual agents;
 - e. approving the clearing broker selected by UVEST;
 - f. approving advertising and promotional material; and
 - g. paying for:

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- i. pre-examination training for required NASD/FINRA examinations;
 - ii. investment research materials used in the branch offices;
 - iii. recruitment and travel costs; and
 - iv. UVEST stationery and business cards.
4. The UVEST Agreement provided for UVEST to pay Bankers Life "Revenue Sharing Payments" according to a schedule that varied from 82% to 85% of the gross commissions received by UVEST for the dual agents' securities transactions. The UVEST Agreement characterized these payments as representing reimbursement for the compensation Bankers Life pays to the dual agents and "payment for the use of the facilities and equipment" of Bankers Life.
5. In March of 2005, Bankers Life determined that BLCFS should have been a party to the UVEST Agreement. As a result, the three firms agreed to a new first page of the UVEST Agreement that added BLCFS as a party and a new signature page, which was executed by the three parties. The revised UVEST Agreement did not assign BLCFS any rights or duties separate from those of Bankers Life and made all of Bankers Life's rights and duties also apply to BLCFS.
6. Coincident with Bankers and UVEST terminating the UVEST Agreement, Bankers Life and BLCFS entered into a similar agreement with ProEquities, Inc. ("ProEquities"), effective April 30, 2010 ("ProEquities Agreement"). At all relevant times, ProEquities has been a broker-dealer registered in Virginia and, through an affiliate, a federal covered investment advisor. The ProEquities Agreement specifies that ProEquities will "exercise exclusive control" over the broker-dealer and investment advisory activities of the dual agents and assigns the following securities-related roles to BLCFS or to BLCFS and Bankers Life, which BLCFS and Bankers Life subsequently engaged in:
- a. consulting with ProEquities on the persons to be appointed as representatives of ProEquities;
 - b. identifying securities product training and marketing opportunities;
 - c. determining with ProEquities the securities products made available for distribution by the dual agents;
 - d. approving the clearing broker selected by ProEquities (BLCFS only);
 - e. approving advertising and promotional material (BLCFS only);
 - f. recruiting representatives for ProEquities and assisting with the licensing and registration process;
 - g. providing marketing, training, and support; and
 - h. paying for:
 - i. pre-examination training for required FINRA examinations;
 - ii. sales training materials;
 - iii. recruitment and travel costs; and
 - iv. ProEquities stationery and business cards.
7. Under the ProEquities Agreement, ProEquities is required to pay BLCFS between 87% and 91% of revenue received by ProEquities for the securities business conducted by the dual agents. ProEquities also is required to provide reports to BLCFS of the amount of compensation to be paid to each dual agent for securities work, and BLCFS is to retain the difference.
8. BLCFS, in its current Form BD filing, lists the following as other business:
- BLC Financial Services, Inc. (BLCF) provides sales support & a marketing program to Bankers Life & Casualty agents who are securities licensed with ProEquities. BLCFS will receive compensation from ProEquities based on these securities sales. BLCFS will not have any representatives that sell to the public.
9. The involvement of Bankers in securities-related roles led to confusion in the reporting and responsibility hierarchies as between Bankers and the applicable broker-dealer.
10. At no time were the dual agents licensed as agents or investment advisor representatives of Bankers Life or BLCFS. The agents were registered representatives and investment advisor representatives of UVEST or ProEquities.
11. From January 1, 2005, through November 31, 2011, Bankers received, on a nationwide basis, a total of approximately \$21 million from UVEST and ProEquities under their respective agreements for variable annuity and securities transactions and investment advice. Approximately \$15 million of this amount was passed on by Bankers to the dual agents as compensation, leaving approximately \$6 million retained by Bankers or used by Bankers for expenses.

II. CONCLUSIONS OF LAW

1. Pursuant to § 13.1-504 A of the Act, a person may not act as a broker-dealer in the Commonwealth unless registered or exempt from registration.
2. Similarly, pursuant to § 13.1-504 A of the Act, a person may not act as an investment advisor in the Commonwealth unless registered, exempt from registration, or a federal covered investment advisor.
3. Pursuant to § 13.1-504 B of the Act, a broker-dealer may not employ an agent, as defined in § 13.1-501 of the Act, unless the individual is registered as an agent of the broker-dealer.
4. Pursuant to § 13.1-504 C of the Act, an investment advisor or federal covered advisor may not employ an investment advisor representative unless the individual is registered as an investment advisor representative of the investment advisor or federal covered advisor.
5. By engaging in the conduct set forth above, Bankers acted as an unregistered broker-dealer and investment advisor in the Commonwealth in violation of § 13.1-504 A of the Act.
6. Furthermore, by employing or associating with dual agents who were not licensed as agents or investment advisor representatives of Bankers, Bankers violated § 13.1-504 B and C of the Act.
7. As a result, this Consent Order and the following relief are appropriate and in the public interest.

III. ORDER

On the basis of the Findings of Fact, Conclusions of Law, and the consent of Bankers to the entry of this Consent Order, IT IS HEREBY ORDERED that:

1. Bankers shall refrain from (1) acting as a broker-dealer or investment advisor in the Commonwealth unless and until registered to do so; (2) employing or associating with agents or investment advisor representatives in the Commonwealth who are not registered on behalf of Bankers; and (3) from violating the Act in the future provided, however, that nothing in this Consent Order shall prevent Bankers from employing or associating with insurance producers who are also registered representatives or investment advisor representatives of a licensed broker-dealer so long as all securities-related functions are carried out consistent with the conditions set forth below.
2. In accordance with the terms of the multistate settlement, Bankers Life and/or BLCFS shall pay \$9.9 million to be distributed among the states where dual agents were located during the period from January 1, 2005, through December 2, 2011, allocated according to a schedule provided by the multi-state investigation working group. Bankers shall pay One Hundred Ninety-nine Thousand Seven Hundred Fifty-three Dollars and Eighty Cents (\$199,753.80) to the Treasurer of the Commonwealth, which portion shall be considered a monetary penalty. Such payment shall be made within ten (10) days from the date of entry of this Consent Order.
3. Bankers Life shall pay Seven Thousand Dollars (\$7,000) to the Commission, which portion shall be considered investigative costs. Such payment shall be made within ten (10) days from the date of entry of this Consent Order.
4. Bankers shall contract with an independent third party, with disclosure of any prior relationship to Bankers and with a scope of work not unacceptable to the Securities Administrator for the State of Maine, for the purpose of reviewing Bankers' compliance with the terms of this Consent Order. The independent third party shall submit annual reports of the same, including findings and recommendations, to the Maine Securities Administrator, which report shall be delivered on or before September 30 of each year commencing with the September 30, 2012, report and ending with the September 30, 2014, report. Bankers shall make no claim of privilege or other protection from disclosure to the Maine Securities Administrator of the reports or any information received or considered by the independent third party, and Bankers shall not take any action to prevent or impede the Maine Securities Administrator from sharing the reports or information with other state securities regulators.
5. If any state securities regulator determines not to accept the settlement offer of Bankers reflected herein, including the amount allocated to the applicable state according to the schedules referenced in paragraphs 2 through 4 above, the payments to the Commonwealth shall not be affected and Bankers shall not be relieved of any of the non-monetary provisions of this Consent Order.
6. Bankers shall not attempt to recover any part of the payments addressed in this Consent Order from dual agents, UVEST, ProEquities, or customers of Bankers (including through premium increases) provided, however, that nothing in this Consent Order prohibits Bankers from modifying its premiums or expenses for reason(s) unrelated to the payments referenced herein.
7. Bankers shall fully cooperate with any investigation or proceeding related to the subject matter of this Consent Order.
8. Bankers has an existing relationship with ProEquities, a third party licensed broker-dealer. From the date of this Consent Order through March 31, 2015, and while Bankers has dual agents that are registered representatives or investment advisor representatives of a third party broker-dealer, any agreement between Bankers and the third party broker-dealer shall be consistent with the provisions set forth below, provided, however, Bankers may seek leave with the applicable securities administrators for relief from this provision:
 - a. The third party broker-dealer ("TPBD") must be solely responsible for the hiring, training, supervision, and conduct of each of its registered representatives and investment advisor representatives as that conduct relates to securities or other TPBD products and the provision of investment advisory services.

- b. Bankers Life and its affiliates, including without limitation BLCFS, ("Bankers affiliates") shall have no responsibility for the hiring, training, supervision, and conduct of any registered representative or investment advisor representative as that conduct relates to securities or other TPBD products and the provision of investment advisory services.
 - c. Bankers affiliates shall not:
 - i. Exercise any control over who the TPBD appoints as registered representatives or investment advisor representatives;
 - ii. Identify securities product training and marketing opportunities;
 - iii. Determine with the TPBD the securities products made available for distribution;
 - iv. Approve the clearing broker selected by the TPBD;
 - v. Approve advertising and promotional material, provided, however, that Bankers shall maintain the right to object to advertising or promotional material that is either in violation of the law or in any way refers to Bankers;
 - vi. Pay for pre-examination training, sales training materials, travel costs, or TPBD stationery and business cards for registered representatives or investment advisor representatives.
 - d. The TPBD must be solely responsible for commission payments to registered representatives and investment advisor representatives, including the commission grid applicable to each registered representative and investment advisor representative, as that grid may be modified from time to time at the sole discretion of the TPBD.
 - e. Bankers affiliates shall provide no compensation to registered representatives and investment advisors based on securities production including, without limitation payment of expenses associated with the annual convention, provided, however, Bankers may continue to reimburse convention-related expenses to the extent they are based on insurance production.
 - f. Bankers may be compensated for its costs associated with the registered representatives and investment advisor representatives and the office space and equipment by the TPBD in the form of an administrative fee. The administrative fee must be reasonable and may not be based in any way on securities production, securities gross dealer compensation, or the number of securities transactions.
 - g. Bankers shall not conduct or permit its branches, employees, or insurance agents to conduct securities statements or referral contests on an individual or group basis or otherwise create incentives for obtaining securities statements from customers or prospective customers, regardless of whether the contest or incentive is based partly on chance.
 - h. Bankers Life shall promptly provide:
 - i. any information or visitation requested at any time by the Division of Securities and Retail Franchising ("Division") for the Commission or any other state securities regulator regarding the relationship, including, but not limited to, documents; written statements; testimony of agents, employees, or other representatives; and unannounced examinations of dual offices; and
 - ii. written notification of any complaint from a broker-dealer or investment advisor client to the state securities regulators in the states where the complainant and all involved agents or representatives are located so that the notification is received within 15 days of the complaint.
 - i. Within 60 days of Bankers entering into an agreement with a TPBD other than ProEquities, the independent third party reviewer referenced in paragraph 4 above shall review the agreement with the TPBD to confirm its compliance with this paragraph and shall submit a report of the same, with any relevant findings and recommendations, to the Securities Administrator for the State of Maine.
9. Bankers Life shall comply with the following practices:
- a. An insurance producer who is not licensed to give advice concerning securities products ("Insurance Producer") may gather all financial information necessary to complete a Bankers Factfinder or similar document or tool required to determine insurance product suitability and may provide the consumer with a business card of, and pre-addressed stamped envelope to, a person properly licensed/registered to provide advice concerning securities products. The Insurance Producer shall not obtain a copy of the consumer's statement(s) for securities products or discuss any other aspect of the securities products and the Insurance Producer cannot arrange for the consumer to meet with a person properly registered to provide advice concerning securities products. The Insurance Producer may explain that the Insurance Producer is not licensed to discuss securities products.
 - b. While gathering information for the Bankers' Factfinder or similar document or tool, an Insurance Producer shall not inquire into a consumer's satisfaction with the consumer's current investments in securities or with the consumer's current broker-dealer, investment advisor, registered representative, or investment advisor representative or make comparisons between securities and non-securities products. As used in this subparagraph, "securities" refers both to specific securities products and to securities in general.
 - c. No commissions or other compensation derived from a securities transaction shall be paid to or split with an Insurance Producer.
10. Pursuant to a Consent Order entered with the Maine Securities Administrator, on April 27, 2012, BLCFS made the filings necessary to withdraw its registration as a broker-dealer with the Securities and Exchange Commission and the State of Illinois and terminate its membership with FINRA. BLCFS shall not reapply for registration or membership.

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11. This Consent Order concludes the investigation by the Commission and any other action that the Commission could commence under applicable law on behalf of the Commonwealth as it relates to the violations described above, up to and including activity occurring through December 2, 2011, provided, however, that excluded from and not covered by this paragraph are any claims by the Commission arising from or relating to the "Order" provisions contained herein.

12. If payments are not made by Bankers Life or BLCFS, or if Bankers defaults in any of its obligations set forth in this Consent Order, the Commission may vacate this Consent Order, at its sole discretion, upon 10 days notice to Bankers and without opportunity for administrative hearing or judicial review, and commence a separate action.

13. Nothing herein shall preclude the Commonwealth, its departments, agencies, boards, commissions, authorities, political subdivisions and corporations (collectively, "State Entities"), other than the Commission and only to the extent set forth herein, and the officers, agents or employees of State Entities from asserting any claims, causes of action, or applications for compensatory, nominal and/or punitive damages, administrative, civil, criminal, or injunctive relief against Bankers, provided, however, that this Consent Order shall not be deemed to constrain, estop or preclude Bankers in asserting any legal or factual position, response or defense, provided, however, Bankers admits the facts set forth in Findings of Fact in paragraphs 1-11 herein.

14. This Consent Order is not intended by the Commission to subject any person to any disqualifications under the laws of the United States, any state, the District of Columbia, Puerto Rico, or the Virgin Islands including, without limitation, any disqualification from relying upon the state or federal registration exemptions or safe harbor provisions.

15. This Consent Order and the order of any other state in related proceedings against Bankers (collectively, "Orders") shall not disqualify any person from any business that they otherwise are qualified, licensed or permitted to perform under applicable securities laws of the Commonwealth of Virginia, and any disqualifications from relying upon this State's registration exemptions or safe harbor provisions that arise from the Orders are hereby waived.

16. This Consent Order and any dispute related thereto shall be construed and enforced in accordance with, and governed by, the laws of the Commonwealth without regard to any choice of law principles.

17. This Consent Order shall be binding upon Bankers, its relevant affiliates, successors, and assigns.

18. This Consent Order is entered into solely for the purposes of resolving the referenced multistate investigation and is not intended to be used for any other purpose. For any person or entity not a party to the Consent Order, this Consent Order does not create any private rights or remedies against Bankers, create liability of Bankers, or limit or preclude any legal or factual positions or defenses of Bankers in response to any claims.

19. Except as set forth above, the Commission agrees to take no action adverse to Bankers or its agents based solely on the same conduct addressed in this Consent Order. However, nothing in this Consent Order shall preclude the Commission from: (a) taking adverse action based on other conduct; (b) taking this Consent Order and the conduct described above into account in determining the proper resolution of action based on other conduct; (c) taking any and all available steps to enforce this Consent Order; or (d) taking any action against other entities or individuals, regardless of any affiliation or relationship between Bankers and the entities or individuals.

**CASE NO. SEC-2012-00029
NOVEMBER 15, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
UVEST FINANCIAL SERVICES GROUP, INC.,
Defendant

CONSENT ORDER

WHEREAS, state regulators from multiple jurisdictions conducted coordinated investigations of Bankers Life and Casualty Company ("Bankers Life") and BLC Financial Services, Inc. ("BLCFS") (collectively, "Bankers"), to determine whether Bankers should have been registered as a broker-dealer and investment advisor between January 1, 2005, and December 2, 2011; and

WHEREAS, the investigations revealed that Bankers has acted as a broker-dealer and investment advisor in the Commonwealth of Virginia ("Virginia") without being registered, exempt from registration, or a federal covered investment advisor, and has employed or associated with agents and investment advisor representatives who were not so registered on behalf of Bankers, all in violation of § 13.1-504 A, B, and C of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia; and

WHEREAS, UVEST Financial Services Group, Inc. ("UVEST"), entered into an agreement with Bankers to provide brokerage and investment advisory services out of Bankers Life branch office locations; and

WHEREAS, this Consent Order is entered into with the understanding that the conduct addressed herein has resulted in no known direct consumer harm and with the understanding that registered agents or representatives of UVEST participated in all securities transactions; and

WHEREAS, UVEST has cooperated with state regulators conducting the investigations by responding to inquiries and providing documentary evidence; and

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

WHEREAS, UVEST is in the process of winding down its business and has filed or will file a Form BD-W, Uniform Notice of Termination or Withdrawal of Registration as a Broker-Dealer, withdrawing its broker-dealer registration in Virginia; and

WHEREAS, UVEST has agreed to resolve the investigations through this Consent Order in order to avoid protracted and expensive proceedings in numerous states; and

WHEREAS, UVEST, without admitting or denying the Conclusions of Law set forth below and solely for the purposes of this Consent Order, admits the jurisdiction of the State Corporation Commission ("Commission"), admits the Findings of Fact set forth below, voluntarily consents to the entry of this Consent Order, and waives any right to a hearing or to judicial review regarding this Consent Order;

NOW THEREFORE, the Commission hereby enters this Consent Order.

I. FINDINGS OF FACT

1. Bankers Life is a life insurance company located in Illinois that has never been registered as a broker-dealer or investment advisor in Virginia.
2. BLCFS is a wholly owned subsidiary of Bankers Life that also is located in Illinois. BLCFS (Central Registration Depository ("CRD") No. 126638) has been a member of the National Association of Securities Dealers ("NASD") or the Financial Industry Regulatory Authority ("FINRA") since 2003 and is registered as a broker-dealer only in Illinois. During its existence, BLCFS has had no business activity other than as described herein. BLCFS has never been registered as a broker-dealer or investment advisor in Virginia, and it has not registered any agents or investment advisor representatives in Virginia.
3. At all relevant times, UVEST (CRD No. 13787) was a broker-dealer registered in Virginia and (through an affiliate) a federal covered investment advisor.
4. Effective January 1, 2005, Bankers Life entered into a Financial Services Agreement with UVEST ("UVEST Agreement") under which Bankers Life insurance agents who became licensed as registered representatives and/or investment advisor representatives of UVEST ("dual agents") would provide brokerage and investment advisory services out of Bankers Life branch office locations. The UVEST Agreement specified that UVEST would "exercise exclusive control" over the broker-dealer and investment advisory activities of the dual agents and assigned Bankers Life several securities-related roles, which Bankers Life did perform, including:
 - a. appointing the persons to be dual agents and having sole discretion to withdraw appointments at any time;
 - b. determining with UVEST the number and identity of dual agents at each office;
 - c. determining with UVEST the compensation to be paid to each agent;
 - d. determining with UVEST the "brokerage product offerings available for distribution" by the dual agents;
 - e. approving the clearing broker selected by UVEST;
 - f. approving advertising and promotional material; and
 - g. paying for:
 - i. pre-examination training for required NASD/FINRA examinations;
 - ii. investment research materials used in the branch offices;
 - iii. recruitment and travel costs; and
 - iv. UVEST stationery and business cards.
5. The UVEST Agreement provided for UVEST to pay Bankers Life "Revenue Sharing Payments" according to a schedule that varied from 82% to 85% of the gross commissions received by UVEST for the dual agents' securities transactions. The UVEST Agreement characterized these payments as representing reimbursement for the compensation Bankers Life pays to the dual agents and "payment for the use of the facilities and equipment" of Bankers Life. The UVEST Agreement provided that Bankers Life would not compensate Series 6 licensed dual agents for the sale of individual stocks and bonds, and instead Bankers Life would retain all such revenue.
6. In March 2005, Bankers Life determined that BLCFS should have been a party to the UVEST Agreement. As a result, the three firms agreed to a new first page of the UVEST Agreement that added BLCFS as a party and a new signature page, which was executed by the three parties. The revised UVEST Agreement did not assign BLCFS any rights or duties separate from those of Bankers Life and made all of Bankers Life's rights and duties also apply to BLCFS.
7. Bankers and UVEST terminated the UVEST Agreement effective on or about April 29, 2010.
8. Evidence uncovered during the investigation showed that Bankers screened prospective securities agents, trained new securities agents, conducted periodic training sessions for securities agents, monitored and attempted to increase securities production of securities agents, and played a significant role in determining the compensation of securities agents. Additionally, evidence showed that the involvement of Bankers in securities-related roles led to confusion in the reporting and responsibility hierarchies as between Bankers and the applicable broker-dealer.
9. At no time were the dual agents registered as agents or investment advisor representatives of Bankers Life or BLCFS.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

10. From January 1, 2005, through April 29, 2010, Bankers received, on a nationwide basis, a total of approximately \$17 million from UVEST under their agreement for variable annuity and securities transactions and investment advice.

II. CONCLUSIONS OF LAW

1. Pursuant to § 13.1-504 A (i) of the Act, a person may not act as a broker-dealer in Virginia unless registered or exempt from registration.
2. Similarly, pursuant to § 13.1-504 A (ii) and (iii) of the Act, a person may not act as an investment advisor in Virginia unless registered, exempt from registration, or a federal covered investment advisor.
3. A broker-dealer may not employ an agent, as defined in § 13.1-501 of the Act, unless the individual is registered as an agent of the broker-dealer pursuant to § 13.1-504 B of the Act.
4. An investment advisor or federal covered advisor may not employ an investment advisor representative unless the individual is registered as an investment advisor representative of the investment advisor pursuant to § 13.1-504 C of the Act.
5. By engaging in the conduct set forth above, Bankers acted as an unregistered broker-dealer and investment advisor in Virginia in violation of § 13.1-504 A (i) and (ii) of the Act.
6. Furthermore, by employing or associating with dual agents who were not registered as agents or investment advisor representatives of Bankers, Bankers violated § 13.1-504 B and C of the Act.
7. By engaging in the conduct set forth above, UVEST has engaged in an act, practice or course of business constituting a violation of the Act, or a rule adopted or order issued thereunder, and such conduct is grounds for an order imposing sanctions under §§ 13.1-519 and 13.1-521 of the Act.
8. As a result, this Consent Order and the following relief are appropriate and in the public interest.

III. ORDER

NOW THE COMMISSION, on the basis of the Findings of Fact, Conclusions of Law, and the consent of UVEST to the entry of this Consent Order, hereby ORDERS that:

1. UVEST shall refrain from materially aiding Bankers in violating the Act.
2. In accordance with the terms of the multistate settlement, UVEST shall pay an amount of \$750,000 among the states where dual agents were located during the period from January 1, 2005, through April 29, 2010, allocated according to a schedule provided by the multi-state investigation working group. UVEST shall pay \$14,150.94 to the Treasurer of the Commonwealth of Virginia as its portion of the total amount, which portion shall be considered a penalty. Such payment shall be made within ten (10) days from the date of entry of this Consent Order.
3. If any state securities regulator determines not to accept the settlement offer of UVEST reflected herein, including the amount allocated to the applicable state according to the schedule referenced in paragraph 2 above, the payment to the Treasurer of the Commonwealth of Virginia set forth in paragraph 2 above shall not be affected; and UVEST shall not be relieved of any of the non-monetary provisions of this Consent Order.
4. UVEST shall not attempt to recover any part of the payments addressed in this Consent Order from dual agents, Bankers, or customers of UVEST.
5. UVEST shall fully cooperate with any investigation or proceeding related to the subject matter of this Consent Order.
6. This Consent Order concludes the investigation by the Commission and any other action that the Commission could commence under applicable law on behalf of the Commonwealth of Virginia as it relates to the violations described above, up to and including activity occurring through April 29, 2010; provided, however, that excluded from and not covered by this paragraph are any claims by the Commission arising from or relating to the provisions of Section III contained herein.
7. If payments are not made by UVEST, or if UVEST defaults in any of its obligations set forth in this Consent Order, the Commission may vacate this Consent Order, at its sole discretion, upon ten (10) days' notice to UVEST and without opportunity for administrative hearing or judicial review, and commence a separate action.
8. Nothing herein shall preclude the Commonwealth of Virginia, its departments, agencies, boards, commissions, authorities, political subdivisions and corporations, other than the Commission and only to the extent set forth herein, (collectively, "State Entities") and the officers, agents or employees of State Entities from asserting any claims, causes of action, or applications for compensatory, nominal and/or punitive damages, administrative, civil, criminal, or injunctive relief against UVEST.
9. This Consent Order is not intended by the Commission to subject any person to any disqualifications under the laws of the United States, any state, the District of Columbia, Puerto Rico, or the Virgin Islands including, without limitation, any disqualification from relying upon the state or federal registration exemptions or safe harbor provisions.
10. This Consent Order and the order of any other state in related proceedings against UVEST (collectively, "Orders") shall not disqualify any person from any business that they otherwise are qualified, licensed or permitted to perform under applicable securities laws of the Commonwealth of Virginia, and any disqualifications from relying upon this state's registration exemptions or safe harbor provisions that arise from the Orders are hereby waived.

11. This Consent Order and any dispute related thereto shall be construed and enforced in accordance with, and governed by, the laws of the Commonwealth of Virginia without regard to any choice of law principles.

12. This Consent Order shall be binding upon UVEST, its relevant affiliates, successors and assigns as well as to successors and assigns of relevant affiliates with respect to all conduct subject to the provisions above and all future obligations, responsibilities, undertakings, commitments, limitations, restrictions, events, and conditions.

13. Except as set forth above, the Commission agrees to take no action adverse to UVEST based solely on the same conduct addressed in this Consent Order. However, nothing in this Consent Order shall preclude the Commission from: (a) taking adverse action based on other conduct; (b) taking this Consent Order and the conduct described above into account in determining the proper resolution of action based on other conduct; (c) taking any and all available steps to enforce this Consent Order; or (d) taking any action against other entities or individuals, regardless of any affiliation or relationship between UVEST and the entities or individuals.

14. This case is dismissed, and the papers herein shall be placed in the Commission's file for ended causes.

**CASE NO. SEC-2012-00030
NOVEMBER 26, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
PROEQUITIES, INC.,
Defendant

CONSENT ORDER

WHEREAS, state regulators from multiple jurisdictions conducted coordinated investigations of Bankers Life and Casualty Company ("Bankers Life") and BLC Financial Services, Inc. ("BLCFS") (collectively, "Bankers"), to determine whether Bankers should have been registered as a broker-dealer and investment advisor between January 1, 2005, and December 2, 2011; and

WHEREAS, the investigations revealed that Bankers has acted as a broker-dealer and investment advisor in the Commonwealth of Virginia ("Commonwealth") without being registered, exempt from registration, or a federal covered investment advisor, and has employed agents and investment advisor representatives who were not so registered on behalf of Bankers, all in violation of § 13.1-504 A, B, and C of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.*, Code of Virginia; and

WHEREAS, ProEquities, Inc. ("ProEquities"), entered into an agreement with Bankers effective April 30, 2010, to provide brokerage and investment advisory services out of Bankers Life branch office locations; and

WHEREAS, the conduct addressed herein has resulted in no known direct consumer harm, and the parties understand that registered agents or representatives of ProEquities participated in all securities transactions and at locations that were registered with the appropriate securities authorities as broker-dealer locations of ProEquities; and

WHEREAS, ProEquities has cooperated with state regulators conducting the investigations by responding to inquiries, providing documentary evidence, and halting further payment to BLCFS of broker-dealer and investment advisor-related compensation while the investigations were pending; and

WHEREAS, ProEquities, as part of this settlement, agrees to comply with all state and federal licensing, registration, and other securities laws; and

WHEREAS, ProEquities has agreed to resolve the investigations through this Consent Order in order to avoid protracted and expensive proceedings in numerous states; and

WHEREAS, ProEquities, without admitting or denying the Findings of Fact and Conclusions of Law set forth below and solely for the purposes of this Consent Order, admits the jurisdiction of the State Corporation Commission ("Commission"), voluntarily consents to the entry of this Consent Order, and waives any right to a hearing or to judicial review regarding this Consent Order;

NOW THEREFORE, the Commission hereby enters this Consent Order.

I. FINDINGS OF FACT

1. Bankers Life is a life insurance company located in Illinois that has never been registered as a broker-dealer or investment advisor.

2. BLCFS is a wholly-owned subsidiary of Bankers Life that also is located in Illinois. BLCFS (CRD No. 126638) has been a member of National Association of Securities Dealers ("NASD") or Financial Industry Regulatory Authority ("FINRA") since 2003 and is registered as a broker-dealer only in Illinois. During its existence, BLCFS has had no business activity other than as described herein. BLCFS has never been registered as a broker-dealer or investment advisor in the Commonwealth, and it has not registered any agents or investment advisor representatives in the Commonwealth.

3. At all relevant times, ProEquities (CRD No. 15708) has been a broker-dealer registered in the Commonwealth and a federal covered investment advisor.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

4. Bankers Life and BLCFS entered into an agreement with ProEquities effective April 30, 2010 ("ProEquities Agreement"). The ProEquities Agreement specifies that ProEquities would "exercise exclusive control" over the broker-dealer and investment advisory activities of ProEquities agents who were also insurance agents for Bankers Life ("Dual Agents"). In addition, the ProEquities Agreement assigned the following securities-related roles to BLCFS or to BLCFS and Bankers Life, which roles BLCFS and Bankers Life did perform until December 2, 2011:

- a. consulting with ProEquities on the persons to be appointed as representatives of ProEquities;
- b. identifying securities product training and marketing opportunities for review by ProEquities;
- c. conferring with ProEquities concerning the securities products made available for distribution by the dual agents;
- d. terminating the clearing broker selected by ProEquities (BLCFS only) in the event that the clearing agent did not use commercially reasonable efforts to process and service customer accounts at a level consistent with BLCFS' standards;
- e. paying for advertising and promotional material (BLCFS only) in the event that BLCFS ordered more than a reasonable quantity of such materials or required customization of them;
- f. recruiting representatives for ProEquities and assisting with the licensing and registration process;
- g. providing marketing, training, and support; and
- h. paying for:
 - i. pre-examination training for required NASD/FINRA examinations;
 - ii. sales training materials;
 - iii. recruitment and travel costs; and
 - iv. ProEquities stationary and business cards.

5. Under the ProEquities Agreement, ProEquities was required to pay BLCFS between 87% and 91% of revenue received by ProEquities for the securities business conducted by the dual agents. ProEquities also was required to provide reports to BLCFS of the amount of compensation to be paid to each dual agent for securities work, and BLCFS was to retain the difference.

6. BLCFS, in its current Form BD filing, lists the following as other business:

BLC Financial Services, Inc. (BLCF), provides sales support & a marketing program to Bankers Life & Casualty agents who are securities licensed with ProEquities. BLCFS will receive compensation from ProEquities based on these securities sales. BLCFS will not have any representatives that sell to the public.

7. Evidence obtained during the investigation indicated that Bankers screened prospective securities agents, trained new securities agents, conducted some periodic training sessions for securities agents, monitored and attempted to increase securities production of securities agents, and played a significant role in determining the compensation of securities agents. Additionally, evidence showed that the involvement of Bankers in securities-related roles led to confusion in the reporting and responsibility hierarchies as between Bankers and ProEquities.

8. At no time were the dual agents registered as agents or investment advisor representatives of Bankers Life or BLCFS. The agents were registered representatives and investment advisor representatives of ProEquities.

9. From April 30, 2010 through November 31, 2011, Bankers received, on a nationwide basis, a total of approximately \$11 million from ProEquities under the ProEquities Agreement for variable annuity and securities transactions and investment advice.

II. CONCLUSIONS OF LAW

1. Pursuant to § 13.1-504 A (i) of the Act, a person may not act as a broker-dealer in the Commonwealth unless registered or exempt from registration.

2. Similarly, pursuant to § 13.1-504 A (ii) and (iii) of the Act, a person may not act as an investment advisor in the Commonwealth unless registered, exempt from registration, or a federal covered advisor.

3. A broker-dealer may not employ an agent, as defined in § 13.1-501 of the Act, unless the individual is registered as an agent of the broker-dealer pursuant to § 13.1-504 B of the Act.

4. An investment advisor or federal covered advisor may not employ an investment advisor representative unless the individual is registered as an investment advisor representative of the investment advisor pursuant to § 13.1-504 C of the Act.

5. By engaging in the conduct set forth above, Bankers acted as an unregistered broker-dealer and investment advisor in the Commonwealth in violation of § 13.1-504 A (i) and (ii) of the Act.

6. Furthermore, by employing or associating with dual agents who were not registered as agents or investment advisor representatives of Bankers, Bankers violated § 13.1-504 B and C of the Act.

7. By engaging in the conduct set forth above, ProEquities has engaged in an act, practice or course of business constituting a violation of the Act, or a rule adopted or order issued thereunder, and such conduct is grounds for an order imposing sanctions under §§ 13.1-519 and 13.1-521 of the Act.
8. As a result, this Consent Order and the following relief are appropriate and in the public interest.

III. ORDER

NOW THE COMMISSION, on the basis of the Findings of Fact, Conclusion of Law, and consent of ProEquities to the entry of this Consent Order, hereby orders that:

1. ProEquities shall refrain from engaging in conduct giving rise to liability under the Act.
2. In accordance with the terms of the multistate settlement, ProEquities shall pay an amount of Four Hundred Thirty-five Thousand Dollars (\$435,000) to the states where dual agents were located during the period from April 30, 2010 through December 2, 2011, allocated according to a schedule provided by the multi-state investigation working group. ProEquities shall pay Eight Thousand Two Hundred-seven Dollars and Fifty-five Cents (\$8,207.55) to the Treasurer of the Commonwealth as its portion of the total amount, which portion shall be considered a penalty. Such payment shall be made within ten (10) days from the date of entry of this Consent Order.
3. If any state securities regulator determines not to accept the settlement offer of ProEquities reflected herein, including the amount allocated to the applicable state according to the schedule referenced in paragraph 2 above, the payment to the Commonwealth set forth in paragraph 2 above shall not be affected, and ProEquities shall not be relieved of any of the non-monetary provisions of this Consent Order.
4. ProEquities shall not attempt to recover any part of the payments addressed in this Consent Order from dual agents, Bankers Life, or customers of ProEquities.
5. ProEquities shall fully cooperate with any investigation or proceeding related to the subject matter of this Consent Order.
6. From the date of this Consent Order through March 31, 2015, and while Bankers has dual agents that are registered representatives or investment adviser representatives of ProEquities, any agreement between Bankers and ProEquities shall be consistent with the provisions set forth in a separate Consent Order executed by Bankers and by the Commission arising from or relating to the "Order" provisions contained in section III of this Consent Order.
7. This Consent Order concludes the investigation by the Commission and any other action that the Commission could commence under applicable law on behalf of the Commonwealth as it relates to the violations described above, up to and including activity occurring through December 2, 2011, provided, however, that excluded from and not covered by this paragraph are any claims by the Commission arising from or relating to the "Order" provisions contained herein.
8. If payments are not made by ProEquities, or if ProEquities defaults in any of its obligations set forth in this Consent Order, the Commission may vacate this Consent Order, at its sole discretion, upon ten (10) days notice to ProEquities and without opportunity for administrative hearing or judicial review, and commence a separate action.
9. Nothing herein shall preclude the Commonwealth, its departments, agencies, boards, commissions, authorities, political subdivisions, and corporations, other than the Commission and only to the extent set forth herein (collectively, "State Entities"), and the officers, agents, or employees of State Entities from asserting any claims, causes of action, or applications for compensatory, nominal and/or punitive damages, administrative, civil, criminal, or injunctive relief against ProEquities.
10. This Consent Order is not intended by the Commission to subject any person to any disqualifications under the laws of the United States, any state, the District of Columbia, Puerto Rico, or the Virgin Islands including, without limitation, any disqualification from relying upon the state or federal registration exemptions or safe harbor provisions.
11. This Consent Order and the order of any other state in related proceedings against ProEquities (collectively, "Orders") shall not disqualify any person from any business that they otherwise are qualified, licensed, or permitted to perform under applicable securities laws of the Commonwealth and any disqualifications from relying upon this state's registration exemptions or safe harbor provisions that arise from the Orders are hereby waived.
12. This Consent Order and any dispute related thereto shall be construed and enforced in accordance with, and governed by, the laws of the Commonwealth without regard to any choice of law principles.
13. This Consent Order shall be binding upon ProEquities, its relevant affiliates, successors and assigns.
14. Except as set forth above, the Commission agrees to take no action adverse to ProEquities based solely on the same conduct addressed in this Consent Order. However, nothing in this Consent Order shall preclude the Commission from: (a) taking adverse action based on other conduct; (b) taking this Consent Order and the conduct described above into account in determining the proper resolution of action based on other conduct; (c) taking any and all available steps to enforce this Consent Order; or (d) taking any action against other entities or individuals, regardless of any affiliation or relationship between ProEquities and the entities or individuals.

**CASE NO. SEC-2012-00032
JUNE 26, 2012**

APPLICATION OF
FUNDRISE 1351 H STREET, LLC

For registration of securities pursuant to § 13.1-510 of the Code of Virginia

**ORDER EFFECTING REGISTRATION OF
SECURITIES BY QUALIFICATION**

This matter came before the State Corporation Commission ("Commission") for consideration by written application of Fundrise 1351 H Street, LLC ("Fundrise"), dated December 28, 2011, with attached exhibits, and subsequently amended, requesting that Class B Membership Units ("Units") be registered by qualification pursuant to § 13.1-510 of the Virginia Securities Act, § 13.1-501 *et seq.* of the Code of Virginia. The requisite fee of Five Hundred Dollars (\$500) has been paid.

Based upon the information submitted, the following facts, in addition to others not enumerated herein, appear to exist: (i) Fundrise is a Delaware limited liability company that owns and manages the fee simple real estate located at 1351 H Street, NE, Washington, D.C.; and (ii) Fundrise intends to offer and sell 3,250 Units for an aggregate amount of up to Three Hundred Twenty-five Thousand Dollars (\$325,000). The Units will be offered and sold by an agent of the issuer.

NOW THE COMMISSION, based on the facts asserted by Fundrise in the written application and exhibits, and upon the recommendation of the Division of Securities and Retail Franchising, is of the opinion and finds, and does hereby ADJUDGE and ORDER that, the securities described above are registered for offer and sale in Virginia through a disclosure document, a copy of which is filed as a part of the record.

No material change in Fundrise's conditions or terms of offering may be made in the disclosure document without prior submission to the Division of Securities and Retail Franchising and acceptance by the Commission.

**CASE NO. SEC-2012-00034
JULY 23, 2012**

APPLICATION OF
CHRISTIAN FINANCIAL RESOURCES, INC.

For an Order of Exemption under § 13.1-514.1 B of the Code of Virginia

ORDER OF EXEMPTION

This matter came before the State Corporation Commission ("Commission") for consideration by written application of Christian Financial Resources, Inc. ("CFR"), which the Commission received June 20, 2012, with attached exhibits, as subsequently amended. The application requested that CFR's Demand Certificates and Time Certificates (collectively, "Certificates") be exempted from the securities registration requirements of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia, and that the officers of CFR be exempt from the agent registration requirements of § 13.1-504 A of the Act.

Based upon the information submitted, the following facts, in addition to others not enumerated herein, appear to exist: (i) CFR is a Florida corporation operating not for private profit but exclusively for religious and charitable purposes; (ii) CFR intends to offer and sell the Certificates in an approximate aggregate amount of up to \$200,000,000 on terms and conditions as more fully described in the Offering Circular filed as a part of the application; and (iii) said securities are to be offered and sold by officers of CFR who will not be compensated for their sales efforts.

Based on the facts asserted by CFR in the written application and exhibits, and upon the recommendation of the Division of Securities and Retail Franchising, the Commission is of the opinion and finds, and does hereby ADJUDGE and ORDER that, pursuant to the provisions of § 13.1-514.1 B of the Act, the securities described above are exempt from the securities registration requirements of the Act, and CFR's officers are exempt from the agent registration requirements of § 13.1-504 of the Act.

**CASE NO. SEC-2012-00037
AUGUST 27, 2012**

APPLICATION OF
FOURSQUARE FINANCIAL SOLUTIONS LOAN FUND, INC.

For an Order of Exemption under § 13.1-514.1 B of the Code of Virginia

ORDER OF EXEMPTION

This matter came before the State Corporation Commission ("Commission") for consideration by written application of Foursquare Financial Solutions Loan Fund, Inc. ("Fund"), which the Commission received December 6, 2011, with attached exhibits, as subsequently amended. The application requested that the Fund's One Year Investment Certificates, Three Year Investment Certificates, and Five Year Investment Certificates (collectively, "Certificates") be exempted from the securities registration requirements of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia,

and that officers and certain designated staff members of Foursquare Financial Solutions, Inc. ("FFS"), be exempted from the agent registration requirements of the Act.

Based upon the information submitted, the following facts, in addition to others not enumerated herein, appear to exist: (i) the Fund is a California corporation operating not for private profit but exclusively for religious purposes; (ii) the Fund intends to offer and sell the Certificates in an approximate aggregate amount of up to \$50,000,000 on terms and conditions as more fully described in the Offering Circular filed as a part of the application; (iii) the Certificates are intended to be offered to investors that are members of, contributors to, or a participant in the Fund, The International Church of the Foursquare Gospel ("ICFG"), or a program, activity or organization that is related to the Fund, ICFG, or one of its affiliated entities that have a programmatic relationship with ICFG; and (iv) said securities are to be offered and sold by officers and certain designated staff members of FFS who will not be compensated for their sales efforts.

Based on the facts asserted by the Fund in the written application and exhibits, and upon the recommendation of the Division of Securities and Retail Franchising, the Commission is of the opinion and finds, and does hereby ADJUDGE and ORDER that, pursuant to the provisions of § 13.1-514.1 B of the Act, the securities described above are exempt from the securities registration requirements of the Act, and FFS's officers and designated staff members are exempt from the agent registration requirements of § 13.1-504 of the Act.

**CASE NO. SEC-2012-00038
DECEMBER 21, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

Ex Parte: In the matter of Adopting a Revision to the Rules Governing the Virginia Securities Act

ORDER TO TAKE NOTICE

Section 12.1-13 of the Code of Virginia provides that the State Corporation Commission ("Commission") shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction. Section 13.1-523 of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia, provides that the Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of the Act.

The rules and regulations issued by the Commission pursuant to the Act are set forth in Title 21 of the Virginia Administrative Code. A copy also may be found at the Commission's website: www.scc.virginia.gov/case.

The Division of Securities and Retail Franchising ("Division") submitted to the Commission substantial revisions to Chapters 20, 30, 40, and Chapter 80; and minor, grammatical, and technical changes to Chapters 10, 20, 30, 40, 80, and 100 of Title 21 of the Virginia Administrative Code entitled "Securities Act Rules" ("Rules").

The majority of the proposed technical changes are clean-up revisions, including deleting the definition of and references to "National Association of Securities Dealers, Inc." ("NASD") and substituting the new name "Financial Industry Regulatory Authority, Inc." ("FINRA"). References to "Central Registration Depository" ("CRD") and "Investment Advisor Registration Depository" ("IARD") were cross-referenced and made consistent throughout the Rules. Proposed definitions were added to Chapter 10 to provide further clarification to terms used in certain regulations, including adding definitions for "qualified investment advisor representative" and "social media". The Division, for consistency purposes, proposed revisions to other rules to comport with changes made to Chapter 10.

As stated above, the Division proposes more substantive changes to Chapters 20, 30, 40, and 80, as described below:

Proposed Revisions to Chapter 20. Broker-dealers.

Chapter 20 contains the Rules that apply to the regulation of broker-dealers as defined in § 13.1-504 of the Act. Many of the proposed changes to this chapter address gaps in regulation, as well as codify known Division administrative practices in order to provide full and adequate notice of said practices to broker-dealers. As described above, several Rule sections under Chapter 20 have proposed changes that will be consistent with the revisions to Chapter 10, such as references to FINRA, CRD, and IARD.

Substantial changes are proposed to Sections 260, 280 and 330, which contain regulations regarding broker-dealer activity. The Division proposes to revise these three sections to conform the regulation with known broker-dealer industry practices in the areas of supervisory procedures, annual Virginia office inspections, broker-dealer and broker-dealer agent business conduct, and offers and sales of securities by broker-dealers through financial institutions under certain contractual arrangements. To highlight the proposed changes, the Division has revised and amended the following sections:

Section 260 Supervision.

The proposed changes address the lack of clarity in some of the current language. In addition, the Division proposes to replace the generic term "supervisor" with the more specific term "principal" to ensure that broker-dealer firms use appropriately trained professionals to supervise their agents. A definition for "principal" is proposed.

Section 280 Prohibited Business Conduct.

The Division proposes to revise a number of subsections governing broker-dealer and agent business conduct. After reviewing other state and federal regulations governing broker-dealer business conduct, each provision under this section was reviewed and revised to add clarity, consistency, and conformity with current broker-dealer practices. Major proposed revisions include:

Subdivision A 3. Language is proposed to further define the term "reasonable basis" for broker-dealers who make securities recommendations.

Subdivision A 10. Proposed revisions to this section would allow a broker-dealer to deliver a prospectus to an investor by electronic means if the investor opts into the broker-dealer's program for such delivery.

Subdivision A 15. This section proposes to combine provisions from former subsection E, as well as add other examples of known broker-dealer manipulative, deceptive, or fraudulent practices into one subdivision. By combining the provisions into one subdivision, broker-dealers would be able to review and revise their supervision and compliance procedures by referencing most applicable regulations by reviewing one subdivision.

Subdivision A 27-40. These proposed new regulations also govern broker-dealer business conduct. Several of the proposed sections are revised provisions previously found in current subsections E 6 and G. Each additional proposed provision originated from other regulatory agencies and was reviewed and vetted by the Staff based upon its experience with broker-dealer audits and investigations.

Subdivision B 6, 7 and 8. This subdivision governs conduct by broker-dealer agents. The changes are proposed to conform to the changes to Subsection 280 A. Proposed subdivision 7 prohibits a broker-dealer agent from failing to comply with continuing education requirements. Proposed subdivision 8 prohibits broker-dealer agents from failing to properly identify the broker-dealer under which he or she is registered.

Subsection C. The current subsection is proposed to be deleted and moved to Rule 21 VAC 5-20-150. That section governs examination and qualification requirements for broker-dealer agents, and the Division felt it was more appropriate to associate with that section of the regulations. Former subsection D becomes the new subsection C.

Subsection D. Former subsection E was repealed and the provisions were moved to subdivision A 15, as described above.

Subsection F. Former subsection F, as proposed, is removed from Section 280 and is renumbered as Rule 21 VAC 5-20-285.

Subsections G and H. As previously stated, the provisions of subsection G are proposed to be moved to subdivision A 40. Subsection H already is covered in the Act and is proposed for repeal.

Section 285. Customer Notice for Designated Securities. This is not new language. The proposed change moves the language from subsection 280 F to the proposed new section 285. This notice is currently required to be provided by broker-dealers who offer and sell designated securities to their customers and therefore is not prohibited business conduct.

Section 330. Sales at Financial Institutions.

This regulation governs the offer and sale of securities at financial institutions. The proposed changes address current practices in which contractual arrangements exist between financial institutions (and their affiliates) and broker-dealers. The proposed amendments include a requirement that the proposed arrangement between the respective institutions be filed with the Division 90 days prior to the implementation of the agreement. Additional proposed changes define the regulatory duties under the securities act for each institution.

Proposed subsection C 1 c allows a financial institution affiliate to register with the Commission as a broker-dealer, which, in turn, will allow both the affiliate and the broker-dealer under this contractual arrangement to dually employ agents. This proposal is an exception to the prohibition against dual agent registration.

Proposed subsection C 7 adds additional prohibited conduct provisions only for those broker-dealers conducting business under these contractual relationships, including accepting compensation from financial institutions, identifying the appropriate affiliations to the public, failing to follow the contract terms, and using non-registered employees of the financial institution or any affiliate of the financial institution.

Proposed Revisions to Chapter 30. Securities Registration.

The Division proposes to amend section 80 to add the North American Securities Administrators Association, Inc.'s ("NASAA") Church Extension Fund Securities guidelines to the list of adopted statements of policy.

Proposed Revisions to Chapter 40. Exempt Securities and Federal Covered Securities.

Since the implementation of the National Securities Markets Improvement Act of 1996 ("NSMIA") preempted the registration requirements of a number of nationally registered securities, including those listed on certain national securities exchanges, the Division proposes to repeal several sections governing these entities from the regulations governing exempt securities. Sections 40, 60, 80, 90 are proposed for repeal. However, because certain options, warrants and rights to purchase the listed securities were not included when NSMIA was adopted, and are currently exempted by the regulations being repealed, new Rule 21 VAC 5-40-180 is proposed to preserve the exemption for the non-preempted securities listed on these exchanges.

Proposed Revisions to Chapter 80. Investment Advisors. Many of the proposed revisions are minor, as described in the opening portion of this Order. There are proposed minor revisions in sections 190 and 200. More major proposed revisions are as follows:

Section 145. Custody Rule. The Division proposes to repeal the current investment advisor custody rule, section 145, and replace it with the NASAA model custody rule, which will be number 146. This will allow investment advisors who are registered in multiple jurisdictions to be governed by a uniform rule.

Section 160. Recordkeeping requirements of investment advisors. The Division proposes adding several new provisions to the investment advisor recordkeeping requirements to conform them to the proposed new custody rule in proposed section 146.

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Section 170. Supervision of investment advisor representatives. The Division's proposed changes revise this section to clarify that investment advisors are required to conduct an annual physical inspection of all business offices.

The Division recommends that the proposed revisions be considered for adoption. The Division also recommends that a hearing be held only if requested by those interested parties who specifically indicate that a hearing is necessary and the reasons therefore.

A copy of the proposed revisions may be obtained from the Division by interested parties by telephone, mail, or e-mail request and also can be found at the Division's website: www.scc.virginia.gov/srf. Any comments to the proposed rules must be received by March 1, 2013.

Accordingly, IT IS THEREFORE ORDERED THAT:

(1) The proposed revisions are appended hereto and made a part of the record herein.

(2) Comments or requests for hearing on the proposed revisions must be submitted in writing to Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, on or before March 1, 2013. Requests for hearing shall state why a hearing is necessary and why the issues cannot be adequately addressed in written comments. All correspondence shall reference Case No. SEC-2012-00038. Interested persons desiring to submit comments electronically may do so by following the instructions available at the Commission's website: <http://www.scc.virginia.gov/case>.

(3) The proposed revisions shall be posted on the Commission's website at <http://www.scc.virginia.gov/case> and on the Division's website at <http://www.scc.virginia.gov/srf>. Interested persons also may request a copy of the proposed revisions from the Division by telephone, mail or e-mail.

NOTE: A copy of Attachment A entitled "Rules Governing the Virginia Securities Act" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. SEC-2012-00039
SEPTEMBER 25, 2012**

APPLICATION OF
LUTHERAN CHURCH EXTENSION FUND - MISSOURI SYNOD

For an Order of Exemption under § 13.1-514.1 B of the Code of Virginia

ORDER OF EXEMPTION

This matter came before the State Corporation Commission ("Commission") for consideration by written application of Lutheran Church Extension Fund – Missouri Synod ("LCEF"), which the Commission received August 30, 2012, with attached exhibits. The application requested that LCEF's Dedicated Certificates, Family Emergency StewardAccount Certificates, StewardAccount Certificates, FlexPlus Certificates, Fixed-Rate Term Notes, Floating-Rate Term Notes, Congregation Demand Certificates, Congregation StewardAccount Certificates, Congregation Cemetery Perpetual Care StewardAccount Certificates, Congregation Fixed-Rate Endowment Certificates, Congregation Floating-Rate Endowment Certificates, and K.I.D.S. Stamps (collectively, "Notes") be exempted from the securities registration requirements of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia, and that officers of LCEF be exempted from the agent registration requirements of the Act.

Based upon the information submitted, the following facts, in addition to others not enumerated herein, appear to exist: (i) LCEF is a Missouri corporation operating not for private profit but exclusively for religious, charitable, and educational purposes; (ii) LCEF intends to offer and sell the Notes in an approximate aggregate amount of up to \$75,000,000 on terms and conditions as more fully described in the Offering Circular filed as a part of the application; (iii) said securities are to be offered and sold by officers of LCEF who will not be compensated for their sales efforts; and (iv) LCEF will discontinue issuer transactions for all other securities previously exempted by the Commission upon the grant of the exemption for the offering of Notes described herein.

Based on the facts asserted by LCEF in the written application and exhibits, and upon the recommendation of the Division of Securities and Retail Franchising, the Commission is of the opinion and finds, and does hereby ADJUDGE and ORDER that, pursuant to the provisions of § 13.1-514.1 B of the Act, the securities described above are exempt from the securities registration requirements of the Act, and LCEF's officers are exempt from the agent registration requirements of § 13.1-504 of the Act.

**CASE NO. SEC-2012-00040
NOVEMBER 16, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

Ex Parte: In the matter of Adopting a Revision to the Rules Governing the Virginia Retail Franchising Act

ORDER TO TAKE NOTICE

Section 12.1-13 of the Code of Virginia provides that the State Corporation Commission ("Commission") shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction. Section 13.1-572 of the Virginia Retail Franchising Act ("Act"), § 13.1-557 *et seq.* of the Code of Virginia provides that the Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of the Act.

The rules and regulations issued by the Commission pursuant to the Act are set forth in Title 21 of the Virginia Administrative Code. A copy also may be found at the Commission's website: www.scc.virginia.gov/case.

The Division of Securities and Retail Franchising ("Division") has submitted to the Commission a number of revisions to Chapter 110 of Title 21 of the Virginia Administrative Code entitled "Retail Franchising Act Rules" ("Rules"). Most of the changes are minor, but add clarification in some instances. In addition, the Division is requesting that the Commission require franchisors to provide electronic copies of their disclosure document and retain certain records for regulatory compliance.

Rules 21 VAC 5-110-30, 5-110-40, and 5-110-50 have each been amended to require a franchisor to file a copy of its disclosure document on a CD-Rom or on other electronic media approved by the Division, in addition to the filed paper version for application for registration, amendment and renewal, respectively. The current regulation under each section allows the franchisor, at the franchisor's option, to file an electronic version of the disclosure document.

Rule 21 VAC 5-110-40 proposes to add an amendment to require a franchisor to amend its effective registration within thirty (30) days after the occurrence of a material change.

Rule 21 VAC 5-110-75 4 a (exemption for seasoned franchisor) proposes to add another subparagraph that requires the franchisor to provide an auditor's report that has not been modified with a going concern paragraph, when the franchisor claims an exemption from registration under this section.

Rule 21 VAC 5-110-80 proposes to add a new subsection B requiring a franchisor to retain and make available to the Commission upon request, a sample copy of each materially different version of the franchisor's disclosure document for three years from the close of the fiscal year in which the disclosure document was last provided to a prospective franchisee.

The Division also proposes to adopt the Guarantee of Performance Form adopted by the North American Securities Administrators Association, Inc., by substituting it for the current Guarantee of Performance Form. This substitution will conform the form with the other states' franchise forms.

The Division has recommended to the Commission that the proposed revisions should be considered for adoption with an effective date of March 1, 2013. The Division also has recommended to the Commission that a hearing should be held only if requested by those interested parties who specifically indicate that a hearing is necessary and the reasons therefore.

A copy of the proposed revisions may be requested by interested parties from the Division by telephone, by mail or e-mail request and also can be found at the Division's website: www.scc.virginia.gov/srf. Any comments to the proposed rules must be received by January 15, 2013.

IT IS THEREFORE ORDERED THAT:

(1) The proposed revisions are appended hereto and made a part of the record herein.

(2) Comments or requests for hearing on the proposed revisions must be submitted in writing to Joel H. Peck, Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, on or before January 15, 2013. Any request for hearing shall state why a hearing is necessary and why the issues cannot be adequately addressed in written comments. All correspondence shall contain reference to Case No. SEC-2012-00040. Interested persons desiring to submit comments electronically may do so by following the instructions available at the Commission's website: <http://www.scc.virginia.gov/case>.

(3) The proposed revisions shall be posted on the Commission's website at <http://www.scc.virginia.gov/case> and on the Division's website at <http://www.scc.virginia.gov/srf>. Interested persons may also request a copy of the proposed revisions from the Division by telephone, mail, or e-mail.

NOTE: A copy of Attachment A entitled "2012 Proposed Franchise Rule Revisions" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. SEC-2012-00043
NOVEMBER 5, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
SPROUSE FITNESS, LLC
and
VICTOR SPROUSE,
Defendants

SETTLEMENT ORDER

Based on an investigation conducted by the Division of Securities and Retail Franchising ("Division"), it is alleged that Sprouse Fitness, LLC, and Victor Sprouse (collectively, "Defendants"): (i) violated § 13.1-560 of the Virginia Retail Franchising Act ("Act"), § 13.1-557 *et seq.* of the Code of Virginia, by selling or offering to sell franchises in the Commonwealth of Virginia prior to registering under the provisions of the Act; (ii) violated § 13.1-563 (2) of the Act by making untrue statements of a material fact or omitting to state a material fact necessary in order to avoid misleading the offeree in connection with the sale or offer to sell a franchise; and (iii) violated § 13.1-563 (4) (ii) of the Act by failing to, directly or indirectly, provide franchisees with such disclosure documents as may be required by rule or order of the State Corporation Commission ("Commission").

If the standards of the statute are met, the Commission is authorized by § 13.1-562 of the Act to revoke a defendant's registration, by § 13.1-568 of the Act to issue temporary or permanent injunctions, by § 13.1-570 of the Act to impose certain monetary penalties and to request a defendant make rescission and restitution, and by § 12.1-15 of the Code of Virginia to settle matters within its jurisdiction.

The Defendants admit to the allegations and to the Commission's jurisdiction and authority to enter this Settlement Order.

As a proposal to settle all matters arising from these allegations, the Defendants have made an offer of settlement to the Commission wherein the Defendants will abide by and comply with the following terms and undertakings:

(1) The Defendants will make an offer of rescission to each franchisee pursuant to the following:

(a) Within thirty (30) days of the date of this Settlement Order, the Defendants will make a written offer of rescission sent by certified mail to each franchisee identified in the September 15 and 20, 2012 correspondence with the Division, which will include an offer to repay the initial franchise fee, and a provision that gives each franchisee thirty (30) days from the date of receipt of the offer of rescission to provide the Defendants with written notification of their decision to accept or reject the offer.

(b) The Defendants will provide to the Division a copy of the offer of rescission for its review and comment at least ten (10) days before sending it to each franchisee.

(c) The Defendants will include with the written offer of rescission a copy of this Settlement Order.

(d) If the rescission offer is accepted, the Defendants will forward the payment to each franchisee within fifteen (15) days of receipt of the acceptance.

(e) Within ninety (90) days from the date of the Settlement Order, the Defendants will submit to the Division proof of certified mailing of the offer of rescission and an affidavit, executed by the Defendants, which contains the date on which each franchisee received the offer of rescission, each franchisee's response, and, if applicable, the amount and the date that payment was sent to each franchisee.

(2) The Defendants will be enjoined from offering and selling franchises in the Commonwealth of Virginia for a period of six (6) months beginning October 1, 2012. Existing franchisees that are opening additional locations are excluded from this provision of the Settlement Order.

(3) The Defendants will not violate the Act in the future.

The Division has recommended that the Commission accept the offer of settlement of the Defendants.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendants, and the recommendation of the Division, is of the opinion that the Defendants' offer should be accepted.

Accordingly, IT IS ORDERED THAT:

(1) The offer of the Defendants in settlement of the matter set forth herein is hereby accepted;

(2) The Defendants fully comply with the aforesaid terms and undertakings of this settlement; and

(3) The Commission shall retain jurisdiction in this matter for all purposes, including the institution of a show cause proceeding, or taking such other action it deems appropriate, on account of the Defendants' failure to comply with the terms and undertakings of the settlement.

**CASE NO. SEC-2012-00047
OCTOBER 31, 2012**

APPLICATION OF
FRIENDS OF HANOVER COUNTRY CLUB, LLC

For an Order of Exemption under § 13.1-514.1 B of the Code of Virginia

ORDER OF EXEMPTION

This matter came before the State Corporation Commission ("Commission") for consideration by written application of Friends of Hanover Country Club, LLC ("Friends"), which the Commission received October 16, 2012, with attached exhibits, as subsequently amended. The application requested that Friends' secured promissory notes ("Notes") and limited liability company units ("Units") be exempted from the securities registration requirements of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia, and that officers and directors of Friends be exempted from the agent registration requirements of the Act.

Based upon the information submitted, the following facts, in addition to others not enumerated herein, appear to exist: (i) Friends is a Virginia limited liability company operating not for private profit but exclusively for social and athletic purposes; (ii) Friends intends to offer and sell the Notes in an approximate aggregate amount of up to \$1,600,000 only to members of Hanover Country Club, Inc. ("Club"), employees of the Club, residents of the Country Club Hills subdivision which is adjacent to the Club, and the homeowners association of Country Club Hills; (iii) in connection with the sale and issuance of the Notes, each purchaser shall receive Units in Friends; (iv) Units shall be issued by Friends without the payment of any additional consideration by the purchasers; and (v) said securities are to be offered and sold by officers and directors of Friends who will not be compensated for their sales efforts.

Based on the facts asserted by Friends in the written application and exhibits, and upon the recommendation of the Division of Securities and Retail Franchising, the Commission is of the opinion and finds, and does hereby ADJUDGE and ORDER that, pursuant to the provisions of § 13.1-514.1 B of the Act, the securities described above are exempt from the securities registration requirements of the Act, and Friends' officers and directors are exempt from the agent registration requirements of § 13.1-504 of the Act.

**CASE NO. SEC-2012-00050
NOVEMBER 26, 2012**

APPLICATION OF
FROM THE HEART CHURCH MINISTRIES, INC.

For registration of securities pursuant to § 13.1-510 of the Code of Virginia

**ORDER EFFECTING REGISTRATION OF
SECURITIES BY QUALIFICATION**

This matter came before the State Corporation Commission ("Commission") for consideration by written application of From the Heart Church Ministries, Inc. ("FTHC"), dated July 26, 2012, with attached exhibits, and subsequently amended, requesting that General Obligation Bonds – Series 2012 ("Bonds") be registered by qualification pursuant to § 13.1-510 of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia. The requisite fee of Five Hundred Dollars (\$500) has been paid.

Based upon the information submitted, the following facts, in addition to others not enumerated herein, appear to exist: (i) FTHC is a Maryland corporation organized and operated not for private profit but exclusively for charitable, religious, and educational purposes; (ii) FTHC intends to offer and sell 11,500 Bonds for an aggregate amount of up to \$11,500,000; and (iii) FTHC will offer and sell Bonds in the Commonwealth of Virginia only to members of FTHC. The Bonds will be offered and sold only by broker-dealers registered under the Act.

NOW THE COMMISSION, based on the facts asserted by FTHC in the written application and exhibits, and upon the recommendation of the Division of Securities and Retail Franchising, is of the opinion and finds, and does hereby ADJUDGE and ORDER that, the securities described above are registered for offer and sale in Virginia through an offering circular, a copy of which is filed as a part of the record.

No material change in FTHC's conditions or terms of offering may be made in the offering circular without prior submission to the Division of Securities and Retail Franchising and acceptance by the Commission.

**CASE NO. SEC-2012-00051
DECEMBER 14, 2012**

APPLICATION OF
CATHOLIC UNITED INVESTMENT TRUST

For an Order of Exemption under § 13.1-514.1 B of the Code of Virginia

ORDER OF EXEMPTION

This matter came before the State Corporation Commission ("Commission") for consideration by written application of Catholic United Investment Trust ("CUIT"), which the Commission received November 2, 2012, with attached exhibits. The application requested that CUIT's Balanced Fund, Value Equity Fund, Core Equity Index Fund, Growth Fund, Small Capitalization Equity Index Fund, International Equity Fund, Short Bond Fund, Intermediate Diversified Bond Fund, Flex Cash Fund, and Opportunistic Bond Fund shares (collectively, "Shares") be exempted from the securities registration requirements of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia.

Based upon the information submitted, the following facts, in addition to others not enumerated herein, appear to exist: (i) CUIT is a nonprofit organization established under a trust agreement dated February 18, 1983, exclusively for religious, charitable and educational purposes; (ii) CUIT was converted by operation of law to a Delaware statutory trust on December 30, 2011; (iii) CUIT serves member religious organizations of the Roman Catholic Church which are eligible to be listed in *The Official Catholic Directory* published by P.J. Kenedy & Sons and are exempt from federal income tax under § 501(c)(3) of the Internal Revenue Code; (iv) CUIT intends to offer the Shares to eligible Roman Catholic-related entities in the Commonwealth of Virginia, up to a maximum aggregate amount of \$500,000,000, on terms and conditions more fully described in the Offering Memorandum filed as a part of the application; (v) the Shares are to be offered and sold only by broker-dealers registered under the Act; and (vi) CUIT will discontinue issuer transactions for all Shares previously exempted by the Commission upon the grant of the exemption for the offering of Shares described herein.

Based on the facts asserted by CUIT in the written application and exhibits, and upon the recommendation of the Division of Securities and Retail Franchising, the Commission is of the opinion and finds, and does hereby ADJUDGE and ORDER that, pursuant to the provisions of § 13.1-514.1 B of the Act, the securities described above are exempt from the securities registration requirements of the Act.

DIVISION OF UTILITY AND RAILROAD SAFETY

CASE NO. URS-2010-00390 NOVEMBER 30, 2012

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
VIRGINIA NATURAL GAS, INC.,
Defendant

FINAL ORDER

By entry of the Order of Settlement ("Order") dated August 22, 2011, the State Corporation Commission ("Commission") accepted the offer of settlement of Virginia Natural Gas, Inc. ("VNG" or "Company"), for alleged violations of the minimum gas pipeline safety standards under § 56-257.2 *et seq.* of the Code of Virginia and retained jurisdiction of this case.

By execution of an Admission and Consent document by a representative of the Company, VNG consented to the form, substance, and entry of the Order.

The Order required VNG to pay a portion of the penalty of Three Hundred Eighty-six Thousand Eight Hundred Fifty Dollars (\$386,850) and Undertaking Paragraph (2) of the Order required that the Company complete various remedial actions. The Order also directed the Company to provide affidavits executed by the President of VNG certifying that the Company had completed the remedial measures required by Undertaking Paragraph (2) of the Order. The Company has fully complied with the terms and undertakings as outlined in the Order, and affidavits documenting that the specified remedial actions have been completed were filed by VNG on September 15, 2011, January 17, 2012, April 9, 2012, and July 27, 2012. Therefore, the remaining balance of One Hundred Ninety-nine Thousand Seven Hundred Dollars (\$199,700) of the penalty should be vacated, and this case should be dismissed.

Accordingly, IT IS ORDERED THAT:

(1) The balance of One Hundred Ninety-nine Thousand Seven Hundred Dollars (\$199,700) of the total penalty of Three Hundred Eighty-six Thousand Eight Hundred Fifty Dollars (\$386,850) shall be vacated.

(2) This case is hereby dismissed from the Commission's docket of active cases, and the papers filed herein shall be placed in the Commission's file for ended causes.

CASE NO. URS-2011-00156 FEBRUARY 9, 2012

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
UTILIQUEST, LLC,
Defendant

ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act ("Act"), § 56-265.14 *et seq.* of the Code. The Commission's Division of Utility and Railroad Safety ("Division"), charged with the investigation of probable violations of the Act, has completed investigations of certain incidents that occurred between November 29, 2010, and April 17, 2011, listed in Attachment A, involving Utiliquest, LLC ("Company"), the Defendant, and alleges that:

(1) The Company is a contract locator as that term is defined in § 56-265.15 of the Code and, as a contract locator acting on behalf of an operator, if the Company fails to perform the duties imposed by Chapter 10.3 of Title 56 of the Code, it is subject to the civil penalties set out in § 56-265.32 of the Code pursuant to § 56-265.19 D of the Code; and

(2) During the aforementioned period, the Company violated the Act by the following conduct:

- (a) Failing on certain occasions to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines in violation of § 56-265.19 A of the Code.
- (b) Failing on certain occasions to mark the underground utility lines within the time prescribed in the Act in violation of § 56-265.19 A of the Code.
- (c) Failing on certain occasions to use all information necessary to mark their facilities accurately in violation of 20 VAC 5-309-110 M of the Commission's Rules for Enforcement of the Underground Utility Damage Prevention Act.

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- (d) Failing on certain occasions include the size in inches at every other mark of an underground pipeline greater than 12 inches in nominal outside dimension in violation of 20 VAC 5-309-110 N of the Commission's Rules for Enforcement of the Underground Utility Damage Prevention Act.
- (e) Failing on certain occasions to provide marking for duct structures and conduit systems in accordance with the horizontal marking symbols for such structures and conduit systems as shown in item nine of the Virginia Underground Utility Marking Best Practices in violation of 20 VAC 5-309-110 O of the Commission's Rules for Enforcement of the Underground Utility Damage Prevention Act.
- (f) Failing on certain occasions to use the assigned letter designations for each operator in conjunction with markings of underground utility lines in violation of 20 VAC 5-309-110 Q of the Commission's Rules for Enforcement of the Underground Utility Damage Prevention Act.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters before the Commission arising from the Division's allegations made herein, which includes all probable violations presented to the Underground Utility Damage Prevention Advisory Committee, and set out in Attachment A hereto, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of Eight Thousand Five Hundred Fifty Dollars (\$8,550) to be paid contemporaneously with the entry of this Order. This payment will be made by check payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.
- (2) The sum of Eight Thousand Five Hundred Fifty Dollars (\$8,550) tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2011-00198
FEBRUARY 9, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
UTILIQUEST, LLC,
Defendant

ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act ("Act"), § 56-265.14 *et seq.* of the Code. The Commission's Division of Utility and Railroad Safety ("Division"), charged with the investigation of probable violations of the Act, has completed investigations of certain incidents that occurred between December 21, 2010, and May 11, 2011, listed in Attachment A, involving Utiliquest, LLC ("Company"), the Defendant, and alleges that:

- (1) The Company is a contract locator as that term is defined in § 56-265.15 of the Code and, as a contract locator acting on behalf of an operator, if the Company fails to perform the duties imposed by Chapter 10.3 of Title 56 of the Code, it is subject to the civil penalties set out in § 56-265 .32 of the Code pursuant to § 56-265 .19 D of the Code; and
- (2) During the aforementioned period, the Company violated the Act by the following conduct:
 - (a) Failing on certain occasions to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines in violation of § 56-265.19 A of the Code.
 - (b) Failing on certain occasions to mark the underground utility lines within the time prescribed in the Act in violation of § 56-265.19 A of the Code.
 - (c) Failing on certain occasions to report to the notification center that lines had been marked or that they were not in conflict with the proposed excavation in violation of § 56-265.19 A of the Code.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters before the Commission arising from the Division's allegations made herein, which includes all probable violations presented to the Underground Utility Damage Prevention Advisory Committee, and set out in Attachment A hereto, the Company represents and under-takes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of Nine Thousand Nine Hundred Fifty Dollars (\$9,950) to be paid

contemporaneously with the entry of this Order. This payment will be made by check payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.
- (2) The sum of Nine Thousand Nine Hundred Fifty Dollars (\$9,950) tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2011-00253
FEBRUARY 1, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
UTILIQUEST, LLC,
Defendant

ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, § 56-265.14 *et seq.* of the Code. The Commission's Division of Utility and Railroad Safety ("Division"), after having conducted an investigation of this matter, alleges that:

- (1) Utiliquest, LLC ("Company"), is a contract locator as that term is defined in § 56-265.15 of the Code, and as a contract locator acting on behalf of an operator, if the Company fails to perform the duties imposed by Chapter 10.3 of Title 56 of the Code, it is subject to the civil penalties set out in § 56-265.32 of the Code pursuant to § 56-265.19 D of the Code;
- (2) On or about January 24, 2011, Nichols Construction, LLC, damaged a two-inch plastic gas main line operated by Columbia Gas of Virginia, Inc., located at or near 2021 Rose Lane, Lynchburg, Virginia, while excavating;
- (3) On or about February 10, 2011, A & M Concrete Corp. damaged a one-inch plastic gas service line operated by Columbia Gas of Virginia, Inc., located at or near 261 Kent Drive, Prince William County, Virginia, while excavating;
- (4) On the occasions set out in paragraphs (2) and (3) above, the Company failed to mark the underground utility lines by no later than 7:00 a.m. on the third working day following the excavator's notice to the notification center, in violation of § 56-265.19 A of the Code;
- (5) On or about June 4, 2011, the City of Falls Church damaged a one-half-inch plastic gas service line operated by Washington Gas Light Company, located at or near 2904 Meadow View Road, Fairfax County, Virginia, while excavating;
- (6) On or about June 9, 2011, A 1 Rooter LLC damaged a one-half-inch plastic gas service line operated by Washington Gas Light Company, located at or near 736 North York Road, Loudoun County, Virginia, while excavating;
- (7) On or about June 13, 2011, Clearwater Landscape Contractors, Inc., damaged a three-quarter-inch plastic gas service line operated by Washington Gas Light Company, located at or near 1926 Poole Lane, Fairfax County, Virginia, while excavating;
- (8) On or about June 6, 2011, E. E. Lyons Const. Co., Inc., damaged a one-half-inch copper gas service stub operated by Washington Gas Light Company, located at or near 2808 First Road North, Arlington County, Virginia, while excavating;
- (9) On the occasions set out in paragraphs (5) through (8) above, the Company failed to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of § 56-265.19 A of the Code; and
- (10) On the occasion set out in paragraph (8) above, the Company failed to use all information necessary to mark their facilities accurately, in violation of 20 VAC 5-309-110 M of the Commission's Rules for Enforcement of the Underground Utility Damage Prevention Act.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As a proposal to settle all matters before the Commission arising from the Division's allegations herein, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of Five Thousand Fifty Dollars (\$5,050) to be paid contemporaneously with the entry of this Order. The payment will be made by check payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.
- (2) The sum of Five Thousand Fifty Dollars (\$5,050) tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is hereby dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2011-00409
MARCH 20, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
WASHINGTON GAS LIGHT COMPANY,
Defendant

ORDER OF SETTLEMENT

The federal pipeline safety statutes found at 49 U.S.C. § 60101 *et seq.*, formerly the Natural Gas Pipeline Safety Act, require the Secretary of Transportation ("Secretary") to establish minimum federal safety standards for the transportation of gas and pipeline facilities. The Secretary is further authorized to delegate to an appropriate state agency the authority to prescribe safety standards and enforce compliance with such standards over gas pipeline facilities used for intrastate transportation.

The State Corporation Commission ("Commission") has been designated as the appropriate state agency for the Commonwealth of Virginia to prescribe and enforce compliance with standards for gas pipeline facilities used for intrastate transportation. In Case No. PUE-1989-00052, the Commission adopted Parts 191, 192, 193, and 199 of Title 49 of the Code of Federal Regulations to serve as minimum gas pipeline safety standards ("Safety Standards") in Virginia. The Commission is authorized to enforce the Safety Standards for natural gas facilities under § 56-257.2 B of the Code of Virginia, which allows the Commission to impose the fines and penalties authorized therein.

The Commission's Division of Utility and Railroad Safety ("Division") is charged with the investigation of each jurisdictional gas company's compliance with the Safety Standards; has conducted various inspections of records, construction, operation, and maintenance activities involving Washington Gas Light Company ("WGL" or "Company"), the Defendant; and alleges that:

- (1) WGL is a person within the meaning of § 56-257.2 B of the Code of Virginia; and
- (2) The Company violated the Commission's Safety Standards by the following conduct:
 - (a) 49 C.F.R. § 192.187 - Failure on two occasions of Company to have a pressure regulating or reducing station more than 75 cubic feet in volume, but less than 200 cubic feet, that is sealed, vented or ventilated;
 - (b) 49 C.F.R. § 192.353 (a) – Failure on multiple occasions of Company to have a meter protected from vehicular damage that may be anticipated;
 - (c) 49 C.F.R. § 192.355 (b)(1) – Failure on five occasions of Company to have a service regulator vent that is insect resistant;
 - (d) 49 C.F.R. § 192.355 (b)(2) – Failure on five occasions of Company to have a regulator vent in a location where gas from the vent can escape freely into the atmosphere and away from any opening into the building;
 - (e) 49 C.F.R. § 192.479 (a) – Failure on one occasion of Company to clean and coat each pipeline for atmospheric corrosion control that is exposed to the atmosphere;
 - (f) 49 C.F.R. § 192.605 (a) - Failure on one occasion of Company to follow Engineering and Operating Standards, Section 5300, by not connecting the main and service locator wires together;
 - (g) 49 C.F.R. § 192.605 (a) - Failure on one occasion of Company to have adequate procedures developed to comply with 49 C.F.R. § 192.605 (b) (1) by not having a procedure to remove sharp edges from steel pipe or conduit prior to inserting plastic pipe;
 - (h) 49 C.F.R. § 192.605 (a) - Failure on one occasion of Company to have adequate procedures developed to comply with 49 C.F.R. § 192.605 (b) (1) by not having a procedure to protect Company facilities during bar holing activities;
 - (i) 49 C.F.R. § 192.605 (a) – Failure on one occasion of Company to follow Company Engineering and Operating Standards, Section 4084, by not following the manufacturer's instructions for installation of a leak repair device;
 - (j) 49 C.F.R. § 192.605 (a) – Failure on one occasion of Company to follow Company Engineering and Operating Standards, Section 3220, by not taking additional bar tests to determine if gas is migrating;

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

- (k) 49 C.F.R. § 192.605 (a) - Failure on fifteen occasions of Company to follow its Engineering and Operating Standards, Section 2010, developed to comply with 192.605 (b)(3) by not having an active gas pipeline facility accurately displayed on company maps; and
- (l) 49 C.F.R. § 192.725 (a) – Failure on one occasion of Company to pressure test each disconnected service line in the same manner as a new service line before being reinstated.

The Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters arising from the allegations made against it, WGL represents and undertakes that:

(1) The Company shall pay a fine to the Commonwealth of Virginia in the amount of One Hundred Seventy-eight Thousand Five Hundred Dollars (\$178,500), of which One Hundred Forty-three Thousand Five Hundred Dollars (\$143,500) shall be paid contemporaneously with the entry of this Order. The remaining Thirty-five Thousand Dollars (\$35,000) shall be due as outlined in Undertaking Paragraph (5) herein, and may be suspended in whole or in part by the Commission, provided the Company timely takes the actions required in Undertaking Paragraph (2) and tenders the requisite certification as required by Undertaking Paragraph (4) herein. The initial payment and any subsequent payments shall be made by check, payable to the Treasurer of Virginia, and directed to the attention of the Director, Division of Utility and Railroad Safety, State Corporation Commission, Post Office Box 1197, Richmond, Virginia 23218-1197.

(2) On or before March 15, 2012, the Company shall:

- a. Install ventilation at Pressure Regulating Station Nos. 313 and 532 to be in compliance with 49 C.F.R. § 192.187.
- b. Revise its operating, maintenance and construction standards to provide a process for removing sharp edges from steel pipe or conduit prior to inserting plastic pipe.
- c. Revise its operating, maintenance and construction standards to include procedures for protecting the Company's facilities during bar holing activities.
- d. Revise its operating, maintenance and construction standards to require crews installing new meters to determine the need for, and install, any meter protection necessary to prevent damage to the meter facilities at the time of installation.
- e. Begin a three-year program to inspect all meter sets to determine if meter protection is needed. For all meters identified as needing meter protection, the protection shall be installed within ninety (90) days of the date of inspection. In the event that the Company cannot complete the corrective actions within the specified time frame, the Company shall notify the Division and submit a revised schedule for the corrective actions that is acceptable to the Division. The Company shall submit a progress report to the Division no later than March 31st of each year of the three-year period detailing the results of the inspections and the corrective actions for the previous twelve (12) months ending March 1st.
- f. Commencing no later than one month after the date of issuance of the Order, the Company shall submit to the Division every working day, as defined by § 56-265.15 of the Code of Virginia, by electronic mail, an accurate daily schedule for each construction contractor and company crew performing work that day. This schedule shall include, at a minimum, the company inspector's name and field phone number, specific locations including addresses, and the Miss Utility ticket numbers for each project. If multiple projects are assigned to an individual, a priority must be established and listed for each project.

(3) The Division advises that the Company has complied with the terms and undertakings outlined in Undertaking Paragraph (2)(a) above and has submitted documentation evidencing the completion of Undertaking Paragraph (2)(a) to the Division.

(4) On or before March 15, 2012, WGL will tender to the Clerk of the Commission, with a copy to the Director of the Division, a notarized affidavit signed by the president of the Company certifying that the Company has completed all of the remedial actions described in Undertaking Paragraph (2) above with the exception of the three-year program to inspect all meter sets described in Undertaking Paragraph (2)(e) and the electronic mail submissions described in Undertaking Paragraph (2)(f). The Company shall submit progress reports in accordance with Undertaking Paragraph (2)(e) through the completion of the program and shall commence electronic mail submissions described in Undertaking Paragraph (2)(f) no later than one month after the date of issuance of the Order.

(5) Upon timely receipt of the affidavit required by Undertaking Paragraph (4) above, the Commission may suspend and subsequently vacate up to Thirty Five Thousand Dollars (\$35,000) of the remaining amount set forth in Undertaking Paragraph (1) above. Should WGL fail to tender said affidavit or fail to take the actions required by Undertaking Paragraphs (2) and (4) above, a payment of Thirty-five Thousand Dollars (\$35,000) shall become due and payable, and the Company shall immediately notify the Division of the reasons for WGL's failure to accomplish the actions required by Undertaking Paragraphs (2) and (4) above. If, upon investigation, the Division determines that the reason for said failure justifies a payment lower than Thirty-five Thousand Dollars (\$35,000), it may recommend to the Commission a reduction in the amount due. The Commission shall determine the amount due, and upon such determination the Company shall immediately tender to the Commission said amount.

Any amounts paid in accordance with Undertaking Paragraph (1) of this Order shall not be recovered in the Company's rates as part of WGL's cost of service. Any such amounts shall be booked in Uniform System of Account No. 426.3. The Company shall verify its booking by filing a copy of the trial balance showing this entry with the Commission's Division of Utility Accounting and Finance.

NOW THE COMMISSION, finding sufficient basis herein for the entry of this Order and in reliance on the Division's representations and the undertakings set forth above, is of the opinion and finds that the offer of compromise and settlement set forth above should be accepted.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Accordingly, IT IS ORDERED THAT:

- (1) The captioned case shall be docketed and assigned Case No. URS-2011-00409.
- (2) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of compromise and settlement made by WGL be, and it hereby is, accepted.
- (3) The Company shall pay a fine to the Commonwealth of Virginia in the amount of One Hundred Seventy-eight Thousand Five Hundred Dollars (\$178,500), part of which may be suspended and subsequently vacated as provided in Undertaking Paragraph (1) above.
- (4) The sum of One Hundred Forty-three Thousand Five Hundred Dollars (\$143,500) tendered contemporaneously with the entry of this Order is accepted. The remaining Thirty-five Thousand Dollars (\$35,000) is due as outlined herein and may be suspended and subsequently vacated, in whole or in part, provided the Company timely undertakes the actions required in Undertaking Paragraphs (2) and (4) above and files the timely certification of the remedial actions as required by Undertaking Paragraph (4) herein.
- (5) The Commission shall retain jurisdiction over this matter for all purposes, and this case shall be continued pending further order of the Commission.

**CASE NO. URS-2011-00410
JANUARY 25, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
COLUMBIA GAS OF VIRGINIA, INC.,
Defendant

ORDER OF SETTLEMENT

The federal pipeline safety statutes found at 49 U.S.C. § 60101 *et seq.*, formerly the Natural Gas Pipeline Safety Act, require the Secretary of Transportation ("Secretary") to establish minimum federal safety standards for the transportation of gas and pipeline facilities. The Secretary is further authorized to delegate to an appropriate state agency the authority to prescribe safety standards and enforce compliance with such standards over gas pipeline facilities used for intrastate transportation.

The State Corporation Commission ("Commission") has been designated as the appropriate state agency for the Commonwealth of Virginia to prescribe and enforce compliance with standards for gas pipeline facilities used for intrastate transportation. In Case No. PUE-1989-00052, the Commission adopted Parts 191, 192, 193, and 199 of Title 49 of the Code of Federal Regulations to serve as minimum gas pipeline safety standards ("Safety Standards") in Virginia. The Commission is authorized to enforce the Safety Standards for natural gas facilities under § 56-257.2 B of the Code of Virginia, which allows the Commission to impose the fines and penalties authorized therein.

The Commission's Division of Utility and Railroad Safety ("Division") is charged with the investigation of each jurisdictional gas company's compliance with the Safety Standards; has conducted various inspections of records, construction, operation, and maintenance activities involving Columbia Gas of Virginia, Inc. ("CGV" or "Company"), the Defendant; and alleges that:

- (1) CGV is a person within the meaning of § 56-257.2 B of the Code of Virginia; and
- (2) The Company violated the Commission's Safety Standards by the following conduct:
 - (a) 49 C.F.R. § 192.11 (c) - Failure on one occasion of Company to follow NFPA 59, Section 13.1.3 (C) by not reviewing and updating its emergency manual annually at the Portsmouth Propane-Air Plant in Portsmouth, Virginia;
 - (b) 49 C.F.R. § 192.327 (b) - Failure on three occasions of Company to install a main with at least 24 inches of cover;
 - (c) 49 C.F.R. § 192.353 (a) - Failure on four occasions of Company to protect a meter from vehicular damage that may be anticipated;
 - (d) 49 C.F.R. § 192.355 (b) (2) - Failure on one occasion of Company to install a service regulator vent at a place where gas from the vent can escape freely into the atmosphere and away from any opening into the building;
 - (e) 49 C.F.R. § 192.361 (a) - Failure on one occasion of Company to install each buried service line with at least 12 inches of cover in private property;
 - (f) 49 C.F.R. § 192.361 (d) - Failure on one occasion of Company to install a service line so as to minimize anticipated piping strain;
 - (g) 49 C.F.R. § 192.361 (g) - Failure on one occasion of Company to install each underground nonmetallic service line that is not encased with a means of locating the pipe that complies with §192.321(e);
 - (h) 49 C.F.R. § 192.455 (a) (2) - Failure on one occasion of Company to have a cathodic protection system designed to protect the pipeline in accordance with 49CFR192 Subpart I, installed and placed in operation within 1 year after completion of construction;

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

- (i) 49 C.F.R. § 192.605 (a) - Failure on one occasion of Company to follow procedures to comply with 49 C.F.R. §192.605 (b) (3), by not having an active gas pipeline facility accurately displayed on company maps; and,
- (j) 49 C.F.R. § 192.614 (a) - Failure of Company to have adequate procedures relative to its Damage Prevention Program, OMP 1100, Section 2.a, by identifying the one call center as having the responsibility to identify persons who normally excavate in the state, contact the excavators annually to make them aware of the damage prevention program, and maintain a list of excavators.

The Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters arising from the allegations made against it, CGV represents and undertakes that:

(1) The Company shall pay to the Commonwealth of Virginia the amount of Twenty-Seven Thousand Eight Hundred Seventy-Five Dollars (\$27,875), which shall be paid contemporaneously with the entry of this Order. Payment shall be made by check, payable to the Treasurer of Virginia, and directed to the attention of the Director, Division of Utility and Railroad Safety, State Corporation Commission, Post Office Box 1197, Richmond, Virginia 23218-1197.

(2) The Company shall undertake the following remedial actions:

- (a) On or before February 1, 2012, the Company shall complete all investigative tasks necessary to determine the extent of natural gas mains installed with less than 24 inches of cover in the Bunche Boulevard and City Park Avenue areas of Portsmouth, Virginia, and the Livesay Road area in Chesapeake, Virginia. Within 30 days of the completion of its investigation, CGV shall submit a remedial action plan acceptable to the Division. This plan shall include a schedule to complete any corrective actions necessary to address the issues discovered.
- (b) On or before February 1, 2012, the Company shall relocate the service regulator vents at 1290 Plank Road, South Hill, Virginia, and 17985 Dumfries Shopp Plaza Road, Dumfries, Virginia, to a place where gas from the vent can escape freely into the atmosphere and away from any opening into a building.
- (c) On or before March 1, 2012, the Company shall review and revise its damage prevention program procedures to ensure compliance with the requirements of 49 C.F.R. § 192.614.

(3) On or before March 15, 2012, CGV shall tender to the Clerk of the Commission, with a copy to the Division, an affidavit executed by the General Manager of Columbia Gas of Virginia, Inc., certifying that the Company has completed the remedial actions set forth in Undertaking Paragraph (2).

(4) Any amounts paid in accordance with Undertaking Paragraph (1) of this Order shall not be recovered in the Company's rates as part of CGV's cost of service. Any such amounts shall be booked in Uniform System of Account No. 426.3. The Company shall verify its booking by filing a copy of the trial balance showing this entry with the Commission's Division of Utility Accounting and Finance.

NOW THE COMMISSION, finding sufficient basis herein for the entry of this Order and in reliance on the Defendant's representations and undertakings set forth above, is of the opinion and finds that the offer of compromise and settlement set forth above should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The captioned case shall be docketed and assigned Case No. URS-2011-00410.
- (2) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of compromise and settlement made by CGV be, and it hereby is, accepted.
- (3) Pursuant to § 56-257.2 B of the Code of Virginia, CGV shall pay the amount of Twenty-Seven Thousand Eight Hundred Seventy-Five Dollars (\$27,875).
- (4) The Commission shall retain jurisdiction over this matter for all purposes, and this case shall be continued pending further order of the Commission.

**CASE NO. URS-2011-00411
MARCH 20, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
VIRGINIA NATURAL GAS, INC.,
Defendant

ORDER OF SETTLEMENT

The federal pipeline safety statutes found at 49 U.S.C. § 60101 *et seq.* formerly the Natural Gas Pipeline Safety Act, require the Secretary of Transportation ("Secretary") to establish minimum federal safety standards for the transportation of gas and pipeline facilities. The Secretary is further authorized to delegate to an appropriate state agency the authority to prescribe safety standards and enforce compliance with such standards over gas pipeline facilities used for intrastate transportation.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The State Corporation Commission ("Commission") has been designated as the appropriate state agency for the Commonwealth of Virginia to prescribe and enforce compliance with standards for gas pipeline facilities used for intrastate transportation. In Case No. PUE-1989-00052, the Commission adopted Parts 191, 192, 193, and 199 of Title 49 of the Code of Federal Regulations to serve as minimum gas pipeline safety standards ("Safety Standards") in Virginia. The Commission is authorized to enforce the Safety Standards for natural gas facilities under § 56-257.2 B of the Code of Virginia, which allows the Commission to impose the fines and penalties authorized therein.

The Commission's Division of Utility and Railroad Safety ("Division") is charged with the investigation of each jurisdictional gas company's compliance with the Safety Standards, has conducted various inspections of records, construction, operation and maintenance activities involving Virginia Natural Gas, Inc. ("VNG" or "Company"), the Defendant, and alleges that:

- (1) VNG is a person within the meaning of § 56-257.2 B of the Code of Virginia; and
- (2) The Company violated the Commission's Safety Standards by the following conduct:
 - (a) 49 C.F.R. § 192.53 (b) - Failure on one occasion of Company to use a pipe that is chemically compatible with the gas being transported;
 - (b) 49 C.F.R. § 192.187 - Failure on two occasions of Company to have a pressure regulating or reducing station, or a pressure limiting or relieving station, that is sealed, vented or ventilated;
 - (c) 49 C.F.R. § 192.199 (c) - Failure on two occasions of Company to install a regulator station that can be tested for leakage when in the closed position;
 - (d) 49 C.F.R. § 192.199 (e) - Failure on two occasions of Company to have discharge stacks for regulators and reliefs designed where gas can be discharged into the atmosphere without undue hazard;
 - (e) 49 C.F.R. § 192.199 (g) - Failure on one occasion of Company to install a regulator station to prevent any single incident such as damage by a vehicle from affecting the operation of both the overpressure protective device and the district regulator;
 - (f) 49 C.F.R. § 192.199 (h) - Failure on two occasions of Company to design a regulator station to prevent the unauthorized operation of stop valves that will make the pressure limiting device inoperative;
 - (g) 49 C.F.R. § 192.327 (b) - Failure on one occasion of Company to install a main with at least 24 inches of cover;
 - (h) 49 C.F.R. § 192.513 (c) - Failure on one occasion of Company to pressure test a service to at least 150% of the maximum operating pressure;
 - (i) 49 C.F.R. § 192.465 (c) - Failure on multiple occasions of Company to electrically check each diode whose failure would jeopardize structure protection for proper performance six times each year;
 - (j) 49 C.F.R. § 192.605 (a) - Failure on one occasion of Company to follow its Operations Procedures Manual, Section II, 10.3.6(g) Mechanical Saddle Tee, by using a wrench to tighten a service tee cap;
 - (k) 49 C.F.R. § 192.605 (a) - Failure on one occasion of Company to follow its Operations Procedures Manual, Division II, Section 19.2.2, by not taking precautions to determine that a hazardous atmosphere was not present while conducting main tapping operations;
 - (l) 49 C.F.R. § 192.605 (b) (2) - Failure on one occasion of Company to have procedures for a continuing program to minimize the detrimental effects of interference currents as required by 192.473;
 - (m) 49 C.F.R. § 192.605 (a) - Failure on one occasion of Company to follow its Operations Procedures Manual Division II, Section 21, developed to comply with 192.605 (b)(3) by not having an active gas pipeline facility accurately displayed on company maps;
 - (n) 49 C.F.R. § 192.605 (a) - Failure on one occasion of Company to follow its Operations Procedures Manual Division II, Section 19.3.2, by not taking every reasonable precaution to protect employees, by not using flame retardant clothing and an oxygen deficiency indicator;
 - (o) 49 C.F.R. § 192.605 (a) - Failure on one occasion of Company to follow its Operations Procedures Manual Division I Section 16.1, by not installing a service line in a manner that would protect it from outside force damage such as large trees and their accompanying root structures; and
 - (p) 49 C.F.R. § 192.805 (a) - Failure on one occasion of Company to identify the maintenance and calibration of pressure measuring charts and telemetry equipment as a covered task.

The Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters arising from the allegations made against it, the Company represents and undertakes that:

(1) The Company shall pay to the Commonwealth of Virginia the amount of One Million Fifty Thousand Five Hundred Dollars (\$1,050,500), of which One Hundred Fifty-one Thousand Five Hundred Dollars (\$151,500) shall be paid contemporaneously with the entry of this Order. The remaining Eight Hundred Ninety-nine Thousand Dollars (\$899,000) shall be due as outlined in Undertaking Paragraph (4) herein and may be suspended and

subsequently vacated, in whole or in part, by the Commission, provided the Company timely takes the actions required by Undertaking Paragraph (2) herein and tenders the requisite certification as required by Undertaking Paragraph (3) herein. The initial payment and any subsequent payments shall be made by check, payable to the Treasurer of Virginia, and directed to the attention of the Director of the Division of Utility and Railroad Safety, Post Office Box 1197, Richmond, Virginia, 23218-1197.

(2) The Company shall undertake the following remedial actions:

- (a) On or before January 31, 2012, the Company shall hire a consultant ("Consultant") to collect, analyze and evaluate the impact and effects of alternating current ("AC") migration and interference with VNG's transmission pipelines, identified by the Company as the VNG's Joint Use Pipeline ("JUP"), Virginia Power Lateral ("VPL"), the VNG Lateral ("VNGL") and the Hampton Roads Crossing ("HRX"). The analysis shall include, but not be limited to, the gathering of data through field investigations along with existing data from various sources such as VNG, Dominion Virginia Power and Rappahannock Electric Cooperative. Upon completion of the data collection, review, and analysis, the Consultant shall prepare a report that outlines the existing conditions relative to AC migration and interference along the JUP, VPL, VNGL, and HRX pipelines. The report shall contain detailed recommendations to bring any "at risk" sections of these pipelines, as determined by the Consultant, into compliance with the Commission's Safety Standards. The report shall be completed by no later than July 1, 2012. All findings, reports, analyses, or documents produced by the Consultant for the Company shall be provided to the Division.
- (b) On or before July 31, 2012, the Company shall install those facilities identified by the Consultant as necessary to mitigate any AC interference on VNG's JUP and conduct tests and data reviews to ensure the adequacy of the AC mitigation measures for this pipeline. The results of this testing and data review shall be provided to the Division within thirty (30) days of the completion of such testing and review.
- (c) On or before July 31, 2012, the Company shall prepare a schedule, acceptable to the Division, to complete the Consultant's recommended AC remedial measures relative to VPL,¹ VNGL, and HRX pipelines.

(3) On or before August 15, 2012, VNG shall tender to the Clerk of the Commission, with a copy to the Division, an affidavit, executed by the president of Virginia Natural Gas, Inc., certifying that the Company completed the remedial actions set forth in Undertaking Paragraphs (2)(a), (2)(b), and (2)(c) above.

(4) Upon timely receipt of said affidavits, the Commission may suspend and subsequently vacate up to Eight Hundred Ninety-nine Thousand Dollars (\$899,000) of the amount set forth in Undertaking Paragraph (1) above. Should VNG fail to tender the affidavits required by Undertaking Paragraph (3) above, or fail to take the actions required by Undertaking Paragraph (2) above, a payment of Eight Hundred Ninety-nine Thousand Dollars (\$899,000) shall become due and payable, and the Company shall immediately notify the Division of the reasons for VNG's failure to accomplish the actions required by Undertaking Paragraphs (2) and (3) above. If, upon investigation, the Division determines that the reason for said failure justifies a payment lower than Eight Hundred Ninety-nine Thousand Dollars (\$899,000), it may recommend to the Commission a reduction in the amount due. The Commission shall determine the amount due and, upon such determination, the Company shall immediately tender to the Commission said amount.

(5) Any amounts paid in accordance with Undertaking Paragraph (1) of this Order shall not be recovered in the Company's rates. Any such amounts shall be booked in Uniform System of Account No. 426.3. The Company shall verify its booking by filing a copy of the trial balance showing this entry with the Commission's Division of Utility Accounting and Finance.

NOW THE COMMISSION, finding sufficient basis herein for the entry of this Order and in reliance on the Division's representations and the undertakings set forth above, is of the opinion and finds that the offer of compromise and settlement set forth above should be accepted.

Accordingly, IT IS ORDERED THAT:

(1) The captioned case shall be docketed and assigned Case No. URS-2011-00411.

(2) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of compromise and settlement made by Virginia Natural Gas, Inc., be, and it hereby is, accepted.

(3) Pursuant to § 56-257.2 B of the Code of Virginia, Virginia Natural Gas, Inc., shall pay the amount of One Million Fifty Thousand Five Hundred Dollars (\$1,050,500), which may be suspended and subsequently vacated, in whole or in part, as provided in Undertaking Paragraph (1) of this Order.

(4) The sum of One Hundred Fifty-one Thousand Five Hundred Dollars (\$151,500) tendered contemporaneously with the entry of this Order is accepted. The remaining Eight Hundred Ninety-nine Thousand Dollars (\$899,000) shall be due as outlined herein and may be suspended and subsequently vacated, in whole or in part, provided the Company timely undertakes the actions required in Undertaking Paragraph (2) of this Order and files the timely certification of the remedial actions required by Undertaking Paragraph (3) of this Order.

(5) The Commission shall retain jurisdiction over this matter for all purposes, and this case shall be continued pending further order of the Commission

¹ Currently, VNG is the operator of VPL. To the extent VNG ceases to be the operator of VPL, the Division and the Company agree that the remedial actions set forth in Undertaking Paragraph (2)(c) relative to VPL shall be considered complete for the purposes of this Settlement Order.

**CASE NO. URS-2011-00411
SEPTEMBER 6, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
VIRGINIA NATURAL GAS, INC.,
Defendant

FINAL ORDER

By entry of the Order of Settlement ("Order") dated March 20, 2012, the State Corporation Commission ("Commission") accepted the offer of settlement of Virginia Natural Gas, Inc. ("VNG" or "Company"), for alleged violations of the minimum gas pipeline safety standards under § 56-257.2 *et seq.* of the Code of Virginia and retained jurisdiction of this case.

By execution of an Admission and Consent document by a representative of the Company, VNG consented to the form, substance, and entry of the Order.

The Order required VNG to pay a portion of the penalty of One Million Fifty Thousand Five Hundred Dollars (\$1,050,500), and Undertaking Paragraph (2) of the Order required that the Company complete various remedial actions. The Order also directed the Company to provide, on or before August 15, 2012, an affidavit executed by the President of VNG certifying that the Company had completed the remedial measures required by Undertaking Paragraph (2) of the Order. The Company has fully complied with the terms and undertakings as outlined in the Order, and an affidavit documenting that the specified remedial actions have been completed was filed by VNG on August 6, 2012. Under the circumstances herein, the remaining balance of Eight Hundred Ninety-nine Thousand Dollars (\$899,000) of the penalty should be vacated, and this case should be dismissed.

Accordingly, IT IS ORDERED THAT:

(1) The balance of Eight Hundred Ninety-nine Thousand Dollars (\$899,000) of the total penalty of One Million Fifty Thousand Five Hundred Dollars (\$1,050,500) shall be vacated.

(2) This case is hereby dismissed from the Commission's docket of active cases, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2011-00413
MARCH 30, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
EDWARDS TELECOMMUNICATIONS, INC.,
Defendant

ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, § 56-265.14 *et seq.* of the Code. The Commission's Division of Utility and Railroad Safety ("Division"), after having conducted an investigation of this matter, alleges that:

(1) On or about September 14, 2011, Edwards Telecommunications, Inc. ("Company"), excavated at or near State Route 71 (Ticket No. A125702166), Russell County, Virginia;

(2) On the occasion set out in paragraph (1) above, the Company failed to exercise due care at all times to protect an underground gas transmission line, in violation of § 56-265.24 A of the Code; and

(3) On the occasion set out in paragraph (1), the Company failed on eleven (11) occasions to ensure that sufficient clearance was maintained between the bore path and this utility line, in violation of 20 VAC 5-309-150 4 of the Commission's Rules for Enforcement of the Underground Utility Damage Prevention Act.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As a proposal to settle all matters before the Commission arising from the Division's allegations herein, the Company represents and undertakes that:

(1) The Company will pay a civil penalty to the Commonwealth of Virginia in the amount of Six Thousand Fifty Dollars (\$6,050) to be paid contemporaneously with the entry of this Order. The payment will be made by check payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

(2) The Company will cooperate with the Staff of the Division and other parties during efforts to determine the depth of the telecommunications line installed by the Company in Russell County, Virginia, and the radial separation between this line and the gas transmission line that is owned and operated by Appalachian Natural Gas Distribution Company and that is located in close proximity to the telecommunications line.

(3) The Company will accept a training session conducted by the Division for its employees on the subject of underground utility damage prevention and will submit documentation evidencing the training session to the Commission contemporaneously with this Order.

(4) The Company agrees that this settlement shall have no implications for additional probable violations not alleged herein that may be assessed as a result of this excavation.

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.

(2) The sum of Six Thousand Fifty Dollars (\$6,050) tendered contemporaneously with the entry of this Order is accepted.

(3) This case is hereby dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2011-00461
JANUARY 30, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
COLUMBIA GAS OF VIRGINIA, INC.,
Defendant

ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, § 56-265.14 *et seq.* of the Code. The Commission's Division of Utility and Railroad Safety ("Division"), after having conducted an investigation of this matter, alleges that:

(1) On or about July 5, 2011, F. D. Harrell Plumbing Co. damaged a one-half-inch plastic gas service line operated by Columbia Gas of Virginia, Inc. ("Company"), located at or near 1055 Spratley Street, Portsmouth, Virginia, while excavating;

(2) On or about August 24, 2011, Southern Construction Utilities, Inc., damaged a one-inch plastic gas service line operated by the Company, located at or near 643 North Main Street, Mecklenburg County, Virginia, while excavating;

(3) On the occasions set out in paragraphs (1) and (2) above, the Company failed to mark the underground utility lines by no later than 7:00 a.m. on the third working day following the excavator's notice to the notification center, in violation of § 56-265.19 A of the Code;

(4) On or about August 24, 2011, Southern Construction Utilities, Inc., damaged a one-inch plastic gas service line operated by the Company, located at or near 645 North Main Street, Mecklenburg County, Virginia, while excavating; and

(5) On the occasion set out in paragraph (4) above, the Company failed to mark the approximate horizontal location of the underground utility line on the ground to within two feet of either side of the underground utility line, in violation of § 56-265.19 A of the Code.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters before the Commission arising from the Division's allegations made herein, the Company represents and undertakes that:

(1) The Company will pay a civil penalty to the Commonwealth of Virginia in the amount of Five Thousand Four Hundred Dollars (\$5,400) to be paid contemporaneously with the entry of this Order. This payment will be made by check payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

(2) Any amounts paid in accordance with this Order shall not be recovered in the Company's rates as part of the cost of service. Any such amounts shall be booked in Uniform System of Account No. 426.3. The Company shall verify its booking by filing a copy of the journal entries made to record such amounts with the Commission's Division of Public Utility Accounting.

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.
- (2) The sum of Five Thousand Four Hundred Dollars (\$5,400) tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2011-00465
JANUARY 12, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
PROMARK UTILITY LOCATORS, INC.,
Defendant

ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, § 56-265.14 *et seq.* of the Code. The Commission's Division of Utility and Railroad Safety ("Division"), after having conducted an investigation of this matter, alleges that:

- (1) Promark Utility Locators, Inc. ("Company"), is a contract locator as that term is defined in § 56-265.15 of the Code, and as a contract locator acting on behalf of an operator, if the Company fails to perform the duties imposed by Chapter 10.3 of Title 56 of the Code, it is subject to the civil penalties set out in § 56-265.32 of the Code pursuant to § 56-265.19 D of the Code;
- (2) On or about August 24, 2011, Western Virginia Water Authority damaged a two-inch plastic gas main line operated by Roanoke Gas Company, located at or near 4044 Michigan Avenue, Roanoke County, Virginia, while excavating;
- (3) On or about August 25, 2011, Gregory's Bobcat & Tractor Service damaged a one-inch plastic gas service line operated by the City of Danville, located at or near 522 Bridge Street, Pittsylvania County, Virginia, while excavating;
- (4) On or about October 18, 2011, Nichols Stonemasonry, Ltd., notified the notification center (Miss Utility) of a planned excavation at or near 220 West Main Street, Botetourt County, Virginia;
- (5) On or about June 21, 2011, Branch Highways, Inc., damaged a two-inch plastic gas service line operated by Roanoke Gas Company, located at or near 5050 Rutgers Avenue, N.W., Roanoke County, Virginia, while excavating;
- (6) On the occasions set out in paragraphs (2) through (5) above, the Company failed to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of § 56-265.19 A of the Code;
- (7) On the occasion set out in paragraph (5) above, the Company failed to provide markings suitable for their intended purpose for a period of 15 working days, in violation of 20 VAC 5 309-110 A of the Commission's Rules for Enforcement of the Underground Utility Damage Prevention Act;
- (8) On or about November 13, 2011, Frye's Hauling & Services Company excavated at or near 4335 Duke Street, Alexandria, Virginia; and
- (9) On the occasion set out in paragraph (8) above, the Company failed to respond to an emergency notice as soon as possible but no later than three hours, in violation of § 56-265.19 H of the Code.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As a proposal to settle all matters before the Commission arising from the Division's allegations herein, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of Eight Thousand Three Hundred Fifty Dollars (\$8,350) to be paid contemporaneously with the entry of this Order. The payment will be made by cashier's check or money order payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.
- (2) The sum of Eight Thousand Three Hundred Fifty Dollars (\$8,350) tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is hereby dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2011-00466
JANUARY 19, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

ROANOKE GAS COMPANY,
Defendant

ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, § 56-265.14 *et seq.* of the Code. The Commission's Division of Utility and Railroad Safety ("Division"), after having conducted an investigation of this matter, alleges that:

(1) On or about August 18, 2011, Aaron J. Conner, General Contractor, Inc., damaged a one-half-inch plastic gas service line operated by Roanoke Gas Company ("Company"), located at or near 862 Roanoke Boulevard, Roanoke County, Virginia, while excavating;

(2) On or about October 3, 2011, S. J. Conner and Sons Inc. damaged a one-half-inch plastic gas service line operated by the Company located at or near 429 Canterbury Lane, S.W., Roanoke County, Virginia, while excavating;

(3) On or about October 13, 2011, Western Virginia Water Authority damaged a one-half-inch plastic gas service line operated by the Company located at or near 1719 Melrose Avenue, N.W., Roanoke County, Virginia, while excavating; and

(4) On the occasions set out in paragraphs (1) through (3) above, the Company failed to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of § 56-265.19 A of the Code.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters before the Commission arising from the Division's allegations made herein, the Company represents and undertakes that:

(1) The Company will pay a civil penalty to the Commonwealth of Virginia in the amount of Five Thousand Four Hundred Dollars (\$5,400) to be paid contemporaneously with the entry of this Order. This payment will be made by check payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

(2) Any amounts paid in accordance with this Order shall not be recovered in the Company's rates as part of the cost of service. Any such amounts shall be booked in Uniform System of Account No. 426.3. The Company shall verify its booking by filing a copy of the journal entries made to record such amounts with the Commission's Division of Public Utility Accounting.

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.

(2) The sum of Five Thousand Four Hundred Dollars (\$5,400) tendered contemporaneously with the entry of this Order is accepted.

(3) This case is dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2011-00469
FEBRUARY 1, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

UTILIQUEST, LLC,
Defendant

ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act ("Act"), § 56-265.14 *et seq.* of the Code. The Commission's Division of Utility and Railroad Safety ("Division"), charged with the investigation of probable violations of the Act, has completed investigations of certain incidents that occurred between June 28, 2011, and October 20, 2011, listed in Attachment A, involving Utiliquest, LLC ("Company"), the Defendant, and alleges that:

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(1) The Company is a contract locator as that term is defined in § 56-265.15 of the Code and, as a contract locator acting on behalf of an operator, if the Company fails to perform the duties imposed by Chapter 10.3 of Title 56 of the Code, it is subject to the civil penalties set out in § 56-265.32 of the Code pursuant to § 56-265.19 D of the Code; and

(2) During the aforementioned period, the Company violated the Act by the following conduct:

- (a) Failing on certain occasions to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines in violation of § 56-265.19 A of the Code.
- (b) Failing on certain occasions to mark the underground utility lines within the time prescribed in the Act in violation of § 56-265.19 A of the Code.
- (c) Failing on certain occasions to report to the notification center that lines had been marked or that they were not in conflict with the proposed excavation in violation of § 56-265.19 A of the Code.
- (d) Failing on certain occasions to provide markings at sufficient intervals to clearly indicate the approximate horizontal location and direction of the underground utility line in violation of 20 VAC 5-309-110 B of the Commission's Rules for Enforcement of the Underground Utility Damage Prevention Act.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters before the Commission arising from the Division's allegations made herein, which includes all probable violations presented to the Underground Utility Damage Prevention Advisory Committee, and set out in Attachment A hereto, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of Eight Thousand One Hundred Dollars (\$8,100) to be paid contemporaneously with the entry of this Order. This payment will be made by check payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

NOW THE COMMISSION, being advised by the Staff and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.
- (2) The sum of Eight Thousand One Hundred Dollars (\$8,100) tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

NOTE: A copy of Attachment A is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. URS-2011-00481
FEBRUARY 22, 2012**

PETITION OF
WASHINGTON COUNTY, VIRGINIA

For order requiring train locomotives to sound horn

ORDER ON PETITION

On December 22, 2011, the Board of Supervisors of Washington County, Virginia (the "County" or "Board"), filed a petition ("Petition") with the State Corporation Commission ("Commission") requesting, pursuant to § 56-414 of the Code of Virginia ("Code"), that the Commission enter an order requiring train locomotives to sound their whistle or horn at the private crossing of Old Trail Road located in Washington County, Virginia. According to the County, the subject rail crossing is owned and operated by Norfolk Southern Railway Company ("Norfolk Southern") and "is located on the Virginia Division main line in Abingdon, Virginia, at mile post NB 389.15."¹

In support of its Petition, the County states that "[t]here are no crossing gates or signs at the subject rail crossing" and that "[r]esidents and other frequent users of Old Trail Road have expressed concern to Washington County for the safety of the crossing."² The County also noted that the Commission's Division of Utility and Railroad Safety ("Division") conducted an investigation of the subject rail crossing and concluded the private crossing is dangerous due to the location and the amount of reaction time a driver has from the time a train is detected until the time the train is on the crossing.³

¹ Petition at 2, Ex. 1.

² *Id.* at 2.

³ *Id.* at 2, Ex. 2.

The Board further states that it considered this matter at a public hearing held March 8, 2011. Following this hearing, the Board adopted an ordinance whereby it found the subject rail crossing to be an unsafe crossing for the reasons stated by the Division in its investigation report and resolved to petition the Commission for entry of an order on the matter as requested in the County's Petition. The County attached the ordinance as Exhibit 3 to its Petition.

The County certified that a copy of the Petition was mailed to Norfolk Southern's General Counsel. No comments were received on the Petition.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the blowing of the train locomotive whistle or horn at the subject private crossing is necessary in the interest of safety under the circumstances presented by the County and that the County's Petition should be granted.

Accordingly, IT IS ORDERED THAT:

(1) The County's Petition is hereby granted.

(2) Provided that the County or landowner has installed stop signs on both sides of the subject crossing in accordance with § 56-414 of the Code, train locomotives shall sound their whistle or horn, in the same manner as required for public crossings, at the private crossing of Old Trail Road located in Washington County, Virginia, at mile post NB 389.15.

(3) Norfolk Southern shall comply with the provisions of this Order on Petition within ninety (90) days of receipt thereof by its registered agent provided that the condition contained in Ordering Paragraph (2) herein has been satisfied.

(4) This Order shall serve as the notice prescribed in § 56-414 of the Code, and an attested copy forthwith shall be sent by the Clerk of the Commission to Roger A. Petersen, the registered agent of Norfolk Southern, the affected company, by registered mail.

**CASE NO. URS-2012-00021
MARCH 27, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

CLEAR ADVANTAGE CABLE CONSTRUCTION, INC.,
Defendant

**ORDER ACCEPTING OFFER OF
SETTLEMENT AND DISMISSING PROCEEDING**

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, § 56-265.14 *et seq.* of the Code. The Commission's Division of Utility and Railroad Safety ("Division"), after having conducted an investigation of this matter, alleges that:

(1) On or about January 31, 2012, Clear Advantage Cable Construction, Inc. ("Company"), damaged a one-hundred-forty-four-pair fiber telecommunications line operated by Cavalier Telephone, L.L.C., a fifty-pair copper telecommunications line operated by Verizon Virginia Inc., and a privately owned two-inch forced main sewer line while excavating (installing guy wire anchors) at or near General Booth Boulevard and Dam Neck Road, Virginia Beach, Virginia, while excavating; and

(2) On the occasion set out in paragraph (1) above, the Company failed to notify the notification center before beginning its excavation, in violation of § 56-265.17 A of the Code. Further, the Company failed to notify the notification center before beginning to install guy wire anchors at fifteen additional locations along Oceana Boulevard, Eaglewood Drive, and General Booth Boulevard in the City of Virginia Beach, Virginia, also in violation of § 56-265.17 A of the Code.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order Accepting Offer of Settlement and Dismissing Proceeding.

As a proposal to settle all matters before the Commission arising from the Division's allegations herein, the Company has offered, and agreed to comply with, the following terms and undertakings:

(1) That it will pay a civil penalty to the Commonwealth of Virginia in the amount of Eight Thousand Two Hundred Fifty Dollars (\$8,250) of which Five Thousand Two Hundred Fifty Dollars (\$5,250) shall be paid contemporaneously with the entry of this Order. The payment will be made by cashier's check or money order payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety. The remaining Three Thousand Dollars (\$3,000) will be vacated provided the Company timely takes the actions required in Undertaking Paragraphs (2), (3), and (4).

(2) On or before March 1, 2012, the Company will notify the notification center and have underground utility lines located and marked in the areas defined by circles with a 20-foot radius from the base of each anchor described in paragraph (2) above. The Company will work with the Division and the operators of the lines located in the aforementioned areas to determine whether such utility lines may have been damaged. On or before March 7, 2012, the Company will fully expose those underground utility lines that may be in conflict with the anchors at the 15 locations detailed on a set of maps labeled "Permit Drawings, NDEC 11-801" dated November 7, 2011, and provided to the Division. The conflict and the need to expose the utility lines shall be determined by the operators of the lines and the Division.

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(3) The Company will conduct a training session for its employees on the subject of underground utility damage prevention and submit documentation evidencing the training session to the Commission contemporaneously with the entry of this Order.

(4) The Owner of the Company will attend the Division's Train the Trainer workshop and successfully complete the workshop.

The Company has now complied fully with the terms and undertakings of the settlement as outlined herein. Documentation evidencing the training session on the subject of underground utility damage prevention has been submitted on a timely basis in accordance with the undertakings set forth above.

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for acceptance of the Company's offer of settlement and evidence of training, hereby accepts this offer of settlement and evidence of training. Because the Company has complied with the terms and undertakings accepted herein, the remainder of the penalty should be vacated and this case dismissed.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.

(2) The Company is hereby penalized in the amount of Eight Thousand Two Hundred Fifty Dollars (\$8,250).

(3) The sum of Five Thousand Two Hundred Fifty Dollars (\$5,250) tendered contemporaneously with the entry of this Order is accepted.

(4) The remainder of the penalty amount, Three Thousand Dollars (\$3,000), shall be vacated.

(5) This case is hereby dismissed from the Commission's docket of active cases, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2012-00073
APRIL 11, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
KEVCOR CONTRACTING CORPORATION,
Defendant

ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, § 56-265.14 *et seq.* of the Code. The Commission's Division of Utility and Railroad Safety ("Division"), after having conducted an investigation of this matter, alleges that:

(1) On or about September 20, 2011, Kevcor Contracting Corporation ("Company") damaged a two-inch plastic gas main line operated by Columbia Gas of Virginia, Inc., located at or near 27 Harrower Court, Portsmouth, Virginia, while excavating;

(2) On the occasion set out in paragraph (1) above, the Company failed to exercise due care at all times to protect underground utility lines, in violation of § 56-265.24 A of the Code;

(3) On the occasion set out in paragraph (1) above, the Company failed to immediately notify the operator of the damage, in violation of § 56-265.24 D of the Code;

(4) On the occasion set out in paragraph (1) above, the Company failed to maintain a reasonable clearance between the marked or staked location of an underground utility line and the cutting edge or point of any mechanized equipment, in violation of 20 VAC 5-309-140 4 of the Commission's Rules for Enforcement of the Underground Utility Damage Prevention Act ("Rules");

(5) On or about October 14, 2011, the Company damaged a one-half-inch plastic gas service line operated by Virginia Natural Gas, Inc., located at or near 2521 Harrell Avenue, Norfolk, Virginia, while excavating;

(6) On the occasion set out in paragraph (5) above, the Company failed to take all reasonable steps necessary to properly protect, support and backfill this underground utility line, in violation of § 56-265.24 A of the Code; and

(7) On the occasion set out in paragraph (5) above, the Company utilized mechanized equipment within two feet of the extremities of exposed utility lines, in violation of 20 VAC 5-309-140 3 of the Rules.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As a proposal to settle all matters before the Commission arising from the Division's allegations herein, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of Six Thousand Fifty Dollars (\$6,050) to be paid contemporaneously with the

entry of this Order. The payment will be made by check payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.
- (2) The sum of Six Thousand Fifty Dollars (\$6,050) tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is hereby dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2012-00075
MARCH 20, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
NOVA PROPERTY SERVICES LLC,
Defendant

ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, § 56-265.14 *et seq.* of the Code. The Commission's Division of Utility and Railroad Safety ("Division"), after having conducted an investigation of this matter, alleges that:

- (1) On or about January 6, 2012, Nova Property Services LLC ("Company") damaged a two-inch steel gas main line operated by Washington Gas Light Company, located at or near North Glebe Road and North Piedmont Street, Arlington County, Virginia, while excavating;
- (2) On or about January 24, 2012, the Company damaged a three-inch steel gas main line operated by Washington Gas Light Company, located at or near 237 North Glebe Road, Arlington County, Virginia, while excavating;
- (3) On the occasions set out in paragraphs (1) and (2) above, the Company failed to exercise due care at all times to protect underground utility lines, in violation of § 56-265.24 A of the Code;
- (4) On the occasions set out in paragraphs (1) and (2) above, the Company failed to ensure sufficient clearance was maintained between the bore path and any underground utility lines during pullback, in violation of 20 VAC 5-309-150 4 of the Commission's Rules for Enforcement of the Underground Utility Damage Prevention Act ("Rules"); and
- (5) On the occasion set out in paragraph (2) above, the Company failed to expose all utility lines which would be in the bore path by hand digging to establish the underground utility line's location prior to commencing bore, in violation of 20 VAC 5-309-150 6 of the Rules.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As a proposal to settle all matters before the Commission arising from the Division's allegations herein, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of Six Thousand Two Hundred Fifty Dollars (\$6,250) to be paid contemporaneously with the entry of this Order. The payment will be made by cashier's check or money order payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.
- (2) The sum of Six Thousand Two Hundred Fifty Dollars (\$6,250) tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is hereby dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2012-00080
MARCH 16, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
PROMARK UTILITY LOCATORS, INC.,
Defendant

ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act ("Act"), § 56-265.14 *et seq.* of the Code. The Commission's Division of Utility and Railroad Safety ("Division"), charged with the investigation of probable violations of the Act, has completed investigations of certain incidents that occurred between July 7, 2011, and December 14, 2011, listed in Attachment A, involving Promark Utility Locators, Inc. ("Company"), the Defendant, and alleges that:

(1) The Company is a contract locator as that term is defined in § 56-265.15 of the Code and, as a contract locator acting on behalf of an operator, if the Company fails to perform the duties imposed by Chapter 10.3 of Title 56 of the Code, it is subject to the civil penalties set out in § 56-265.32 of the Code pursuant to § 56-265.19 D of the Code; and

(2) During the aforementioned period, the Company violated the Act by the following conduct:

- (a) Failing on certain occasions to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines in violation of § 56-265.19 A of the Code.
- (b) Failing on certain occasions to mark the underground utility line by no later than 7:00 a.m. on the third working day following the excavator's notice to the notification center in violation of § 56-265.19 A of the Code.
- (c) Failing on certain occasions to provide markings extending a reasonable distance beyond the boundaries of the specific location of the proposed work in violation of 20 VAC 5-309-110 I of the Commission's Rules for Enforcement of the Underground Utility Damage Prevention Act.
- (d) Failing on certain occasions to use all information necessary to mark facilities accurately in violation of 20 VAC 5-309-110 M of the Commission's Rules for Enforcement of the Underground Utility Damage Prevention Act.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters before the Commission arising from the Division's allegations made herein, which includes all probable violations presented to the Underground Utility Damage Prevention Advisory Committee, and set out in Attachment A hereto, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of Twelve Thousand Seven Hundred Twenty Five Dollars (\$12,725) to be paid contemporaneously with the entry of this Order. This payment will be made by cashier's check or money order, payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.
- (2) The sum of Twelve Thousand Seven Hundred Twenty Five Dollars (\$12,725) tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2012-00084
OCTOBER 26, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
UTILIQUEST, LLC,
Defendant

ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, § 56-265.14 *et seq.* of the Code. The Commission's Division of Utility and Railroad Safety ("Division"), after having conducted an investigation of this matter, alleges that:

(1) Utiliquest, LLC ("Company"), is a contract locator as that term is defined in § 56-265.15 of the Code and, as a contract locator acting on behalf of an operator, if the Company fails to perform the duties imposed by Chapter 10.3 of Title 56 of the Code, it is subject to the civil penalties set out in § 56-265.32 of the Code pursuant to § 56-265.19 D of the Code.

(2) On or about October 27, 2011, the City of Lynchburg damaged a one-inch plastic gas service line operated by Columbia Gas of Virginia, Inc. ("Columbia"), located at or near Buchanan Street and 14th Street, Lynchburg, Virginia, while excavating.

(3) On or about November 7, 2011, Total Development Solutions, L.L.C., damaged a three-quarter-inch plastic gas service line operated by Washington Gas Light Company ("WGL"), located at or near Eagle Ridge Lane, Lot #34, Prince William County, Virginia, while excavating.

(4) On or about November 12, 2011, John Rakes, Excavator, damaged a one-half-inch plastic gas service line operated by Columbia, located at or near 805 8th Street, Campbell County, Virginia, while excavating.

(5) On or about December 16, 2011, Stanley Brothers Construction, L.L.C., damaged a two-inch plastic gas service line operated by Columbia, located at or near 15161 Washington Street, Prince William County, Virginia, while excavating.

(6) On the occasions set out in paragraphs (2) through (5) above, the Company failed to mark the underground utility lines by no later than 7 a.m. on the third working day following the excavator's notice to the notification center, in violation of § 56-265.19 A of the Code.

(7) On or about October 26, 2011, Down Under Construction Company, Inc., damaged a two-inch plastic gas service line operated by WGL, located at or near 407 Chain Bridge Road, Arlington County, Virginia, while excavating.

(8) On or about November 4, 2011, A-Team Construction, Inc., damaged a two-inch plastic gas service line operated by WGL, located at or near 14000 Worth Avenue, Prince William County, Virginia, while excavating.

(9) On or about November 30, 2011, Wood Electric and General Contracting damaged a one-inch plastic gas service line operated by Columbia, located at or near 1105 Jordan Street, Staunton, Virginia, while excavating.

(10) On the occasions set out in paragraphs (7) through (9) above, the Company failed to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of § 56-265.19 A of the Code.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As a proposal to settle all matters before the Commission arising from the Division's allegations herein, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of Five Thousand Six Hundred Fifty Dollars (\$5,650) to be paid contemporaneously with the entry of this Order. The payment will be made by check payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.

(2) The sum of Five Thousand Six Hundred Fifty Dollars (\$5,650) tendered contemporaneously with the entry of this Order is accepted.

(3) This case is hereby dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2012-00091
DECEMBER 10, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
BEL AIR UNDERGROUND SERVICES, INC.,
Defendant

ORDER ACCEPTING OFFER OF SETTLEMENT AND DISMISSING PROCEEDING

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, § 56-265.14 *et seq.* of the Code. The Commission's Division of Utility and Railroad Safety ("Division"), after having conducted an investigation of this matter, alleges that:

(1) On or about February 28, 2012, Bel Air Underground Services, Inc. ("Company"), conducted trenchless excavation at or near North Saint Asaph Street to East Braddock Road, Alexandria, Virginia.

(2) On the occasion set out in paragraph (1) above, the Company failed on 111 occasions to exercise due care at all times to protect underground utility lines, in violation of § 56-265.24 A of the Code.

(3) On the occasion set out in paragraph (1) above, the Company failed on 110 occasions to ensure sufficient clearance was maintained between the bore path and any underground utility lines during pullback, in violation of 20 VAC 5-309-150 4 of the Commission's Rules for Enforcement of the Underground Utility Damage Prevention Act ("Rules"), 20 VAC 5-309-10 *et seq.*

(4) On the occasion set out in paragraph (1) above, the Company failed on 111 occasions to expose all utility lines which were in the bore path by hand digging to establish the underground utility line's location prior to commencing bore, in violation of 20 VAC 5-309-150 6 of the Rules.

(5) On the occasion set out in paragraph (1) above, the Company failed on 111 occasions to visually check the drill head as it passed through potholes, entrances, and exit pits, in violation of 20 VAC 5-309-150 8 of the Rules.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order Accepting Offer of Settlement and Dismissing Proceeding.

As a proposal to settle all matters before the Commission arising from the Division's allegations herein, the Company has offered, and agreed to comply with, the following terms and undertakings:

(1) That it will pay a civil penalty to the Commonwealth of Virginia in the amount of Ninety-seven Thousand Seven Hundred Fifty Dollars (\$97,750), of which Fifteen Thousand Five Hundred Dollars (\$15,500) shall be paid contemporaneously with the entry of the Order. The payment shall be made by cashier's checks or money orders payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety. The remaining Eighty-two Thousand Two Hundred Fifty Dollars (\$82,250) shall be vacated for the completion of the following remedial actions:

- (a) On or before April 23, 2012, the Company shall fully expose all underground utility lines within the work areas as described on Miss Utility ticket numbers A206100956, A206100945, B206100874, A205301623, A205301624 and B204101286 by means of soft digging as it is defined in § 56-265.15 of the Code and shall inspect the utility lines to ensure that their integrity has not been compromised. All excavations under this paragraph shall be subject to the utility operator's oversight.
- (b) On or before April 23, 2012, the Company shall attend a training session conducted by the Division on underground utility damage prevention.
- (c) On or before April 23, 2012, the Company shall provide the Division with documentation on all trenchless excavations conducted within the Commonwealth of Virginia for twelve months ending February 28, 2012.
- (d) On or before June 29, 2012, the Company shall attend the Northern Virginia Local Damage Prevention Committee meeting.
- (e) On or before June 29, 2012, the Company shall send two of its employees to the Division's Damage Prevention "Train the Trainer" workshop.
- (f) On or before June 29, 2012, the Company shall fully expose all natural gas utility lines crossed during trenchless excavations conducted by the Company during the twelve months ending February 28, 2012, as described on Miss Utility ticket numbers A215301415, A216001907, A215301139, A215301469, A215301510, A215301197, A215301130, A215301111 and A215301566 by means of soft digging as defined in § 56-265.15 of the Code and shall inspect the utility lines to ensure that their integrity was not compromised. All excavations under this paragraph shall be subject to the utility operator's oversight.

The Company has now complied fully with the terms and undertakings of the settlement as outlined herein. Documentation evidencing the completion of the remedial actions has been submitted on a timely basis in accordance with the undertakings set forth above.

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for acceptance of the Company's offer of settlement and evidence of training, hereby accepts this offer of settlement and evidence of training. Because the Company has complied with the terms and undertakings accepted herein, the remainder of the penalty should be vacated and this case dismissed.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.
- (2) The Company is hereby penalized in the amount of Ninety-seven Thousand Seven Hundred Fifty Dollars (\$97,750).
- (3) The sum of Fifteen Thousand Five Hundred Dollars (\$15,500) tendered contemporaneously with the entry of this Order is accepted.
- (4) The remainder of the penalty amount, Eighty-two Thousand Two Hundred Fifty Dollars (\$82,250), shall be vacated.
- (5) This case is hereby dismissed from the Commission's docket of active cases, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2012-00124
APRIL 30, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
ATMOS ENERGY CORPORATION,
Defendant

ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, § 56-265.14 *et seq.* of the Code. The Commission's Division of Utility and Railroad Safety ("Division"), after having conducted an investigation of this matter, alleges that:

- (1) On or about October 5, 2011, the County of Pulaski damaged a three-quarter-inch plastic gas service line operated by Atmos Energy Corporation ("Company"), located at or near 6884 Pulaski Avenue, Pulaski County, Virginia, while excavating;
- (2) On or about October 7, 2011, Vaughan's Custom Cabinets & Homes damaged a two-inch plastic gas main line operated by the Company, located at or near 280 West Fulton Street, Wythe County, Virginia, while excavating;
- (3) On or about December 30, 2011, Lambert's Cable Splicing Company, LLC, damaged a one-half-inch steel gas service line operated by the Company, located at or near 402 Hemlock Drive Southeast, Montgomery County, Virginia, while excavating;
- (4) On or about January 5, 2012, Timeline Utility, L.L.C., damaged a three-quarter-inch plastic gas service line operated by the Company, located at or near 375 Windsor Drive, Montgomery County, Virginia, while excavating;
- (5) On the occasions set out in paragraphs (1) through (4) above, the Company failed to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of § 56-265.19 A of the Code;
- (6) On or about October 18, 2011, DCI /Shires, Inc., damaged a two-inch plastic gas main line operated by the Company, located at or near 400 New River Road, Montgomery County, Virginia, while excavating;
- (7) On or about November 3, 2011, the Town of Christiansburg damaged a one-half-inch plastic gas service line operated by the Company, located at or near 205 Miller Street, Montgomery County, Virginia, while excavating; and
- (8) On the occasions set out in paragraphs (6) and (7) above, the Company failed to mark the underground utility lines by no later than 7:00 a.m. on the third working day following the excavator's notice to the notification center, in violation of § 56-265.19 A of the Code.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters before the Commission arising from the Division's allegations made herein, the Company represents and undertakes that:

- (1) The Company will pay a civil penalty to the Commonwealth of Virginia in the amount of Thirteen Thousand Five Hundred Dollars (\$13,500) to be paid contemporaneously with the entry of this Order. This payment will be made by check payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.
- (2) Any amounts paid in accordance with this Order shall not be recovered in the Company's rates as part of the cost of service. Any such amounts shall be booked in Uniform System of Account No. 426.3 The Company shall verify its booking by filing a copy of the journal entries made to record such amounts with the Commission's Division of Utility Accounting and Finance.

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.
- (2) The sum of Thirteen Thousand Five Hundred Dollars (\$13,500) tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2012-00125
APRIL 23, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
PROMARK UTILITY LOCATORS, INC.
Defendant

ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, § 56-265.14 *et seq.* of the Code. The Commission's Division of Utility and Railroad Safety ("Division"), after having conducted an investigation of this matter, alleges that:

- (1) Promark Utility Locators, Inc. ("Company"), is a contract locator as that term is defined in § 56-265.15 of the Code and, as a contract locator acting on behalf of an operator, if the Company fails to perform the duties imposed by Chapter 10.3 of Title 56 of the Code, it is subject to the civil penalties set out in § 56-265.32 of the Code pursuant to § 56-265.19 D of the Code;
- (2) On or about July 14, 2011, Rockingham Construction Company, Incorporated, damaged a copper telecommunications cable line operated by Comcast Cable Communications, Inc., located at or near 539-B Rio Road, Albemarle County, Virginia, while excavating;
- (3) On or about July 15, 2011, Rockingham Construction Company, Incorporated, damaged a copper telecommunications cable line operated by Comcast Cable Communications, Inc., located at or near 533 Rio Road, Albemarle County, Virginia, while excavating;
- (4) On or about September 13, 2011, Southside Electric Cooperative damaged an electric primary line operated by Southside Electric Cooperative, located at or near 2635 Steger Creek Road, Powhatan County, Virginia, while excavating;
- (5) On the occasions set out in paragraphs (2) through (4) above, the Company failed to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of § 56-265.19 A of the Code.
- (6) On or about August 23, 2011, R & P Lucas Underground Utilities, Inc., damaged an electric primary line operated by Virginia Electric and Power Company, located at or near 7245 Oakmont Drive, Norfolk, Virginia, while excavating;
- (7) On or about January 2, 2012, Alouf Custom Builders, Inc., damaged a two-inch plastic gas main line operated by Roanoke Gas Company, located at or near 5036 Nicholas Hill Lane, N.W., Roanoke County, Virginia, while excavating;
- (8) On or about January 18, 2012, Randy Hostetter Excavating, LLC, damaged a one-inch plastic gas service line operated by Roanoke Gas Company, located at or near 3396-A Lee Highway, Botetourt County, Virginia, while excavating; and
- (9) On the occasions set out in paragraphs (6) through (8) above, the Company failed to mark the underground utility lines by no later than 7:00 a.m. on the third working day following the excavator's notice to the notification center, in violation of § 56-265.19 A of the Code.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As a proposal to settle all matters before the Commission arising from the Division's allegations herein, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of Eight Thousand Five Hundred Fifty Dollars (\$8,550) to be paid contemporaneously with the entry of this Order. The payment will be made by cashier's check or money order payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.

- (2) The sum of Eight Thousand Five Hundred Fifty Dollars (\$8,550) tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is hereby dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2012-00127
OCTOBER 26, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
UTILIQUEST, LLC,
Defendant

ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act ("Act"), § 56-265.14 *et seq.* of the Code. The Commission's Division of Utility and Railroad Safety ("Division"), charged with the investigation of probable violations of the Act, has completed investigations of certain incidents that occurred between September 13, 2011, and December 6, 2011, listed in Attachment A, involving Utiliquest, LLC ("Company"), the Defendant, and alleges that:

(1) The Company is a contract locator as that term is defined in § 56-265.15 of the Code and, as a contract locator acting on behalf of an operator, if the Company fails to perform the duties imposed by Chapter 10.3 of Title 56 of the Code, it is subject to the civil penalties set out in § 56-265.32 of the Code pursuant to § 56-265.19 D of the Code.

- (2) During the aforementioned period, the Company violated the Act by the following conduct:
 - (a) Failing on certain occasions to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of § 56-265.19 A of the Code.
 - (b) Failing on certain occasions to mark the underground utility lines within the time prescribed in the Act, in violation of § 56-265.19 A of the Code.
 - (c) Failing on certain occasions to use all information necessary to mark facilities accurately, in violation of 20 VAC 5-309-110 M of the Commission's Rules for Enforcement of the Underground Utility Damage Prevention Act, 20 VAC 5-309-10 *et seq.*

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters before the Commission arising from the Division's allegations made herein, which includes all probable violations presented to the Underground Utility Damage Prevention Advisory Committee, and set out in Attachment A hereto, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of Five Thousand Eight Hundred Dollars (\$5,800) to be paid contemporaneously with the entry of this Order. This payment will be made by check payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.
- (2) The sum of Five Thousand Eight Hundred Dollars (\$5,800) tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2012-00130
MAY 23, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
WASHINGTON GAS LIGHT COMPANY,
Defendant

ORDER OF SETTLEMENT

The federal pipeline safety statutes found at 49 U.S.C. § 60101 *et seq.* formerly the Natural Gas Pipeline Safety Act, require the Secretary of Transportation ("Secretary") to establish minimum federal safety standards for the transportation of gas and pipeline facilities. The Secretary is further authorized to delegate to an appropriate state agency the authority to prescribe safety standards and enforce compliance with such standards over gas pipeline facilities used for intrastate transportation.

The State Corporation Commission ("Commission") has been designated as the appropriate state agency for the Commonwealth of Virginia to prescribe and enforce compliance with standards for gas pipeline facilities used for intrastate transportation. In Case No. PUE-1989-00052, the Commission adopted Parts 191, 192, 193, and 199 of Title 49 of the Code of Federal Regulations to serve as minimum gas pipeline safety standards ("Safety Standards") in Virginia. The Commission is authorized to enforce the Safety Standards for natural gas facilities under § 56-257.2 B of the Code of Virginia, which allows the Commission to impose the fines and penalties authorized therein.

The Commission's Division of Utility and Railroad Safety ("Division") is charged with the investigation of each jurisdictional gas company's compliance with the Safety Standards, and has performed an investigation of an accident that occurred on December 19, 2010, at 4303 Lees Corner Road, Chantilly, Virginia. During this investigation, the Division conducted various inspections of records, operation and maintenance, and emergency response activities involving Washington Gas Light Company ("WGL" or "Company"), the Defendant, and alleges that:

- (1) WGL is a person within the meaning of § 56-257.2 B of the Code of Virginia; and
- (2) The Company violated the Commission's Safety Standards by the following conduct:
 - (a) 49 C.F.R. § 192.605 (a) - Failure on one occasion of Company to follow Maintenance Standard, Section 3020, by not recording test readings of natural gas discovered on Company's Maintenance Field Orders on December 19, 2010 after the incident that occurred at 4303 Lees Corner Road, Chantilly, Virginia;
 - (b) 49 C.F.R. § 192.605 (a) - Failure on one occasion of Company to follow Emergency Plan Standard, Section 1070, by not documenting specific leakage test readings and locations of natural gas discovered as part of the Company's on-site investigation;
 - (c) 49 C.F.R. § 192.605 (a) - Failure on one occasion of Company to follow its Operations and Maintenance Standard, Section 4050, that was developed to comply with 49 C.F.R. § 192.721, by not observing a condition that may affect the safety and operation of a pipeline;
 - (d) 49 C.F.R. § 192.605 (a) - Failure on one occasion of Company to follow Operations and Maintenance Standard, Section 4010, by not performing a complete leak survey of the service line to 4303 Lees Corner Road, Chantilly, Virginia;
 - (e) 49 C.F.R. § 192.605 (a) - Failure on one occasion of Company to follow Operations and Maintenance Standard, Section 4010, by not identifying and recording a "service violation" of the service line that was located under the concrete foundation of 4303 Lees Corner Road, Chantilly, Virginia during the June 1, 2009 leak survey;
 - (f) 49 C.F.R. § 192.605 (b)(1) - Failure on one occasion of Company to have a procedure for the temporary abandonment of copper service lines;
 - (g) 49 C.F.R. § 192.605 (b)(1) - Failure on one occasion of Company to have a procedure for reuse of the polymer isolation sleeve on copper service lines;
 - (h) 49 C.F.R. § 192.467 (d) - Failure on one occasion of Company to make inspections and tests to assure that the electrical isolation of the copper service line from the cathodically protected steel main was adequate; and
 - (i) 49 C.F.R. § 192.614 (a) - Failure on one occasion of Company to follow Operations and Maintenance Standard 4099, Damage Prevention Monitoring, developed to comply with § 192.614 (c)(6), by not monitoring excavations over Company facilities at 4303 Lees Corner Road, Chantilly, Virginia.

The Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters arising from the allegations made against it, the Company represents and undertakes that:

(1) The Company shall pay to the Commonwealth of Virginia the amount of Three Hundred Seventy-four Thousand Five Hundred Dollars (\$374,500), of which One Hundred Fifty-four Thousand Eight Hundred Dollars (\$154,800) shall be paid contemporaneously with the entry of this Order. The remaining Two Hundred Nineteen Thousand Seven Hundred Dollars (\$219,700) shall be due as outlined in Undertaking Paragraph (6) herein and may

be suspended and subsequently vacated, in whole or in part, by the Commission, provided the Company timely takes the actions required by Undertaking Paragraph (2) herein and tenders the requisite certifications as required by Undertaking Paragraphs (3), (4), and (5) herein. The initial payment and any subsequent payments shall be made by check, payable to the Treasurer of Virginia, and directed to the attention of the Director of the Division of Utility and Railroad Safety, Post Office Box 1197, Richmond, Virginia, 23218-1197;

(2) The Company shall undertake the following remedial actions:

(a) By no later than June 15, 2012, the Company shall replace all facilities found to be located under structures that are not in compliance with 49 C.F.R. §192.361 in the Brookfield Community, Chantilly, Virginia;

(b) By no later than July 31, 2012, the Company shall:

(1) Revise its procedures for use when responding to an emergency and submit the revisions to the Division for its review. The revisions shall include, but are not limited to, requiring the collection of the data necessary to perform a failure investigation in compliance with 49 C.F.R. §192.617, the manner in which the data collected shall be documented, and the delineation of responsibility for the data collection. In addition, the Company shall conduct training on the revised procedures with affected personnel.

(2) Revise the Operator Qualification ("OQ") training and evaluation provided to all field employees and contractor personnel, to include the continuing surveillance provisions found in 49 C.F.R. § 192.613, in the qualification process. In addition, WGL shall conduct refresher training for all field employees and contractor personnel on identifying and reporting to the Company abnormal operating conditions.

(3) Revise its procedures to include a process for the permanent abandonment of copper services. The revised procedure shall not allow the reuse of the polymer isolation sleeve. In addition, those Company or contractor employees abandoning copper services shall be trained and OQ evaluated to the new procedure;

(c) By no later than November 30, 2012, the Company shall replace all copper service lines in the Brookfield Community, Chantilly, Virginia. As part of the replacement process, the Company shall develop a testing protocol ("protocol"), acceptable to the Division, to be used for the evaluation of the copper services replaced. The protocol shall include, among other things, pressure testing, a cathodic protection evaluation along the entire length of the service, and a physical examination of as much of the length of service as possible. The results of these examinations shall be provided to the Division on a monthly basis, commencing July 31, 2012. Based upon the results, the Company shall consult with the Division to identify what, if any, additional actions should be taken for distribution integrity management purposes relative to copper service lines remaining in the Company's system and shall take those actions that are deemed appropriate.

(3) On or before June 30, 2012, WGL shall tender to the Clerk of the Commission, with a copy to the Division, an affidavit, executed by the president of Washington Gas Light Company, certifying that the Company completed the remedial actions set forth in Undertaking Paragraph (2) (a).

(4) On or before August 15, 2012, WGL shall tender to the Clerk of the Commission, with a copy to the Division, an affidavit, executed by the president of Washington Gas Light Company, certifying that the Company completed the remedial actions set forth in Undertaking Paragraph (2) (b) above.

(5) On or before December 15, 2012, WGL shall tender to the Clerk of the Commission, with a copy to the Division, an affidavit, executed by the president of Washington Gas Light Company, certifying that the Company completed the remedial actions set forth in Undertaking Paragraph (2) (c) above.

(6) Upon timely receipt of said affidavits, the Commission may suspend and subsequently vacate up to Two Hundred Nineteen Thousand Seven Hundred Dollars (\$219,700) of the amount set forth in Undertaking Paragraph (1) above. Should WGL fail to tender the affidavits required by Undertaking Paragraphs (3), (4), and (5), or fail to take the actions required by Undertaking Paragraph (2) above, a payment of Two Hundred Nineteen Thousand Seven Hundred Dollars (\$219,700) shall become due and payable, and the Company shall immediately notify the Division of the reasons for WGL's failure to accomplish the actions required by Undertaking Paragraphs (2), (3), (4), and (5) above. If, upon investigation, the Division determines that the reason for said failure justifies a payment lower than Two Hundred Nineteen Thousand Seven Hundred Dollars (\$219,700), it may recommend to the Commission a reduction in the amount due. The Commission shall determine the amount due and, upon such determination, the Company shall immediately tender to the Commission said amount.

(7) Any amounts paid in accordance with Undertaking Paragraph (1) of this Order shall not be recovered in the Company's rates. Any such amounts shall be booked in Uniform System of Account No. 426.3. The Company shall verify its booking by filing a copy of the trial balance showing this entry with the Commission's Division of Utility Accounting and Finance.

NOW THE COMMISSION, finding sufficient basis herein for the entry of this Order and in reliance on the Division's representations and the undertakings set forth above, is of the opinion and finds that the offer of compromise and settlement set forth above should be accepted.

Accordingly, IT IS ORDERED THAT:

(1) The captioned case shall be docketed and assigned Case No. URS-2012-00130.

(2) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of compromise and settlement made by Washington Gas Light Company be, and it hereby is, accepted.

(3) Pursuant to § 56-257.2 B of the Code of Virginia, Washington Gas Light Company, shall pay the amount of Three Hundred Seventy-four Thousand Five Hundred Dollars (\$374,500), part of which may be suspended and subsequently vacated as provided in Undertaking Paragraph (1) above.

(4) The sum of One Hundred Fifty-four Thousand Eight Hundred Dollars (\$154,800) tendered contemporaneously with the entry of this Order is accepted. The remaining Two Hundred Nineteen Thousand Seven Hundred Dollars (\$219,700) shall be due as outlined herein and may be suspended and subsequently vacated, in whole or in part, provided the Company timely undertakes the actions required in Undertaking Paragraph (2) of this Order and files the timely certifications of the remedial actions required by Undertaking Paragraphs (3), (4), and (5) of this Order.

(5) The Commission shall retain jurisdiction over this matter for all purposes, and this case shall be continued pending further order of the Commission.

**CASE NO. URS-2012-00146
JULY 6, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
VIRGINIA NATURAL GAS, INC.,
Defendant

ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, § 56-265.14 *et seq.* of the Code ("Act"). The Commission's Division of Utility and Railroad Safety ("Division"), charged with the investigation of probable violations of the Act, has completed investigations of certain incidents that occurred between June 6, 2011, and March 8, 2012, listed in Attachment A, involving Virginia Natural Gas, Inc. ("Company"), the Defendant, and alleges that:

- (1) During the aforementioned period, the Company violated the Act by the following conduct:
 - (a) Failing on one occasion to notify the notification center (Miss Utility) before beginning its excavation in violation of § 56-265.17 A of the Code.
 - (b) Failing on certain occasions to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines in violation of § 56-265.19 A of the Code.
 - (c) Failing on certain occasions to mark the underground utility lines within the time prescribed in the Act in violation of § 56-265.19 A of the Code.
 - (d) Failing on certain occasions to use all information necessary to mark facilities in violation of 20 VAC 5-309-110 M of the Commission's Rules for Enforcement of the Underground Utility Damage Prevention Act, 20 VAC 5-309-10 *et seq.*

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters before the Commission arising from the Division's allegations made herein, the Company represents and undertakes that:

- (1) The Company will pay a civil penalty to the Commonwealth of Virginia in the amount of Sixteen Thousand Seven Hundred Fifty Dollars (\$16,750) to be paid contemporaneously with the entry of this Order. This payment will be made by check payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.
- (2) Any amounts paid in accordance with this Order shall not be recovered in the Company's rates as part of the cost of service. Any such amounts shall be booked in Uniform System of Account No. 426.3. The Company shall verify its booking by filing a copy of the journal entries made to record such amounts with the Commission's Division of Utility Accounting and Finance.

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.
- (2) The sum of Sixteen Thousand Seven Hundred Fifty Dollars (\$16,750) tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2012-00147
JUNE 25, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
PROMARK UTILITY LOCATORS, INC.,
Defendant

ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, § 56-265.14 *et seq.* of the Code. The Commission's Division of Utility and Railroad Safety ("Division"), after having conducted an investigation of this matter, alleges that:

(1) Promark Utility Locators, Inc. ("Company"), is a contract locator as that term is defined in § 56-265.15 of the Code and, as a contract locator acting on behalf of an operator, if the Company fails to perform the duties imposed by Chapter 10.3 of Title 56 of the Code it is subject to the civil penalties set out in § 56-265.32 of the Code pursuant to § 56-265.19 D of the Code.

(2) On or about November 9, 2011, Southside Electric Cooperative damaged an electric primary line operated by Southside Electric Cooperative, located at or near 10889 Redfield Drive, Amelia County, Virginia, while excavating.

(3) On or about March 19, 2012, Wallace Plumbing, Inc., excavated at or near 467 Oriana Road, Newport News, Virginia.

(4) On the occasions set out in paragraphs (2) and (3) above, the Company failed to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of § 56-265.19 A of the Code;

(5) On or about February 1, 2012, the City of Salem damaged a one-inch plastic gas service line operated by Roanoke Gas Company, located at or near 145 Butt Hollow Road, Salem, Virginia, while excavating.

(6) On or about February 10, 2012, Counts & Dobyns, Inc., damaged a twelve-inch iron water line operated by the City of Lynchburg, located at or near the Campus of Liberty University, Lynchburg, Virginia, while excavating.

(7) On or about March 27, 2012, Henkels & McCoy, Inc., damaged an electric secondary line operated by the Virginia Electric and Power Company, located at or near Gayton Crossing Shopping Center, Henrico County, Virginia, while excavating.

(8) On the occasions set out in paragraphs (5) through (7) above, the Company failed to mark the underground utility lines by no later than 7:00 a.m. on the third working day following the excavator's notice to the notification center, in violation of § 56-265.19 A of the Code.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As a proposal to settle all matters before the Commission arising from the Division's allegations herein, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of Nine Thousand Dollars (\$9,000) to be paid contemporaneously with the entry of this Order. The payment will be made by cashier's check or money order payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.

(2) The sum of Nine Thousand Dollars (\$9,000) tendered contemporaneously with the entry of this Order is accepted.

(3) This case is hereby dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2012-00151
JUNE 26, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
COLUMBIA GAS OF VIRGINIA, INC.,
Defendant

ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act ("Act"), § 56-265.14 *et seq.* of the Code. The Commission's Division of Utility and Railroad Safety ("Division"), charged with the investigation of probable violations of the Act, has completed investigations of certain incidents that occurred between August 17, 2011, and February 9, 2012, listed in Attachment A, involving Columbia Gas of Virginia, Inc. ("Company"), the Defendant, and alleges that:

- (1) During the aforementioned period, the Company violated the Act by the following conduct:
 - (a) Failing on certain occasions to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines in violation of § 56-265.19 A of the Code.
 - (b) Failing on certain occasions to mark the underground utility lines within the time prescribed in the Act in violation of § 56-265.19 A of the Code.
 - (c) Failing on certain occasions to report to the notification center that lines had been marked or that they were not in conflict with the proposed excavation in violation of § 56-265.19 A of the Code.
 - (d) Failing on one occasion to prepare and maintain reasonably accurate installation records of the underground utility lines in violation of 20 VAC 5-309-160 of the Commission's Rules for Enforcement of the Underground Utility Damage Prevention Act, 20 VAC 5-309-10 *et seq.*

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters before the Commission arising from the Division's allegations made herein, the Company represents and undertakes that:

- (1) The Company will pay a civil penalty to the Commonwealth of Virginia in the amount of Eight Thousand Four Hundred Dollars (\$8,400) to be paid contemporaneously with the entry of this Order. This payment will be made by check payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.
- (2) Any amounts paid in accordance with this Order shall not be recovered in the Company's rates as part of the cost of service. Any such amounts shall be booked in Uniform System of Account No. 426.3. The Company shall verify its booking by filing a copy of the journal entries made to record such amounts with the Commission's Division of Utility Accounting and Finance.

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.
- (2) The sum of Eight Thousand Four Hundred Dollars (\$8,400) tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2012-00183
SEPTEMBER 17, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

Ex Parte: In the matter concerning Rules implementing the State Corporation Commission's authority to enforce the Underground Utility Damage Prevention Act

ORDER ADOPTING REGULATIONS

On May 29, 2012, the State Corporation Commission ("Commission") initiated a rulemaking pursuant to § 56-265.30 of the Code of Virginia ("Code"), which authorizes the Commission to enforce the provisions of Chapter 10.3 of Title 56 of the Code,¹ also known as the Underground Utility Damage Prevention Act ("Act"). Section 56-265.30 of the Code also authorizes the Commission to promulgate any rules or regulations necessary to implement the Commission's authority to enforce the Act.

The Commission's Division of Utility and Railroad Safety ("Division") proposed that the Commission adopt several additional rules for the enforcement of the Act following an extensive collaborative process involving the Division, the Advisory Committee (established in accordance with § 56-265.31 of the Code), and industry stakeholders. In addition, the Division proposed several revisions to existing rules to better define the marking standards for underground utility lines. Finally, a new rule was proposed to better align Virginia and federal statutory requirements in the event that damage to an underground utility line results in the escape of any flammable, toxic, hazardous or corrosive gas or liquid.²

The Commission's May 29, 2012 Order for Notice and Comment ("May 29, 2012 Order") set out the rules proposed by the Division and provided that public notice of the Proposed Rules be given so as to afford any interested person or entity an opportunity to comment on the Proposed Rules, to request a hearing thereon, or to propose modifications or supplements to the Proposed Rules.

Notice of the proceeding was published in the *Virginia Register* on June 18, 2012, and in newspapers of general circulation throughout the Commonwealth.³ Interested persons were directed to file any comments and requests for hearing on the Proposed Rules on or before July 9, 2012.

Comments in this proceeding were submitted by: Roanoke Gas Company, Columbia Gas of Virginia, Inc. ("Columbia Gas"), the Virginia Association of Municipal Wastewater Agencies, Inc. ("VAMWA"), and the Virginia Telecommunications Industry Association ("VTIA"). The Commission did not receive a request for a hearing on the Proposed Rules.

Specifically, comments submitted in this proceeding proposed certain modifications to Proposed Rules 20 VAC 5-309-110,⁴ 20 VAC 5-309-165, 20 VAC 5-309-190, and 20 VAC 5-309-200. Regarding Proposed Rule 20 VAC 5-309-165 ("Proposed Rule 165"), VAMWA offered several revisions "to clarify the purpose of the requirement and to better reference existing Virginia Code sections regarding unmarked utility lines."⁵ VAMWA also recommended that the 27-hour requirement for reporting the status of an abandoned utility line and the 96-hour deferral thereof be modified to begin with the operator's response, as opposed to the excavator's notice of an unmarked utility line to the notification center. VAMWA's modifications also contemplated a scenario where an excavator and operator cannot agree to a time period in excess of 27 hours for the operator to provide Proposed Rule 165's required information to the excavator. Further, VAMWA's comments emphasized that ownership of an abandoned line should trigger the responsibilities contained in Proposed Rule 165.⁶ VTIA recommended modification to Proposed Rule 165 in order "to clarify that a declaration of 'extraordinary circumstances' as defined in [§] 56-265.15 of the Code does not require the mutual agreement of the excavator and the operator."⁷

Columbia Gas and VTIA expressed concerns that Proposed Rule 20 VAC 5-309-190 ("Proposed Rule 190") fails to contemplate multiple structures on a single parcel.⁸ Columbia Gas also offered additional language to Proposed Rule 190 "to clarify that the intent of the Proposed Rule is for operators and excavators to *utilize* GPS nomenclature approved by the Advisory Committee as opposed to simply requiring that the Advisory Committee *approve* such GPS nomenclature"⁹ and "to clarify the intent of the perspective from which the quadrants [of a parcel or property] are to be identified."¹⁰ Columbia Gas further expressed concern that provisions of Proposed Rule 190 B may lead to confusion in certain circumstances.¹¹

¹ Va. Code §§ 56-265.14 *et seq.*

² The proposed revisions to existing rules, together with all proposed additional rules, are collectively referred to herein as the "Proposed Rules."

³ See Memoranda from Laura S. Martin of the Commission's Division of Information Resources, filed in this docket on June 20, 2012, and June 27, 2012.

⁴ On July 16, 2012, Columbia Gas filed a Motion for Leave to Withdraw Comments Re: Proposed Rule 20 VAC 5-309-110(P) ("Motion to Withdraw") in which it sought to withdraw its comments related to that Proposed Rule.

⁵ Comments of VAMWA at 1.

⁶ *Id.* at 2.

⁷ Comments of VTIA at 2.

⁸ *Id.*; Comments of Columbia Gas at 4.

⁹ Comments of Columbia Gas at 6.

¹⁰ *Id.* at 5.

¹¹ *Id.* at 4-6.

Finally, regarding Proposed Rule 20 VAC 5-309-200 ("Proposed Rule 200"), VTIA recommended adding the words "reasonably observable" to support their position that "it is not feasible to require an excavator, or anyone for that matter, to call 911 to report something of which they are not aware."¹²

As directed by the May 29, 2012 Order, the Division filed a report ("Response") on July 19, 2012, in response to the comments received on the Proposed Rules. In response to comments submitted on Proposed Rule 165, the Division opposed VAMWA's revisions, stating that "it is unnecessary to incorporate established statutory requirements for responding to and marking unmarked utility lines in this Proposed Rule,"¹³ and that, because the operator's additional notice to the notification center pursuant to § 56-265.17 C is verifiable, "[s]tarting the clock at the time of notice to the notification center is much more feasible than VAMWA's alternative."¹⁴ The Division further noted that the definition of "operator" found in § 56-265.15 of the Code is not based solely on ownership of an underground utility line and, regarding communication of the status of an abandoned line, stated "it is reasonable to require the operator and excavator to negotiate 'a mutually agreeable time period in excess of 27 hours,' as contemplated by this Proposed Rule."¹⁵ The Division also opposed VTIA's suggested modification to Proposed Rule 165 concerning time requirements for certain communications in extraordinary circumstances. The Division stated that "[e]ven in extraordinary circumstances, the Division believes that the Proposed Rule provides sufficient time to determine the status of the utility line and provide that information to the excavator."¹⁶ The Division recommended that the Commission adopt Proposed Rule 165 without the modifications suggested by VAMWA and VTIA.

Addressing concerns raised about Proposed Rule 190, the Division agreed that the Proposed Rule could benefit from additional clarification (i) stressing utilization, as opposed to approval, of GPS nomenclature; (ii) regarding the possibility of multiple structures on a parcel and oddly shaped parcels; and (iii) identifying the perspective from which the quadrants are to be identified.¹⁷ The Division did not oppose additional specific language offered by Columbia Gas to address some of these concerns.¹⁸ The comments received in this proceeding did not recommend any particular modifications to address the issue of dividing oddly shaped parcels into quadrants for purposes of describing limits of proposed excavation or demolition. Therefore, the Division suggested amending Proposed Rule 190 to include the words "if geographically feasible" to address this concern.¹⁹ In response to other circumstances in which Columbia Gas suggested Proposed Rule 190 could lead to confusion, the Division stated that it "disagrees that the location of a single structure on the parcel could result in confusion."²⁰

In response to VTIA's modification to Proposed Rule 200, the Division noted that the purpose of the Proposed Rule is "to better align Virginia and federal statutory requirements in the event that damage to an underground utility line results in the escape of any flammable, toxic, hazardous or corrosive gas or liquid"²¹ and stated that it believes that Proposed Rule 200, as drafted, "is consistent with the current federal requirement."²² Accordingly, the Division recommended that the Commission adopt Proposed Rule 200 without modification.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the proposed regulations as revised and set forth in the Division's Response should be adopted. We find that Columbia Gas's Motion to Withdraw should be granted and note that modifications to Proposed Rules 165, 190, and 200, as discussed herein, remain at issue in this proceeding. We agree with the Division, for the reasons stated in its Response, that Proposed Rules 165 and 200 should be adopted as proposed in the May 29, 2012 Order without further modification. We further agree that clarifying revisions to Proposed Rule 190 are appropriate and find that such modifications should be adopted as set forth in the Division's Response.

Accordingly, IT IS ORDERED THAT:

- (1) Columbia Gas's Motion to Withdraw is hereby granted.
- (2) The Commission's regulations regarding Rules for Enforcement of the Underground Utility Damage Prevention Act, 20 VAC 5-309-10 *et seq.*, are hereby adopted as shown in Appendix A to this Order, and shall become effective as of October 1, 2012.
- (3) A copy of these regulations as set out in Appendix A of this Order shall be forwarded to the Registrar of Regulations for publication in the *Virginia Register*.
- (4) There being nothing further to come before the Commission, this case hereby is dismissed from the Commission's docket of active cases, and the papers filed herein shall be placed in the Commission's file for ended causes.

¹² Comments of VTIA at 3.

¹³ Response at 2.

¹⁴ *Id.* at 3.

¹⁵ *Id.* at 4.

¹⁶ *Id.* at 4-5.

¹⁷ *Id.* at 5-7.

¹⁸ *Id.* at 5, 7.

¹⁹ *Id.* at 8.

²⁰ *Id.* at 6.

²¹ *Id.* at 9 (quoting May 29, 2012 Order at 1).

²² *Id.* at 10.

NOTE: A copy of Attachment A entitled "Rules for Enforcement of the Underground Utility Damage Prevention Act" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. URS-2012-00184
JUNE 18, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
COLUMBIA GAS OF VIRGINIA, INC.,
Defendant

ORDER OF SETTLEMENT

The federal pipeline safety statutes found at 49 U.S.C. § 60101 *et seq.*, formerly the Natural Gas Pipeline Safety Act, require the Secretary of Transportation ("Secretary") to establish minimum federal safety standards for the transportation of gas and pipeline facilities. The Secretary is further authorized to delegate to an appropriate state agency the authority to prescribe safety standards and enforce compliance with such standards over gas pipeline facilities used for intrastate transportation.

The State Corporation Commission ("Commission") has been designated as the appropriate state agency for the Commonwealth of Virginia to prescribe and enforce compliance with standards for gas pipeline facilities used for intrastate transportation. In Case No. PUE-1989-00052, the Commission adopted Parts 191, 192, 193, and 199 of Title 49 of the Code of Federal Regulations to serve as minimum gas pipeline safety standards ("Safety Standards") in Virginia.¹ The Commission is authorized to enforce the Safety Standards for natural gas facilities under § 56-257.2 B of the Code of Virginia, which allows the Commission to impose the fines and penalties authorized therein.

The Commission's Division of Utility and Railroad Safety ("Division") is charged with the investigation of each jurisdictional gas company's compliance with the Safety Standards, has conducted various inspections of records, construction, operation, and maintenance activities involving Columbia Gas of Virginia, Inc. ("CGV" or "Company"), the Defendant, and alleges that:

- (1) CGV is a person within the meaning of § 56-257.2 B of the Code of Virginia; and
- (2) The Company violated the Commission's Safety Standards by the following conduct:
 - (a) 49 C.F.R. § 192.453 - Failure of Company to have all of the corrosion control procedures required by § 192.605 (b) (2), including those for the design, installation, operation, and maintenance of cathodic protection systems, carried out by, or under the direction of, a person qualified in pipeline corrosion control methods;
 - (b) 49 C.F.R. § 192.455 (a) - Failure on one occasion of Company to have a cathodic protection system that was designed to protect the pipeline in accordance with 49 C.F.R. Part 192 Subpart I, installed and placed in operation within one year after completion of construction of a pipeline;
 - (c) 49 C.F.R. § 192.465 (a) - Failure on multiple occasions of Company to demonstrate that it has tested each pipeline that is under cathodic protection at least once each calendar year, but with intervals not exceeding 15 months;
 - (d) 49 C.F.R. § 192.465 (e) - Failure on five occasions of Company to reevaluate its unprotected pipelines and place them under cathodic protection in accordance with 49 C.F.R. Part 192 Subpart I in areas in which active corrosion is found;
 - (e) 49 C.F.R. § 192.469 - Failure on multiple occasions of Company to provide each pipeline under cathodic protection with sufficient test stations or other contact points for electrical measurement to determine the adequacy of cathodic protection;
 - (f) 49 C.F.R. § 192.481 (a) - Failure on four occasions of Company to inspect each pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion at least once every 3 calendar years, but with intervals not exceeding 39 months; and
 - (g) 49 C.F.R. § 192.605 (b) (2) - Failure on one occasion of Company to have a procedure developed to comply with the requirements of 49 C.F.R. § 192.459 to require the investigation, both circumferentially and longitudinally beyond the exposed portion of the pipe, to determine whether additional corrosion exists.

¹ *Commonwealth of Virginia ex rel. State Corporation Commission, Ex Parte, In the matter of adopting gas pipeline safety standards and reporting procedures for public service corporations providing gas service under Commission jurisdiction through transmission and distribution facilities located and operated within the Commonwealth of Virginia and granting other authorizations pertaining to the Gas Pipeline Safety Program*, Case No. PUE-1989-00052, 1989 S.C.C. Ann. Rept. 312, Order Vacating Previous Order and Adopting Standard Regulations and Procedures Pertaining to Gas Pipeline Safety in Virginia (July 6, 1989).

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters arising from the allegations made against it, CGV represents and undertakes that:

(1) The Company shall pay to the Commonwealth of Virginia the amount of Four Hundred Ninety-nine Thousand Dollars (\$499,000), of which Two Hundred Thousand Dollars (\$200,000) shall be paid contemporaneously with the entry of this Order. The remaining Two Hundred Ninety-nine Thousand Dollars (\$299,000) shall be due as outlined in Undertaking Paragraph (5) herein, and may be suspended and subsequently vacated in whole or in part by the Commission, provided the Company timely takes the actions required in Undertaking Paragraphs (2) and (3) herein and tenders the requisite certification as required by Undertaking Paragraph (4) herein. The initial payment and any subsequent payments shall be made by check, payable to the Treasurer of Virginia, and directed to the attention of the Director, Division of Utility and Railroad Safety, State Corporation Commission, Post Office Box 1197, Richmond, Virginia 23218-1197.

(2) The Company shall undertake the following remedial actions:

- (a) Within ninety (90) days from the issuance of this Order, CGV shall begin a comprehensive evaluation ("Evaluation") of the policies, procedures, operation, maintenance, and facilities of the Company's cathodic protection corrosion control program. The Evaluation shall include, but is not limited to, the items delineated in Attachment A to this Order to determine, among other things, if the Company's corrosion control procedures, field practices, and facilities are in compliance with 49 C.F.R. Part 192 and the applicable National Association of Corrosion Engineers Standards. The Company shall provide the Division with accurate weekly location sheets for the field work pursuant to the requirements found in Undertaking Paragraph 2 (e) of the Commission's Order of Settlement in Case No. URS-2009-00041.² In addition, the Company shall retain a third party corrosion consultant ("Consultant") to advise it on the strategy for the Evaluation, including testing protocols and any remediation necessary for compliance with Subpart I of 49 C.F.R. Part 192 and 49 C.F.R. § 192.605 (b) (2). The Consultant shall review the Company's Evaluation processes, including its testing and remediation activities. The Consultant shall prepare and submit a report summarizing its review, including any modifications to the Company's proposed testing and remediation activities. The report shall be submitted simultaneously to the Company and the Division. If CGV disagrees with any of the Consultant's recommended modifications, the Company shall immediately notify the Division in writing of such disagreement, including an explanation for its disagreement. In the event of a disagreement, the Division shall decide whether or not the specified testing or remediation should be implemented by the Company provided, however, nothing herein shall prevent the Company from seeking review by the Commission. The Company shall complete all of the remediation and other corrective actions identified during the course of the Evaluation by no later than July 31, 2014. The Company shall not seek to recover from ratepayers, in any present or future Commission proceeding, any of the costs incurred on or before July 31, 2014, in connection with the remedial actions required by this Undertaking Paragraph, or otherwise defer such costs for future recovery from ratepayers. Notwithstanding the foregoing, this provision shall not preclude the Company from the recovery of costs that also qualify as eligible facilities replaced prior to July 31, 2014, under a Commission-approved Steps to Advance Virginia's Energy ("SAVE") Plan, nor shall it require the Company to exclude costs associated with the remedial actions required by this Undertaking Paragraph from the determination of jurisdictional earnings in an earnings test calculation. In addition, the Company may seek recovery for costs associated with the undepreciated net book value of those assets including, but not limited to, depreciation, taxes, and carrying costs related to periods after July 31, 2014.
- (b) On or before June 15, 2012, CGV shall hire an additional full-time employee (Senior Technical Support Specialist) who reports to the System Operations Corrosion Supervisor that shall be qualified pursuant to 49 C.F.R. § 192.453 to carry out the corrosion control procedures required by Subpart I of 49 C.F.R. Part 192 and 49 C.F.R. § 192.605 (b) (2). The Company shall also hire eight (8) additional employees to execute the testing, troubleshooting, remediation, and recordkeeping for this program. These eight (8) employees shall include Corrosion Technicians to perform testing and troubleshooting; Field Technicians to install test stations and perform requisite remedial action, as needed; and administrative personnel to keep records of the ongoing status of the program. In addition, these eight (8) employees shall be qualified in accordance with Subpart N of 49 C.F.R. Part 192 prior to their use in the Evaluation. The Company shall not seek to recover from ratepayers, in any present or future Commission proceeding, any of the costs incurred on or before July 31, 2014, in connection with these new employees required by this Undertaking Paragraph, or otherwise defer such costs for future recovery from ratepayers. Notwithstanding the foregoing, this provision shall not require the Company to exclude costs associated with the remedial actions required by this Undertaking Paragraph from the determination of jurisdictional earnings in an earnings test calculation.
- (c) On or before July 1, 2012, CGV shall begin revising its operations and maintenance manuals procedures relative to corrosion control to provide detailed section guide procedures for the Company's employees to use for compliance activities. As these procedures are revised, the Company shall train personnel and implement the procedures. The Company shall complete the training and implementation of these procedures by no later than December 31, 2012.

(3) Beginning July 1, 2012, and each three (3) months thereafter, until September 30, 2014, or as otherwise required, CGV shall provide a written report to the Division's Director, in a format acceptable to the Division, describing in detail the actions it has taken, and the expenditures it has made, to comply with the requirements of Undertaking Paragraph (2) above.

(4) On or before September 30, 2014, CGV shall tender to the Clerk of the Commission, with a copy to the Director of the Division, a notarized affidavit signed by the Vice President - Pipeline Safety and Compliance of the Company, certifying that the Company has completed all of the remedial actions described in Undertaking Paragraph (2) above.

(5) Upon timely receipt of the affidavit required by Undertaking Paragraph (4) above, the Commission may suspend and subsequently vacate up to Two Hundred Ninety-nine Thousand Dollars (\$299,000) of the remaining amount set forth in Undertaking Paragraph (1) above. Should CGV fail to tender said affidavit, or fail to take the actions required by Undertaking Paragraphs (2), (3), and (4) above, a payment of Two Hundred Ninety-nine

² *Commonwealth of Virginia ex rel. State Corporation Commission v. Columbia Gas of Virginia, Inc.*, Case No. URS-2009-00041, 2009 S.C.C. Ann. Rept. 669, Order of Settlement (Oct. 26, 2009).

Thousand Dollars (\$299,000) shall become due and payable, and the Company shall immediately notify the Division of the reasons for CGV's failure to accomplish the actions required by Undertaking Paragraphs (2), (3), and (4) above. If, upon investigation, the Division determines that the reason for said failure justifies a payment lower than Two Hundred Ninety-nine Thousand Dollars (\$299,000), it may recommend to the Commission a reduction in the amount due. The Commission shall determine the amount due and, upon such determination, the Company shall immediately tender to the Commission said amount.

(6) This settlement does not prohibit the Commission Staff from submitting, in any present or future Commission proceeding involving the Company, any information discovered or obtained in the course of the Division's investigation and inspections described herein; nor does this settlement prohibit the Company from submitting information contradicting or mitigating the information submitted by the Commission Staff in such a proceeding.

(7) Any amounts paid to the Commonwealth of Virginia in accordance with this Order shall not be recovered in the Company's rates as part of CGV's cost of service. Any such amounts shall be booked in Uniform System of Account No. 426.3. The Company shall verify its booking by filing a copy of the journal entries made to record such amounts with the Commission's Division of Utility Accounting and Finance.

NOW THE COMMISSION, finding sufficient basis herein for the entry of this Order and in reliance on the Defendant's representations and undertakings set forth above, is of the opinion and finds that the offer of compromise and settlement set forth above should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The captioned case shall be docketed and assigned Case No. URS-2012-00184.
- (2) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of compromise and settlement made by CGV be, and it hereby is, accepted.
- (3) Pursuant to § 56-257.2 B of the Code of Virginia, CGV shall pay the amount of Four Hundred Ninety-nine Thousand Dollars (\$499,000), part of which may be suspended and subsequently vacated as provided in Undertaking Paragraph (1) above.
- (4) The sum of Two Hundred Thousand Dollars (\$200,000) tendered contemporaneously with the entry of this Order is accepted. The remaining Two Hundred Ninety-nine Thousand Dollars (\$299,000) is due as outlined herein and may be suspended and subsequently vacated, in whole or in part, provided the Company timely undertakes the actions required in Undertaking Paragraphs (2) and (3) above and files the timely certification of the remedial actions required by Undertaking Paragraph (4) above.
- (5) The Company shall not recover the costs of the remedial actions described herein from ratepayers, except as specifically provided herein.
- (6) Pursuant to Undertaking Paragraph (6), the settlement reached between the Division and the Company does not prohibit the Commission Staff from submitting, in any present or future Commission proceeding involving CGV, any information discovered or obtained in the course of the Division's investigation and inspections described herein, nor does the settlement prohibit the Company from submitting information contradicting or mitigating the information submitted by the Commission Staff in such a proceeding.
- (7) The Commission shall retain jurisdiction over this matter for all purposes, and this case is continued pending further order of the Commission.

**CASE NO. URS-2012-00197
JULY 20, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
COLUMBIA GAS OF VIRGINIA, INC.,
Defendant

ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, § 56-265.14 *et seq.* of the Code. The Commission's Division of Utility and Railroad Safety ("Division"), after having conducted an investigation of this matter, alleges that:

- (1) On or about January 4, 2012, Axis Utility Construction, Inc., damaged a one-half-inch plastic gas service line operated by Columbia Gas of Virginia, Inc. ("Company"), located at or near 223 Cedar Street, Isle of Wight County, Virginia, while excavating.
- (2) On or about February 10, 2012, Excel Paving Corporation damaged a three-quarter-inch steel gas service line operated by the Company, located at or near 101 South Church Street, Isle of Wight County, Virginia, while excavating.
- (3) On or about March 8, 2012, R & B Construction damaged a two-inch plastic gas main line operated by the Company, located at or near 260 Catalpa Street, Pittsylvania County, Virginia, while excavating.
- (4) On the occasions set out in paragraphs (1) through (3) above, the Company failed to mark the underground utility lines by no later than 7:00 a.m. on the third working day following the excavator's notice to the notification center, in violation of § 56-265.19 A of the Code.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

(5) On or about January 18, 2012, RER Underground LLC damaged a one-half-inch plastic gas service line operated by the Company, located at or near 4217 Holly Cove Road, Chesapeake, Virginia, while excavating.

(6) On or about March 19, 2012, Miller Pipeline Corporation damaged a two-inch gas main line operated by the Company, located at or near 6270 Verdict Court, Chesterfield County, Virginia, while excavating.

(7) On the occasions set out in paragraphs (5) and (6) above, the Company failed to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of § 56-265.19 A of the Code.

(8) On the occasions set out in paragraphs (2) and (6) above, the Company failed to prepare and maintain reasonably accurate installation records of the underground utility lines, in violation of 20 VAC 5-309-160 of the Commission's Rules for Enforcement of the Underground Utility Damage Prevention Act, 20 VAC 5-309-10 *et seq.*

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters before the Commission arising from the Division's allegations made herein, the Company represents and undertakes that:

(1) The Company will pay a civil penalty to the Commonwealth of Virginia in the amount of Seven Thousand Two Hundred Fifty Dollars (\$7,250) to be paid contemporaneously with the entry of this Order. This payment will be made by check payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

(2) Any amounts paid in accordance with this Order shall not be recovered in the Company's rates as part of the cost of service. Any such amounts shall be booked in Uniform System of Account No. 426.3. The Company shall verify its booking by filing a copy of the journal entries made to record such amounts with the Commission's Division of Utility Accounting and Finance.

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.

(2) The sum of Seven Thousand Two Hundred Fifty Dollars (\$7,250) tendered contemporaneously with the entry of this Order is accepted.

(3) This case is dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2012-00201
AUGUST 3, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
PROMARK UTILITY LOCATORS, INC.,
Defendant

ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, § 56-265.14 *et seq.* of the Code. The Commission's Division of Utility and Railroad Safety ("Division"), after having conducted an investigation of this matter, alleges that:

(1) Promark Utility Locators, Inc. ("Company"), is a contract locator as that term is defined in § 56-265.15 of the Code and, as a contract locator acting on behalf of an operator, if the Company fails to perform the duties imposed by Chapter 10.3 of Title 56 of the Code it is subject to the civil penalties set out in § 56-265.32 of the Code pursuant to § 56-265.19 D of the Code.

(2) On or about March 8, 2012, the City of Roanoke damaged a one-half-inch plastic gas service line operated by Roanoke Gas Company, located at or near 4005 Maine Avenue, Roanoke County, Virginia, while excavating.

(3) On or about March 10, 2012, Scott Bryant damaged a one-half-inch plastic gas service line operated by Roanoke Gas Company, located at or near 5511 North Garden Lane, Roanoke County, Virginia, while excavating.

(4) On the occasions set out in paragraphs (2) and (3) above, the Company failed to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of § 56-265.19 A of the Code.

(5) On the occasion set out in paragraph (2) above, the Company failed to use all information necessary to mark their facilities accurately, in violation of 20 VAC 5-309-110 M of the Commission's Rules for Enforcement of the Underground Utility Damage Prevention Act, 20 VAC 5-309-10 *et seq.*

(6) On or about April 24, 2012, The Fishel Company excavated at or near 8236 Turner Forest Road, Henrico County, Virginia.

(7) On or about May 3, 2012, S&N Communications, Inc., notified the notification center of proposed excavation at or near 7718 Gallant Fox Court, Chesterfield County, Virginia.

(8) On the occasions set out in paragraphs (6) and (7) above, the Company failed to mark the underground utility lines by no later than 7:00 a.m. on the third working day following the excavator's notice to the notification center, in violation of § 56-265.19 A of the Code.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As a proposal to settle all matters before the Commission arising from the Division's allegations herein, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of Six Thousand Five Hundred Fifty Dollars (\$6,550) to be paid contemporaneously with the entry of this Order. The payment will be made by cashier's check or money order payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.

(2) The sum of Six Thousand Five Hundred Fifty Dollars (\$6,550) tendered contemporaneously with the entry of this Order is accepted.

(3) This case is hereby dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2012-00203
JULY 6, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
S&N LOCATING SERVICES, LLC,
Defendant

ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, § 56-265.14 *et seq.* of the Code. The Commission's Division of Utility and Railroad Safety ("Division"), after having conducted an investigation of this matter, alleges that:

(1) S&N Locating Services, LLC ("Company"), is a contract locator as that term is defined in § 56-265.15 of the Code and, as a contract locator acting on behalf of an operator, if the Company fails to perform the duties imposed by Chapter 10.3 of Title 56 of the Code, it is subject to the civil penalties set out in § 56-265.32 of the Code pursuant to § 56-265.19 D of the Code.

(2) On or about January 16, 2012, Innerview, Ltd., damaged a one-half-inch plastic gas service line operated by Virginia Natural Gas, Inc., located at or near 717 Georgia Avenue, Norfolk, Virginia, while excavating.

(3) On or about March 8, 2012, Action Paving & Construction, Inc., damaged a two-inch plastic gas main line operated by Virginia Natural Gas, Inc., located at or near 302 Raleigh Avenue, Norfolk, Virginia, while excavating.

(4) On the occasions set out in paragraphs (2) and (3) above, the Company failed to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of § 56-265.19 A of the Code;

(5) On or about January 17, 2012, S. J. Louis Construction, Inc., damaged a one-half-inch plastic gas service line operated by Virginia Natural Gas, Inc., located at or near 1039 East Ocean View Avenue, Norfolk, Virginia, while excavating.

(6) On or about May 3, 2012, S&N Communications, Inc., notified the notification center of proposed excavation at or near 7718 Gallant Fox Court, Chesterfield County, Virginia.

(7) On the occasions set out in paragraphs (5) and (6) above, the Company failed to mark the underground utility lines by no later than 7:00 a.m. on the third working day following the excavator's notice to the notification center, in violation of § 56-265.19 A of the Code.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

As a proposal to settle all matters before the Commission arising from the Division's allegations herein, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of Six Thousand Three Hundred Dollars (\$6,300) to be paid contemporaneously with the entry of this Order. The payment will be made by cashier's check or money order payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.
- (2) The sum of Six Thousand Three Hundred Dollars (\$6,300) tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is hereby dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2012-00234
SEPTEMBER 28, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

WASHINGTON GAS LIGHT COMPANY,
Defendant

ORDER OF SETTLEMENT

The federal pipeline safety statutes found at 49 U.S.C. § 60101 *et seq.*, formerly the Natural Gas Pipeline Safety Act, require the Secretary of Transportation ("Secretary") to establish minimum federal safety standards for the transportation of gas and pipeline facilities. The Secretary is further authorized to delegate to an appropriate state agency the authority to prescribe safety standards and enforce compliance with such standards over gas pipeline facilities used for intrastate transportation.

The State Corporation Commission ("Commission") has been designated as the appropriate state agency for the Commonwealth of Virginia to prescribe and enforce compliance with standards for gas pipeline facilities used for intrastate transportation. In Case No. PUE-1989-00052, the Commission adopted Parts 191, 192, 193, and 199 of Title 49 of the Code of Federal Regulations to serve as minimum gas pipeline safety standards ("Safety Standards") in Virginia.¹ The Commission is authorized to enforce the Safety Standards for natural gas facilities under § 56-257.2 B of the Code of Virginia, which allows the Commission to impose the fines and penalties authorized therein.

The Commission's Division of Utility and Railroad Safety ("Division") is charged with the investigation of each jurisdictional gas company's compliance with the Safety Standards, has conducted various inspections of records, construction, operation and maintenance activities involving Washington Gas Light Company ("Company"), the Defendant, and alleges that:

- (1) Washington Gas Light Company is a person within the meaning of § 56-257.2 B of the Code of Virginia.
- (2) The Company violated the Commission's Safety Standards by the following conduct:
 - (a) 49 C.F.R. § 192.11 - Failure on three (3) occasions of the Company to meet the requirements of NFPA 59.10.10, 2004 Edition, by not installing a hydrostatic relief valve between each pair of shut off valves so as to relieve the pressure that could develop from the trapped liquid.
 - (b) 49 C.F.R. § 192.273 (b) - Failure on one (1) occasion of the Company to follow Engineering and Operating Standards, Section 5282, by not inserting an electrofusion fitting to the minimum depth required by the manufacturer to ensure a strong, gastight joint.
 - (c) 49 C.F.R. § 192.605 (a) - Failure on two (2) occasions of the Company contractor, Northern Pipeline, to follow Engineering and Operating Standards, Section 3233, Squeeze-Off Procedures for Plastic Pipe, by not locating the squeeze off tool at the minimum required distance from a fitting.
 - (d) 49 C.F.R. § 192.614 (a) - Failure on one (1) occasion of the Company to follow Engineering and Operating Standards, Section 4099, developed to comply with 49 C.F.R. § 192.614 (c) (6) (i), by not inspecting a pipeline as frequently as necessary during and after excavation activities to verify the integrity of the pipeline.

¹ *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte, In the matter of adopting gas pipeline safety standards and reporting procedures for public service corporations providing gas service under Commission jurisdiction through transmission and distribution facilities located and operated within the Commonwealth of Virginia and granting other authorizations pertaining to the Gas Pipeline Safety Program, Case No. PUE-1989-00052, 1989 S.C.C. Ann. Rept. 312, Order Vacating Previous Order and Adopting Standard Regulations and Procedures Pertaining to Gas Pipeline Safety in Virginia (July 6, 1989).*

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Company neither admits nor denies these allegations but admits to the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters arising from the allegations made against it, the Company represents and undertakes that:

(1) The Company shall pay to the Commonwealth of Virginia the amount of Thirty-nine Thousand Five Hundred Dollars (\$39,500), which shall be paid contemporaneously with the entry of this Order. The payment will be made by check payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety, Post Office Box 1197, Richmond, Virginia, 23218-1197.

(2) At its Ravensworth Propane Facility, the Company shall install a hydrostatic relief valve on Flow Control Run No. 1 between the control valve and the outlet block valve, and hydrostatic relief valves on both sides of the control valve on Flow Control Run No. 2 on or before December 1, 2012, and inform the Division in writing that these valves have been installed.

(3) Any amounts paid in accordance with this Order shall not be recovered in the Company's rates. Any such amounts shall be booked in Uniform System of Account No. 426.3. The Company shall verify its booking by filing a copy of the trial balance showing this entry with the Commission's Division of Utility Accounting and Finance.

NOW THE COMMISSION, finding sufficient basis herein for the entry of this Order and in reliance on the Defendant's representations and undertakings set forth above, is of the opinion and finds that the offer of compromise and settlement set forth above should be accepted.

Accordingly, IT IS ORDERED THAT:

(1) The captioned case shall be docketed and assigned Case No. URS-2012-00234.

(2) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of compromise and settlement made by Washington Gas Light Company be, and it hereby is, accepted.

(3) Pursuant to § 56-257.2 B of the Code of Virginia, Washington Gas Light Company shall pay the amount of Thirty-nine Thousand Five Hundred Dollars (\$39,500).

(4) The sum of Thirty-nine Thousand Five Hundred Dollars (\$39,500) tendered contemporaneously with the entry of this Order is accepted.

(5) This case is hereby dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2012-00235
OCTOBER 17, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

COLUMBIA GAS OF VIRGINIA, INC.,
Defendant

ORDER OF SETTLEMENT

The federal pipeline safety statutes found at 49 U.S.C. § 60101 *et seq.*, formerly the Natural Gas Pipeline Safety Act, require the Secretary of Transportation ("Secretary") to establish minimum federal safety standards for the transportation of gas and pipeline facilities. The Secretary is further authorized to delegate to an appropriate state agency the authority to prescribe safety standards and enforce compliance with such standards over gas pipeline facilities used for intrastate transportation.

The State Corporation Commission ("Commission") has been designated as the appropriate state agency for the Commonwealth of Virginia to prescribe and enforce compliance with standards for gas pipeline facilities used for intrastate transportation. In Case No. PUE-1989-00052, the Commission adopted Parts 191, 192, 193, and 199 of Title 49 of the Code of Federal Regulations to serve as minimum gas pipeline safety standards ("Safety Standards") in Virginia.¹ The Commission is authorized to enforce the Safety Standards for natural gas facilities under § 56-257.2 B of the Code of Virginia, which allows the Commission to impose the fines and penalties authorized therein.

The Commission's Division of Utility and Railroad Safety ("Division") is charged with the investigation of each jurisdictional gas company's compliance with the Safety Standards; has conducted various inspections of records, construction, operation and maintenance activities involving Columbia Gas of Virginia, Inc. ("CGV" or "Company"), the Defendant; and alleges that:

(1) CGV is a person within the meaning of § 56-257.2 B of the Code of Virginia.

(2) The Company violated the Commission's Safety Standards by the following conduct:

¹ *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte, In the matter of adopting gas pipeline safety standards and reporting procedures for public service corporations providing gas service under Commission jurisdiction through transmission and distribution facilities located and operated within the Commonwealth of Virginia and granting other authorizations pertaining to the Gas Pipeline Safety Program, Case No. PUE-1989-00052, 1989 S.C.C. Ann. Rept. 312, Order Vacating Previous Order and Adopting Standard Regulations and Procedures Pertaining to Gas Pipeline Safety in Virginia (July 6, 1989).*

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

- (a) 49 C.F.R. § 192.273 (b) - Failure on one occasion of the Company to follow Joining Manual 1308, Section 4.3, by not waiting the recommended ten (10) additional minutes for a fusion to cool before exposing the joint to any type of stress (i.e., burial or testing).
- (b) 49 C.F.R. § 192.273 (b) - Failure on one occasion of the Company to follow Joining Manual 1308, Section 4.3, by not allowing the cool ring to stay in contact with the fusion for five (5) minutes.
- (c) 49 C.F.R. § 192.273 (b) - Failure on one occasion of the Company to follow Joining Manual 1308, Section 4.1, by not verifying the heating iron temperature before performing a socket fusion.
- (d) 49 C.F.R. § 192.319 (b) (2) - Failure on one occasion of the Company to backfill in a manner that would prevent damage to the pipe and pipe coating from equipment or from the backfill material.
- (e) 49 C.F.R. § 192.327 (b) - Failure on one occasion of the Company to install a distribution main with at least twenty-four (24) inches of cover.
- (f) 49 C.F.R. § 192.353 (a) - Failure on one occasion of the Company to have a meter protected from vehicular damage that may be anticipated.
- (g) 49 C.F.R. § 192.355 (b) (2) - Failure on one occasion of the Company to have a regulator vent located at a place where gas from the vent can escape freely into the atmosphere and away from any opening into the building.
- (h) 49 C.F.R. § 192.511 (c) - Failure on one occasion of the Company to pressure test each segment of a gas service line.
- (i) 49 C.F.R. § 192.605 (a) - Failure on multiple occasions of the Company to follow Gas Standard 1708.100, Section 2, developed to comply with 49 C.F.R. § 192.617, by incorrectly reporting the leak cause on company distribution plant inspection and leak repair records.
- (j) 49 C.F.R. § 192.605 (a) - Failure on four occasions of the Company to follow Operating and Maintenance Plan 1652, Section 2.2, developed to comply with 49 C.F.R. § 192.617, by not conducting a failure investigation to determine the root cause of the leaks.
- (k) 49 C.F.R. § 192.605 (a) - Failure on two occasions of the Company to follow Gas Standard 1680.040, Squeeze Off Procedure for Plastic Pipe, by not locating the squeeze off tool at the minimum required distance from a fusion.
- (l) 49 C.F.R. § 192.605 (a) - Failure on one occasion of the Company to follow Policy and Procedure Reference No. 651-6 and 640-1, developed to comply with 49 C.F.R. § 192.713 (a) (1), by not examining an exposed pipeline and taking the proper corrective actions by not repairing or replacing a section of steel pipe that had been gouged.
- (m) 49 C.F.R. § 192.605 (a) - Failure on one occasion of the Company to follow Operating and Maintenance Plan 1650, developed to comply with 49 C.F.R. § 192.613 (a), by not noting an unusual operating and maintenance condition by having a regulator vent located at a place where gas from the vent can escape freely into the atmosphere and away from any opening into the building.
- (n) 49 C.F.R. § 192.614 (a) - Failure on two occasions of the Company to follow Operating and Maintenance Plan 1100, Section 3.2, Marking Underground Pipelines, developed to comply with 49 C.F.R. § 192.614 (c) (5), by failing to provide temporary marking of a buried pipeline.

The Company neither admits nor denies these allegations but admits to the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters arising from the allegations made against it, the Company represents and undertakes that:

(1) The Company shall pay to the Commonwealth of Virginia the amount of One Hundred Seventy-seven Thousand Dollars (\$177,000), of which Ninety-nine Thousand Nine Hundred Dollars (\$99,900) shall be paid contemporaneously with the entry of this Order. The remaining Seventy-seven Thousand One Hundred Dollars (\$77,100) shall be due as outlined in Undertaking Paragraph (4) herein, and may be suspended and subsequently vacated in whole or in part by the Commission, provided the Company timely takes the actions required in Undertaking Paragraphs (2) and (3) herein and tenders the requisite certification as required by Undertaking Paragraph (3) herein. The initial payment and any subsequent payments shall be made by check, payable to the Treasurer of Virginia, and directed to the attention of the Director, Division of Utility and Railroad Safety, State Corporation Commission.

(2) The Company shall undertake the following remedial actions:

(a) Within ninety (90) days from the issuance of this Order, CGV shall establish procedures for the annual inspection of the in-line gas heaters at each of its pressure regulating stations. This inspection shall include, at a minimum, an examination of the rating of the heater's pressure vessel to ensure it is appropriate for the operating conditions, including temperature and pressure ratings, and that the fuel gas supply for the heater is adequately designed for its maximum allowable operating pressures and protected from over-pressuring, and the discharge from the vent stack is oriented away from any combustible items. In addition, operator qualification modules, in compliance with Subpart N of 49 C.F.R. § 192, shall be prepared and used to evaluate those Company personnel performing the annual inspections. These inspections shall occur, at a minimum, every calendar year, at intervals not exceeding fifteen (15) months.

(b) Within six (6) months from the issuance of this Order, CGV shall take over the operation of at least one master meter facility.

(c) On or before January 31, 2013, CGV shall complete a pilot project ("Project") to evaluate an automated platform capturing high quality, detailed and accurate facility information. The Project shall use real-time global positioning systems (GPS) combined with geographic information system (GIS) software and barcode scanning to automate the data collection on the Company's City Park construction project planned in Portsmouth, Virginia. The capture and use of this data is to help enhance the Company's construction, operating and maintenance, and integrity management programs.

A quality assurance/quality control and performance analysis of the platform shall be conducted to gauge the overall success of the Project and identify any deployment issues. On or before February 28, 2013, CGV shall prepare a report of its findings from the Project and provide it to the Division.

(3) On or before April 30, 2013, CGV shall tender to the Clerk of the Commission, with a copy to the Director of the Division, a notarized affidavit signed by the Vice President – Pipeline Safety and Compliance of the Company certifying that the Company has completed the remedial actions described in Undertaking Paragraphs (2)(b) and (2)(c) above.

(4) Upon timely receipt of the affidavit required by Undertaking Paragraph (3) above, the Commission may suspend and subsequently vacate up to Seventy-seven Thousand One Hundred Dollars (\$77,100) of the remaining amount set forth in Undertaking Paragraph (1) above. Should CGV fail to tender said affidavit, or fail to take the actions required by Undertaking Paragraph (2) above, a payment of Seventy-seven Thousand One Hundred Dollars (\$77,100) shall become due and payable, and the Company shall immediately notify the Division of the reasons for CGV's failure to accomplish the actions required by Undertaking Paragraphs (2) and (3) above. If, upon investigation, the Division determines that the reason for said failure justifies a payment lower than Seventy-seven Thousand One Hundred Dollars (\$77,100), it may recommend to the Commission a reduction in the amount due. The Commission shall determine the amount due and, upon such determination, the Company shall immediately tender to the Commission said amount.

(5) Any amounts paid in accordance with this Order shall not be recovered in the Company's rates. Any such amounts shall be booked in Uniform System of Account No. 426.3. The Company shall verify its booking by filing a copy of the trial balance showing this entry with the Commission's Division of Utility Accounting and Finance.

NOW THE COMMISSION, finding sufficient basis herein for the entry of this Order and in reliance on the Defendant's representations and undertakings set forth above, is of the opinion and finds that the offer of compromise and settlement set forth above should be accepted.

Accordingly, IT IS ORDERED THAT:

(1) The captioned case shall be docketed and assigned Case No. URS-2012-00235.

(2) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of compromise and settlement made by Columbia Gas of Virginia, Inc., is accepted.

(3) Pursuant to § 56-257.2 B of the Code of Virginia, Columbia Gas of Virginia, Inc., shall pay the amount of One Hundred Seventy-seven Thousand Dollars (\$177,000).

(4) The sum of Ninety-nine Thousand Nine Hundred Dollars (\$99,900) tendered contemporaneously with the entry of this Order is accepted. The remaining Seventy-seven Thousand One Hundred Dollars (\$77,100) is due as outlined herein and may be suspended and subsequently vacated, in whole or in part, provided the Company timely undertakes the actions required in Undertaking Paragraph (2) above and tenders the requisite certification of the remedial actions required by Undertaking Paragraph (3) above.

(5) The Commission shall retain jurisdiction over this matter for all purposes, and this case shall be continued pending further order of the Commission.

**CASE NO. URS-2012-00236
OCTOBER 19, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

VIRGINIA NATURAL GAS, INC.
Defendant

ORDER OF SETTLEMENT

The federal pipeline safety statutes found at 49 U.S.C. § 60101 *et seq.*, formerly the Natural Gas Pipeline Safety Act, require the Secretary of Transportation ("Secretary") to establish minimum federal safety standards for the transportation of gas and pipeline facilities. The Secretary is further authorized to delegate to an appropriate state agency the authority to prescribe safety standards and enforce compliance with such standards over gas pipeline facilities used for intrastate transportation.

The State Corporation Commission ("Commission") has been designated as the appropriate state agency for the Commonwealth of Virginia to prescribe and enforce compliance with standards for gas pipeline facilities used for intrastate transportation. In Case No. PUE-1989-00052, the Commission adopted Parts 191, 192, 193, and 199 of Title 49 of the Code of Federal Regulations to serve as minimum gas pipeline safety standards ("Safety Standards") in Virginia.¹ The Commission is authorized to enforce the Safety Standards for natural gas facilities under § 56-257.2 B of the Code of Virginia, which allows the Commission to impose the fines and penalties authorized therein.

¹ *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte, In the matter of adopting gas pipeline safety standards and reporting procedures for public service corporations providing gas service under Commission jurisdiction through transmission and distribution facilities located and operated within the Commonwealth of Virginia and granting other authorizations pertaining to the Gas Pipeline Safety Program, Case No. PUE-1989-00052, 1989 S.C.C. Ann. Rept. 312, Order Vacating Previous Order and Adopting Standard Regulations and Procedures Pertaining to Gas Pipeline Safety in Virginia (July 6, 1989).*

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Commission's Division of Utility and Railroad Safety ("Division") is charged with the investigation of each jurisdictional gas company's compliance with the Safety Standards; has conducted various inspections of records, construction, operation and maintenance activities involving Virginia Natural Gas, Inc. ("VNG" or "Company"), the Defendant; and alleges that:

- (1) VNG is a person within the meaning of § 56-257.2 B of the Code of Virginia.
- (2) The Company violated the Commission's Safety Standards by the following conduct:
 - (a) 49 C.F.R. § 192.11 (a) - Failure on one occasion of the Company to have a procedure that includes actions to be taken when vaporizer limits are exceeded, as stated in NFPA 59, 11.1.5, 2004 Edition.
 - (b) 49 C.F.R. § 192.11 (a) - Failure on one occasion of the Company to annually train all persons engaged in emergency procedures and the use of emergency equipment as stated in NFPA 59, 13.1.5, 2004 Edition.
 - (c) 49 C.F.R. § 192.225 (a) - Failure on one occasion of the Company to have a welding procedure that meets the requirements of Subpart E and API 1104 Section 5.4.
 - (d) 49 C.F.R. § 192.273 (b) - Failure on one occasion of the Company to follow Construction and Maintenance Manual, Division II, Section 10.3.3 (c) by not marking the appropriate stab length on the pipe prior to mechanically joining the pipe.
 - (e) 49 C.F.R. § 192.273 (b) - Failure on one occasion of the Company to make a joint in accordance with written procedures that have been proven by test or experience to produce a strong gastight joint.
 - (f) 49 C.F.R. § 192.273 (b) - Failure on one occasion of the Company to make an electrofusion as stated in Operations Procedure Manual, Division IV, Section 6.5.2, by not properly cleaning the end of the pipe.
 - (g) 49 C.F.R. § 192.327 (b) - Failure on one occasion of the Company to install a distribution main with at least twenty-four inches of cover.
 - (h) 49 C.F.R. § 192.353 (a) - Failure on one occasion of the Company to protect a meter and service regulator from anticipated vehicular damage.
 - (i) 49 C.F.R. § 192.355 (b) (2) - Failure on one occasion of the Company to install a service regulator so that it is placed where gas from the vent can escape freely into the atmosphere and away from any opening into the building.
 - (j) 49 C.F.R. § 192.479 (c) - Failure on one occasion of the Company to clean and either coat or jacket with a material suitable for the prevention of atmospheric corrosion.
 - (k) 49 C.F.R. § 192.605 (a) - Failure on one occasion of the Company to follow Operations Procedure Manual, Division II, Section 15, page 4, by not performing odorant concentration checks at or near the end of the system.
 - (l) 49 C.F.R. § 192.605 (a) - Failure on one occasion of the Company to follow Operations Procedure Manual, Division II, Section 4, developed to comply with 49 C.F.R. § 192.615 (a), by not checking for a concentration of gas in a building during a leak investigation.
 - (m) 49 C.F.R. § 192.605 (a) - Failure on two occasions of the Company to follow Operations Procedure Manual, Division II, Section 7.1, Investigation of Failures, developed to comply with 49 C.F.R. § 192.617, by not determining the cause of the failure and minimizing the possibility of a recurrence.
 - (n) 49 C.F.R. § 192.605 (b) - Failure on one occasion of the Company to have adequate procedures for the purging and tapping of gas pipelines under pressure.
 - (o) 49 C.F.R. § 192.614 (a) - Failure on two occasions of the Company to follow Operations Procedure Manual, Division II, Section 3.2, Damage Prevention, developed to comply with 49 C.F.R. § 192.614 (c) (6) (i), by not inspecting a pipeline as frequently as necessary during and after excavation activities to verify the integrity of the pipeline.

The Company neither admits nor denies these allegations but admits to the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters arising from the allegations made against it, the Company represents and undertakes that:

(1) The Company shall pay to the Commonwealth of Virginia the amount of One Hundred Thirty-three Thousand Six Hundred Twenty-five Dollars (\$133,625) of which Ninety-five Thousand Six Hundred Twenty-five Dollars (\$95,625) shall be paid contemporaneously with the entry of this Order. The remaining Thirty-eight Thousand Dollars (\$38,000) shall be due as outlined in Undertaking Paragraph (4) herein, and may be suspended and subsequently vacated, in whole or in part, by the Commission provided the Company timely takes the actions required in Undertaking Paragraph (2) herein and tenders the requisite certification as required by Undertaking Paragraph (3) herein. The initial payment and any subsequent payments shall be made by check, payable to the Treasurer of Virginia, and directed to the attention of the Director, Division of Utility and Railroad Safety, State Corporation Commission.

(2) The Company shall undertake the following remedial actions:

(a) By no later than March 31, 2013, the Company shall purchase and begin to use ten (10) combustible gas indicators (CGIs) with global positioning systems (GPS) in a pilot project to determine the effectiveness in providing detailed and accurate data for use in the Company's risk model and integrity management program. The pilot is aimed at enhancing leak and incident investigation data collection by using GPS technology to reduce

documentation time and to more accurately record the location of leak tests conducted. VNG shall establish operator qualification (OQ) modules for the use of these CGIs and incorporate their use in operations as part of this pilot. The Company shall prepare a report of its findings and provide a copy to the Division by October 1, 2013.

(b) Within ninety (90) days from the issuance of this Order, the Company shall use its network model analysis to determine the areas with the lowest flow rates in its distribution system. Subsequent to the determination of these areas, VNG shall begin periodic sampling of the odorant in compliance with 49 C.F.R. § 192.625 in each of these areas to ensure that the proper levels of odorant are maintained throughout its system. The Company shall also begin periodic sampling in compliance with 49 C.F.R. § 192.625 of the end points of its distribution system to ensure that the proper levels of odorant are maintained throughout its system.

(3) On or before April 15, 2013, VNG shall tender to the Clerk of the Commission with a copy to the Director of the Division, a notarized affidavit signed by the President of the Company certifying that the Company has completed all of the remedial actions described in Undertaking Paragraph (2) above, within the exception of the report due October 1, 2013.

(4) Upon timely receipt of the affidavit required by Undertaking Paragraph (3) above and the report required by Undertaking Paragraph (2)(a) above, the Commission may suspend and subsequently vacate up to Thirty-eight Thousand Dollars (\$38,000) of the remaining amount set forth in Undertaking Paragraph (1) above. Should VNG fail to tender said affidavit, or fail to take the actions required by Undertaking Paragraphs (2) above, a payment of Thirty-eight Thousand Dollars (\$38,000) shall become due and payable, and the Company shall immediately notify the Division of the reasons for VNG's failure to accomplish the actions required by Undertaking Paragraphs (2) and (3). If, upon investigation, the Division determines that the reason for said failure justifies a payment lower than Thirty-eight Thousand Dollars (\$38,000), it may recommend to the Commission a reduction in the amount due. The Commission shall determine the amount due and, upon such determination, the Company shall immediately tender to the Commission said amount.

(5) Any amounts paid in accordance with this Order shall not be recovered in the Company's rates. Any such amounts shall be booked in Uniform System of Account No. 426.3. The Company shall verify its booking by filing a copy of the trial balance showing this entry with the Commission's Division of Utility Accounting and Finance.

NOW THE COMMISSION, finding sufficient basis herein for the entry of this Order and in reliance on the Defendant's representations and undertakings set forth above, is of the opinion and finds that the offer of compromise and settlement set forth above should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The captioned case shall be docketed and assigned Case No. URS-2012-00236.
- (2) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of compromise and settlement made by Virginia Natural Gas, Inc., be, and it hereby is, accepted.
- (3) Pursuant to § 56-257.2 B of the Code of Virginia, Virginia Natural Gas, Inc. shall pay the amount of One Hundred Thirty-three Thousand Six Hundred Twenty-five Dollars (\$133,625).
- (4) The sum of Ninety-five Thousand Six Hundred Twenty-five Dollars (\$95,625) tendered contemporaneously with the entry of this Order is accepted. The remaining Thirty-eight Thousand Dollars (\$38,000) is due as outlined herein and may be suspended and subsequently vacated, in whole or in part, provided the Company timely undertakes the actions required in Undertaking Paragraph (2) above and tenders the requisite certification of the remedial actions required by Undertaking Paragraph (3) above.

**CASE NO. URS-2012-00237
AUGUST 21, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
ROANOKE GAS COMPANY,
Defendant

ORDER OF SETTLEMENT

The federal pipeline safety statutes found at 49 U.S.C. § 60101 *et seq.*, formerly the Natural Gas Pipeline Safety Act, require the Secretary of Transportation ("Secretary") to establish minimum federal safety standards for the transportation of gas and pipeline facilities. The Secretary is further authorized to delegate to an appropriate state agency the authority to prescribe safety standards and enforce compliance with such standards over gas pipeline facilities used for intrastate transportation.

The State Corporation Commission ("Commission") has been designated as the appropriate state agency for the Commonwealth of Virginia to prescribe and enforce compliance with standards for gas pipeline facilities used for intrastate transportation. In Case No. PUE-1989-00052, the Commission adopted Parts 191, 192, 193, and 199 of Title 49 of the Code of Federal Regulations to serve as minimum gas pipeline safety standards ("Safety Standards")

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

in Virginia.¹ The Commission is authorized to enforce the Safety Standards for natural gas facilities under § 56-257.2 B of the Code of Virginia, which allows the Commission to impose the fines and penalties authorized therein.

The Commission's Division of Utility and Railroad Safety ("Division") is charged with the investigation of each jurisdictional gas company's compliance with the Safety Standards, has conducted various inspections of records, construction, operation and maintenance activities involving Roanoke Gas Company ("RGC" or "Company"), the Defendant, and alleges that:

- (1) RGC is a person within the meaning of § 56-257.2 B of the Code of Virginia.
- (2) The Company violated the Commission's Safety Standards by the following conduct:
 - (a) 49 C.F.R. § 192.199 (e) - Failure on one occasion of the Company to install a relief valve so that it will have discharge stacks, vents, or outlet ports located where gas can be discharged into the atmosphere without undue hazard.
 - (b) 49 C.F.R. § 192.241 (b) - Failure on two occasions of the Company to nondestructively test the welds on a pipeline to be operated at a pressure that produces a hoop stress of 20% or more of specified minimum yield strength.
 - (c) 49 C.F.R. § 192.479 (a) - Failure on one occasion of the Company to clean and coat a pipeline that is exposed to the atmosphere with a material that is suitable for the prevention of atmospheric corrosion.

The Company neither admits nor denies these allegations but admits to the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters arising from the allegations made against it, the Company represents and undertakes that:

(1) The Company shall pay to the Commonwealth of Virginia the amount of Thirty-five Thousand Five Hundred Dollars (\$35,500), of which Seven Thousand Dollars (\$7,000) shall be paid contemporaneously with the entry of this Order. The remaining Twenty-eight Thousand Five Hundred Dollars (\$28,500) shall be due as outlined in Undertaking Paragraph (6) herein, and may be suspended and subsequently vacated, in whole or in part, by the Commission provided the Company timely takes the actions required by Undertaking Paragraphs (2) and (3) herein and tenders the requisite certifications as required by Undertaking Paragraphs (4) and (5) herein. The initial payment and any subsequent payments shall be made by check payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety, State Corporation Commission, Post Office Box 1197, Richmond, Virginia 23218-1197.

(2) The Company will inspect all relief valve installations in its system to ensure compliance with 49 C.F.R. § 192.199 (e) and promptly correct any deficiencies noted. The inspections and corrective actions shall be completed no later than September 1, 2013.

(3) The Company will use high accuracy global positioning system (GPS) and tablet technologies to locate accurately the Company's critical valves and corrosion protection stations and incorporate this information in a new mapping geographic information system (GIS). The Company will procure the necessary hardware, software, and other resources to complete this project no later than March 1, 2014.

(4) On or before September 15, 2013, RGC shall tender to the Clerk of the Commission, with a copy to the Division, an affidavit, executed by the President of RGC, certifying that the Company has completed the remedial actions set forth in Undertaking Paragraph (2) above.

(5) On or before March 15, 2014, RGC shall tender to the Clerk of the Commission, with a copy to the Division, an affidavit, executed by the President of RGC, certifying that the Company has completed the remedial actions set forth in Undertaking Paragraph (3) above.

(6) Upon timely receipt of the affidavits required by Undertaking Paragraphs (4) and (5) above, the Commission may suspend and subsequently vacate up to Twenty-eight Thousand Five Hundred Dollars (\$28,500) of the amount set forth in Undertaking Paragraph (1) above. Should RGC fail to tender the affidavits required by Undertaking Paragraphs (4) and (5) above, or fail to take the actions required by Undertaking Paragraphs (2) and (3) above, a payment of Twenty-eight Thousand Five Hundred Dollars (\$28,500) shall become due and payable, and the Company shall immediately notify the Division of the reasons for RGC's failure to accomplish the actions required by Undertaking Paragraphs (2) and (3) above. If, upon investigation, the Division determines that the reason for said failure justifies a payment lower than Twenty-eight Thousand Five Hundred Dollars (\$28,500), it may recommend to the Commission a reduction in the amount due. The Commission shall determine the amount due and, upon such determination, the Company shall immediately tender to the Commission said amount.

(7) Any amounts paid in accordance with this Order shall not be recovered in the Company's rates. Any such amounts shall be booked in Uniform System of Account No. 426.3. The Company shall verify its booking by filing a copy of the trial balance showing this entry with the Commission's Division of Utility Accounting and Finance.

NOW THE COMMISSION, finding sufficient basis herein for the entry of this Order and in reliance on the Division's representations and undertakings set forth above, is of the opinion and finds that the offer of compromise and settlement set forth above should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The captioned case shall be docketed and assigned Case No. URS-2012-00237.

¹ *Commonwealth of Virginia ex rel. State Corporation Commission, Ex Parte, In the matter of adopting gas pipeline safety standards and reporting procedures for public service corporations providing gas service under Commission jurisdiction through transmission and distribution facilities located and operated within the Commonwealth of Virginia and granting other authorizations pertaining to the Gas Pipeline Safety Program, Case No. PUE-1989-00052, 1989 S.C.C. Ann. Rept. 312, Order Vacating Previous Order and Adopting Standard Regulations and Procedures Pertaining to Gas Pipeline Safety in Virginia (July 6, 1989).*

(2) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of compromise and settlement made by Roanoke Gas Company be, and it hereby is, accepted.

(3) Pursuant to § 56-257.2 B of the Code of Virginia, Roanoke Gas Company shall pay the amount of Thirty-five Thousand Five Hundred Dollars (\$35,500), part of which may be suspended and subsequently vacated as provided in Undertaking Paragraph (1) of this Order.

(4) The sum of Seven Thousand Dollars (\$7,000) tendered contemporaneously with the entry of this Order is accepted. The remaining Twenty-eight Thousand Five Hundred Dollars (\$28,500) is due as outlined herein and may be suspended and subsequently vacated, in whole or in part, provided the Company timely undertakes the actions required in Undertaking Paragraphs (2) and (3) of this Order and tenders the requisite certifications of the remedial actions as required by Undertaking Paragraphs (4) and (5) of this Order.

(5) The Commission shall retain jurisdiction over this matter for all purposes, and this case is continued pending further order of the Commission.

**CASE NO. URS-2012-00271
AUGUST 6, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

WASHINGTON GAS LIGHT COMPANY,
Defendant

ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, § 56-265.14 *et seq.* of the Code. The Commission's Division of Utility and Railroad Safety ("Division"), after having conducted an investigation of this matter, alleges that:

(1) On or about March 27, 2012, Kalos Construction Company, Inc., damaged a one-half-inch copper gas service line operated by Washington Gas Light Company ("Company"), located at or near 1636 North Oak Street, Arlington County, Virginia, while excavating.

(2) On or about March 27, 2012, Arlington County damaged a one-half-inch plastic gas service line operated by the Company, located at or near 914 North Barton Street, Arlington County, Virginia, while excavating.

(3) On or about April 3, 2012, J. G. Miller, Inc., damaged a two-inch plastic gas service line operated by the Company, located at or near 909 South Dinwiddie Street, Arlington County, Virginia, while excavating.

(4) On the occasions set out in paragraphs (1) through (3) above, the Company failed to mark the underground utility lines by no later than 7:00 a.m. on the third working day following the excavator's notice to the notification center, in violation of § 56-265.19 A of the Code.

(5) On or about April 24, 2012, First Choice Communications Service damaged a one-quarter-inch plastic gas service line operated by the Company, located at or near 13705 Greenbriar Drive, Prince William County, Virginia, while excavating.

(6) On the occasion set out in paragraph (5) above, the Company failed to mark the approximate horizontal location of the underground utility line on the ground to within two feet of either side of the underground utility line, in violation of § 56-265.19 A of the Code.

(7) On the occasion set out in paragraph (5) above, the Company failed to prepare and maintain reasonably accurate installation records of the underground utility lines, in violation of 20 VAC 5-309-160 of the Commission's Rules for Enforcement of the Underground Utility Damage Prevention Act, 20 VAC 5-309-10 *et seq.*

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters before the Commission arising from the Division's allegations made herein, the Company represents and undertakes that:

(1) The Company will pay a civil penalty to the Commonwealth of Virginia in the amount of Five Thousand Two Hundred Dollars (\$5,200) to be paid contemporaneously with the entry of this Order. This payment will be made by check payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

(2) Any amounts paid in accordance with this Order shall not be recovered in the Company's rates as part of the cost of service. Any such amounts shall be booked in Uniform System of Account No. 426.3. The Company shall verify its booking by filing a copy of the journal entries made to record such amounts with the Commission's Division of Utility Accounting and Finance.

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.
- (2) The sum of Five Thousand Two Hundred Dollars (\$5,200) tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2012-00272
OCTOBER 26, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
UTILIQUEST, LLC,
Defendant

ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, § 56-265.14 *et seq.* of the Code. The Commission's Division of Utility and Railroad Safety ("Division"), after having conducted an investigation of this matter, alleges that:

- (1) Utiliquest, LLC ("Company"), is a contract locator as that term is defined in § 56-265.15 of the Code and, as a contract locator acting on behalf of an operator, if the Company fails to perform the duties imposed by Chapter 10.3 of Title 56 of the Code, it is subject to the civil penalties set out in § 56-265.32 of the Code pursuant to § 56-265.19 D of the Code.
- (2) On or about April 2, 2012, Arlington County damaged a three-quarter-inch steel gas service line operated by Washington Gas Light Company ("WGL"), located at or near 3721 North 30th Street, Arlington County, Virginia, while excavating.
- (3) On or about April 5, 2012, Arlington County damaged a one-and-one-half-inch steel gas service line operated by WGL, located at or near 2806 24th Road South, Fairfax County, Virginia, while excavating.
- (4) On or about April 5, 2012, Ross Tree Service, Ltd., damaged a one-quarter-inch plastic gas service line operated by WGL, located at or near 2411 Drexel Street, Prince William County, Virginia, while excavating.
- (5) On or about April 17, 2012, Global Service & Systems, Inc., damaged a three-quarter-inch plastic gas service line operated by WGL, located at or near 10103 Quayle Court, Prince William County, Virginia, while excavating.
- (6) On or about April 20, 2012, All In One Communications damaged a four-inch steel gas main line operated by WGL, located at or near 3915 Keith Avenue, Fairfax County, Virginia, while excavating.
- (7) On or about April 24, 2012, Woodbridge Plumbing, Inc., damaged a one-and-one-quarter-inch plastic gas main line operated by WGL, located at or near 3515 Buffalo Court, Prince William County, Virginia, while excavating.
- (8) On the occasions set out in paragraphs (2) through (7) above, the Company failed to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of § 56-265.19 A of the Code.
- (9) On or about April 5, 2012, WCC Cable, Inc., damaged a one-quarter-inch plastic gas service line operated by WGL, located at or near 1920 Hull Road, Fairfax County, Virginia, while excavating.
- (10) On or about April 16, 2012, Little Rock Excavating, Inc., damaged a two-inch plastic gas service stub operated by WGL, located at or near 5404 Hoadly Road, Prince William County, Virginia, while excavating.
- (11) On the occasions set out in paragraphs (9) and (10) above, the Company failed to mark the underground utility lines by no later than 7 a.m. on the third working day following the excavator's notice to the notification center, in violation of § 56-265.19 A of the Code.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As a proposal to settle all matters before the Commission arising from the Division's allegations herein, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of Five Thousand Three Hundred Fifty Dollars (\$5,350) to be paid contemporaneously with the entry of this Order. The payment will be made by check payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.
- (2) The sum of Five Thousand Three Hundred Fifty Dollars (\$5,350) tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is hereby dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2012-00273
AUGUST 28, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
COLUMBIA GAS OF VIRGINIA, INC.,
Defendant

ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, § 56-265.14 *et seq.* of the Code. The Commission's Division of Utility and Railroad Safety ("Division"), after having conducted an investigation of this matter, alleges that:

- (1) On or about February 22, 2012, the City of Petersburg damaged a one-half-inch plastic gas service line operated by Columbia Gas of Virginia, Inc. ("Company"), located at or near 1230 Hawk Street, Petersburg, Virginia, while excavating.
- (2) On or about March 13, 2012, the City of Colonial Heights damaged a two-inch plastic gas main line operated by the Company, located at or near 212 Pinecliffe Drive, Colonial Heights, Virginia, while excavating.
- (3) On or about April 13, 2012, Chesterfield County Public Works Utilities damaged a two-inch plastic gas main line operated by the Company, located at or near 10425 Hollyberry Drive, Chesterfield County, Virginia, while excavating.
- (4) On or about April 16, 2012, Piedmont Construction Co., Incorporated, damaged a one-inch plastic gas service line operated by the Company, located at or near Hill Point Road and Hill Point Court, Goochland County, Virginia, while excavating.
- (5) On or about April 28, 2012, Earl Sealey, Owner, damaged a one-inch plastic gas service line operated by the Company, located at or near 3509 Vinton Street, Hopewell, Virginia, while excavating.
- (6) On the occasions set out in paragraphs (1) through (5) above, the Company failed to mark the underground utility lines by no later than 7:00 a.m. on the third working day following the excavator's notice to the notification center, in violation of § 56-265.19 A of the Code.
- (7) On or about March 28, 2012, Pughs Contracting damaged a one-half-inch plastic gas service line operated by the Company, located at or near 806 Biltmore Avenue, Lynchburg, Virginia, while excavating.
- (8) On or about April 3, 2012, the City of Portsmouth damaged a two-inch plastic gas main line operated by the Company, located at or near 111 Sykes Avenue, Portsmouth, Virginia, while excavating.
- (9) On or about April 10, 2012, RER Underground LLC damaged a one-half-inch plastic gas service line operated by the Company, located at or near 19 Dekalb Avenue, Portsmouth, Virginia, while excavating.
- (10) On or about April 15, 2012, Arizon Lawncare and Construction damaged a one-half-inch plastic gas service line operated by the Company, located at or near 13101 Lady Ashley Road, Chesterfield County, Virginia, while excavating.
- (11) On the occasions set out in paragraphs (7) through (10) above, the Company failed to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of § 56-265.19 A of the Code.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters before the Commission arising from the Division's allegations made herein, the Company represents and undertakes that:

- (1) The Company will pay a civil penalty to the Commonwealth of Virginia in the amount of Eight Thousand Seven Hundred Dollars (\$8,700) to be paid contemporaneously with the entry of this Order. This payment will be made by check payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

(2) Any amounts paid in accordance with this Order shall not be recovered in the Company's rates as part of the cost of service. Any such amounts shall be booked in Uniform System of Account No. 426.3. The Company shall verify its booking by filing a copy of the journal entries made to record such amounts with the Commission's Division of Utility Accounting and Finance.

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.
- (2) The sum of Eight Thousand Seven Hundred Dollars (\$8,700) tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2012-00277
SEPTEMBER 25, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
PIVOTAL PROPANE OF VIRGINIA, INC.,
Defendant

ORDER OF SETTLEMENT

The federal pipeline safety statutes found at 49 U.S.C. § 60101 *et seq.*, formerly the Natural Gas Pipeline Safety Act, require the Secretary of Transportation ("Secretary") to establish minimum federal safety standards for the transportation of gas and pipeline facilities. The Secretary is further authorized to delegate to an appropriate state agency the authority to prescribe safety standards and enforce compliance with such standards over gas pipeline facilities used for intrastate transportation.

The State Corporation Commission ("Commission") has been designated as the appropriate state agency for the Commonwealth of Virginia to prescribe and enforce compliance with standards for gas pipeline facilities used for intrastate transportation. In Case No. PUE-1989-00052, the Commission adopted Parts 191, 192, 193, and 199 of Title 49 of the Code of Federal Regulations to serve as minimum gas pipeline safety standards ("Safety Standards") in Virginia.¹ The Commission is authorized to enforce the Safety Standards for natural gas facilities under § 56-257.2 B of the Code of Virginia, which allows the Commission to impose the fines and penalties authorized therein.

The Commission's Division of Utility and Railroad Safety is charged with the investigation of each jurisdictional gas company's compliance with the Safety Standards, has conducted an inspection of records, operation and maintenance activities involving Pivotal Propane of Virginia, Inc. ("Pivotal" or "Company"), the Defendant, and alleges that:

- (1) Pivotal is a person within the meaning of § 56-257.2 B of the Code of Virginia.
- (2) The Company violated the Commission's Safety Standards by the following conduct:
 - (a) 49 C.F.R. § 192.11 (a) - Failure on one occasion of the Company to review and update transfer procedures for propane air as stated in NFPA 59, 11.2.1.4, 2004 Edition.
 - (b) 49 C.F.R. § 192.11 (a) - Failure on one occasion of the Company to review and update the Emergency Manual for propane air as stated in NFPA 59, 13.1.2 (c), 2004 Edition.
 - (c) 49 C.F.R. § 192.805 (b) - Failure on one occasion of the Company to follow a written qualification program to ensure through evaluation that individuals performing covered tasks are qualified.

The Company neither admits nor denies these allegations but admits to the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters arising from the allegations made against it, the Company represents and undertakes that:

- (1) The Company shall pay to the Commonwealth of Virginia the amount of Eight Thousand Dollars (\$8,000) contemporaneously with the entry of this Order. The payment will be made by cashier's check or money order payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety, State Corporation Commission, Post Office Box 1197, Richmond, Virginia, 23218-1197.

¹ *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte, In the matter of adopting gas pipeline safety standards and reporting procedures for public service corporations providing gas service under Commission jurisdiction through transmission and distribution facilities located and operated within the Commonwealth of Virginia and granting other authorizations pertaining to the Gas Pipeline Safety Program, Case No. PUE-1989-00052, 1989 S.C.C. Ann. Rept. 312, Order Vacating Previous Order and Adopting Standard Regulations and Procedures Pertaining to Gas Pipeline Safety in Virginia (July 6, 1989).*

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(2) Any amounts paid in accordance with this Order shall not be recovered in the Company's rates, charges, or fees to Virginia Natural Gas, Inc. The Company shall provide a copy of the journal entries recording the amounts paid to the Commission's Division of Utility Accounting and Finance.

NOW THE COMMISSION, finding sufficient basis herein for the entry of this Order and in reliance on the Defendant's representations and undertakings set forth above, is of the opinion and finds that the offer of compromise and settlement set forth above should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The captioned case shall be docketed and assigned Case No. URS-2012-00277.
- (2) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of compromise and settlement made by Pivotal Propane of Virginia, Inc., be, and it hereby is, accepted.
- (3) Pursuant to § 56-257.2 B of the Code of Virginia, Pivotal Propane of Virginia, Inc., shall pay the amount of Eight Thousand Dollars (\$8,000).
- (4) The sum of Eight Thousand Dollars (\$8,000) tendered contemporaneously with the entry of this Order is accepted.
- (5) This case is hereby dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2012-00278
SEPTEMBER 27, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
S&N LOCATING SERVICES, LLC,
Defendant

ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, § 56-265.14 *et seq.* of the Code. The Commission's Division of Utility and Railroad Safety ("Division"), after having conducted an investigation of this matter, alleges that:

(1) S&N Locating Services, LLC ("Company"), is a contract locator as that term is defined in § 56-265.15 of the Code, and as a contract locator acting on behalf of an operator, if the Company fails to perform the duties imposed by Chapter 10.3 of Title 56 of the Code, it is subject to the civil penalties set out in § 56-265.32 of the Code pursuant to § 56-265.19 D of the Code.

(2) On or about April 4, 2012, Precon Construction Company damaged a one-and-one-quarter-inch steel gas service line operated by Virginia Natural Gas, Inc., located at or near 2501 Fawn Street, Norfolk, Virginia, while excavating.

(3) On or about April 10, 2012, Suburban Grading & Utilities, Inc., damaged a one-half-inch plastic gas service line operated by Virginia Natural Gas, Inc., located at or near 9264 First View Street, Norfolk, Virginia, while excavating.

(4) On or about April 24, 2012, Innerview, Ltd., damaged a two-inch plastic gas main line operated by Virginia Natural Gas, Inc., located at or near 280 Lucille Avenue, Norfolk, Virginia, while excavating.

(5) On or about May 24, 2012, RTC Broadband damaged a two-inch steel gas service line operated by Virginia Natural Gas, Inc., located at or near 900 North Main Street, Suffolk, Virginia, while excavating.

(6) On or about May 25, 2012, Peters and White Construction Company damaged a one-half-inch plastic gas service line operated by Virginia Natural Gas, Inc., located at or near 2303 Saint Denis Avenue, Norfolk, Virginia, while excavating.

(7) On the occasions set out in paragraphs (2) through (6) above, the Company failed to mark the underground utility lines by no later than 7:00 a.m. on the third working day following the excavator's notice to the notification center, in violation of § 56-265.19 A of the Code.

(8) On or about May 24, 2012, WB&E Construction, Inc., damaged a two-inch plastic gas main line operated by Virginia Natural Gas, Inc., located at or near 146 Battlefield Boulevard, Chesapeake, Virginia, while excavating.

(9) On or about April 16, 2012, R&P Lucas Underground Utilities, Inc., damaged a three-quarter-inch plastic gas service line operated by Virginia Natural Gas, Inc., located at or near 788 West 49th Street, Norfolk, Virginia, while excavating.

(10) On the occasions set out in paragraphs (8) and (9) above, the Company failed to mark the approximate horizontal locations of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of § 56-265.19 A of the Code.

(11) On the occasion set out in paragraph (9) above, the Company failed to use all information necessary to mark facilities accurately, in violation of 20 VAC 5-309-110 M of the Commission's Rules for Enforcement of the Underground Utility Damage Prevention Act, 20 VAC 5-309-10 *et seq.*

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

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As a proposal to settle all matters before the Commission arising from the Division's allegations herein, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of Eight Thousand Five Hundred Dollars (\$8,500) to be paid contemporaneously with the entry of this Order. The payment will be made by cashier's check or money order payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.
- (2) The sum of Eight Thousand Five Hundred Dollars (\$8,500) tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is hereby dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2012-00280
SEPTEMBER 17, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
PROMARK UTILITY LOCATORS, INC.,
Defendant

ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, § 56-265.14 *et seq.* of the Code. The Commission's Division of Utility and Railroad Safety ("Division"), after having conducted an investigation of this matter, alleges that:

(1) Promark Utility Locators, Inc. ("Company"), is a contract locator as that term is defined in § 56-265.15 of the Code, and as a contract locator acting on behalf of an operator, if the Company fails to perform the duties imposed by Chapter 10.3 of Title 56 of the Code, it is subject to the civil penalties set out in § 56-265.32 of the Code pursuant to § 56-265.19 D of the Code.

(2) On or about May 22, 2012, Newport News Waterworks damaged a one-and-one-quarter-inch steel gas service line operated by Virginia Natural Gas, Inc., located at or near 922 22nd Street, Newport News, Virginia, while excavating.

(3) On or about June 5, 2012, the City of Salem damaged a one-half-inch plastic gas service line operated by Roanoke Gas Company, located at or near 2643 Macon Street, Roanoke County, Virginia, while excavating.

(4) On the occasions set out in paragraphs (2) and (3) above, the Company failed to mark the underground utility lines by no later than 7:00 a.m. on the third working day following the excavator's notice to the notification center, in violation of § 56-265.19 A of the Code.

(5) On or about June 15, 2012, Newport News Waterworks damaged a three-quarter-inch plastic gas service line operated by Virginia Natural Gas, Inc., located at or near 5933 Madison Avenue, Newport News, Virginia, while excavating.

(6) On or about June 23, 2012, Touch of Class Fencing, Inc., damaged a three-quarter-inch plastic gas service line operated by Virginia Natural Gas, Inc., located at or near 78 Emmaus Road, Poquoson, Virginia, while excavating.

(7) On the occasions set out in paragraphs (5) and (6) above, the Company failed to mark the approximate horizontal locations of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of § 56-265.19 A of the Code.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As a proposal to settle all matters before the Commission arising from the Division's allegations herein, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of Five Thousand Eight Hundred Fifty Dollars (\$5,850) to be paid contemporaneously with the entry of this Order. The payment will be made by cashier's check or money order payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.

- (2) The sum of Five Thousand Eight Hundred Fifty Dollars (\$5,850) tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is hereby dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2012-00281
SEPTEMBER 7, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
ATMOS ENERGY CORPORATION,
Defendant

ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, § 56-265.14 *et seq.* of the Code. The Commission's Division of Utility and Railroad Safety ("Division"), after having conducted an investigation of this matter, alleges that:

- (1) On or about May 24, 2012, the Town of Wytheville damaged a one-half-inch steel gas service line operated by Atmos Energy Corporation ("Company"), located at or near 400 11th Street, Wythe County, Virginia, while excavating.
- (2) On or about June 7, 2012, Nichols Construction, Inc., damaged a one-half-inch plastic gas service line operated by the Company, located at or near 2208 Lee Highway, Pulaski County, Virginia, while excavating.
- (3) On or about June 21, 2012, Makco, Inc., damaged a two-inch plastic gas main line operated by the Company, located at or near 298 Madison Street, Washington County, Virginia, while excavating.
- (4) On the occasions set out in paragraphs (1) through (3) above, the Company failed to mark the underground utility lines by no later than 7:00 a.m. on the third working day following the excavator's notice to the notification center, in violation of § 56-265.19 A of the Code.
- (5) On or about July 6, 2012, the Town of Pulaski damaged a one-half-inch plastic gas service line operated by the Company, located at or near 1103 Crescent Street, Pulaski County, Virginia, while excavating.
- (6) On the occasion set out in paragraph (5) above, the Company failed to mark the approximate horizontal location of the underground utility line on the ground to within two feet of either side of the underground utility line, in violation of § 56-265.19 A of the Code.
- (7) On the occasion set out in paragraph (5) above, the Company failed to prepare and maintain reasonably accurate installation records of the underground utility lines, in violation of 20 VAC 5-309-160 of the Commission's Rules for Enforcement of the Underground Utility Damage Prevention Act, 20 VAC 5-309-10 *et seq.*

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters before the Commission arising from the Division's allegations made herein, the Company represents and undertakes that:

- (1) The Company will pay a civil penalty to the Commonwealth of Virginia in the amount of Eight Thousand Five Hundred Fifty Dollars (\$8,550) to be paid contemporaneously with the entry of this Order. This payment will be made by check payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.
- (2) Any amounts paid in accordance with this Order shall not be recovered in the Company's rates as part of the cost of service. Any such amounts shall be booked in Uniform System of Account No. 426.3. The Company shall verify its booking by filing a copy of the journal entries made to record such amounts with the Commission's Division of Utility Accounting and Finance.

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.
- (2) The sum of Eight Thousand Five Hundred Fifty Dollars (\$8,550) tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2012-00285
OCTOBER 26, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
UTILIQUEST, LLC,
Defendant

ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act ("Act"), § 56-265.14 *et seq.* of the Code. The Commission's Division of Utility and Railroad Safety ("Division"), charged with the investigation of probable violations of the Act, has completed investigations of certain incidents that occurred between March 2, 2012, and June 21, 2012, listed in Attachment A, involving Utiliquest, LLC ("Company"), the Defendant, and alleges that:

- (1) The Company is a contract locator as that term is defined in § 56-265.15 of the Code and, as a contract locator acting on behalf of an operator, if the Company fails to perform the duties imposed by Chapter 10.3 of Title 56 of the Code, it is subject to the civil penalties set out in § 56-265.32 of the Code pursuant to § 56-265.19 D of the Code.
- (2) During the aforementioned period, the Company violated the Act by the following conduct:
 - (a) Failing on certain occasions to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of § 56-265.19 A of the Code.
 - (b) Failing on certain occasions to mark the underground utility lines within the time prescribed in the Act, in violation of § 56-265.19 A of the Code.
 - (c) Failing on certain occasions to report to the notification center that lines had been marked or that they were not in conflict with the proposed excavation, in violation of § 56-265.19 A of the Code.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters before the Commission arising from the Division's allegations made herein, which includes all probable violations presented to the Underground Utility Damage Prevention Advisory Committee, and set out in Attachment A hereto, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of Ten Thousand One Hundred Dollars (\$10,100) to be paid contemporaneously with the entry of this Order. This payment will be made by check payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.
- (2) The sum of Ten Thousand One Hundred Dollars (\$10,100) tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2012-00388
NOVEMBER 9, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
PROMARK UTILITY LOCATORS, INC.,
Defendant

ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act ("Act"), § 56-265.14 *et seq.* of the Code. The Commission's Division of Utility and Railroad Safety ("Division"), charged with the investigation of probable violations of the Act, has completed investigations of certain incidents that occurred between March 6, 2012, and September 27, 2012, listed in Attachment A, involving Promark Utility Locators, Inc. ("Company"), the Defendant, and alleges that:

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(1) The Company is a contract locator as that term is defined in § 56-265.15 of the Code and, as a contract locator acting on behalf of an operator, if the Company fails to perform the duties imposed by Chapter 10.3 of Title 56 of the Code, it is subject to the civil penalties set out in § 56-265.32 of the Code pursuant to § 56-265.19 D of the Code.

(2) During the aforementioned period, the Company violated the Act by the following conduct:

- (a) Failing on certain occasions to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of § 56-265.19 A of the Code.
- (b) Failing on certain occasions to mark the underground utility lines within the time prescribed in the Act, in violation of § 56-265.17 C and § 56-265.19 A of the Code.
- (c) Failing on certain occasions to report the status to the excavator-operator information exchange system, in violation of § 56-265.19 A of the Code.
- (d) Failing on one occasion to respond to an emergency notice as soon as possible but no later than three hours from the excavator's call to the notification center, in violation of § 56-265.19 H of the Code.
- (e) Failing on one occasion to provide a minimum of three separate marks for each underground utility line marking, in violation of 20 VAC 5-309-110 E of the Commission's Rules for Enforcement of the Underground Utility Damage Prevention Act ("Rules"), 20 VAC 5-309-10 *et seq.*
- (f) Failing on certain occasions to use the assigned letter designations for each operator in conjunction with markings of underground utility lines, in violation of 20 VAC 5-309-110 Q of the Rules.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters before the Commission arising from the Division's allegations made herein, which includes all probable violations presented to the Underground Utility Damage Prevention Advisory Committee, and set out in Attachment A hereto, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of Sixty Thousand Fifty Dollars (\$60,050) to be paid contemporaneously with the entry of this Order. This payment will be made by cashier's check or money order, payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

In addition, the Company shall submit to the Division a formal action plan, including a Quality Assurance/Quality Control program to help address the issues that contributed to the incidents listed in Attachment A.

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.
- (2) The sum of Sixty Thousand Fifty Dollars (\$60,050) tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2012-00414
NOVEMBER 5, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

VIRGINIA NATURAL GAS, INC.,
Defendant

ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, § 56-265.14 *et seq.* of the Code. The Commission's Division of Utility and Railroad Safety ("Division"), after having conducted an investigation of this matter, alleges that:

- (1) On or about June 27, 2012, the City of Newport News damaged a one-half-inch plastic gas service line operated by Virginia Natural Gas, Inc. ("Company"), located at or near 1321 20th Street, Newport News, Virginia, while excavating.
- (2) On or about July 30, 2012, the City of Newport News damaged a three-quarter-inch plastic gas service stub operated by the Company, located at or near 639 Highland Court, Newport News, Virginia, while excavating.

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(3) On or about August 9, 2012, Inlet Construction INC., damaged a three-quarter-inch plastic gas service line operated by the Company, located at or near 5055 Euclid Road, Virginia Beach, Virginia, while excavating.

(4) On or about August 15, 2012, the City of Newport News damaged a three-quarter-inch steel gas service stub operated by the Company, located at or near 614 Highland Court, Newport News, Virginia, while excavating.

(5) On the occasions set out in paragraphs (1) through (4) above, the Company failed to mark the underground utility lines by no later than 7 a.m. on the third working day following the excavator's notice to the notification center, in violation of § 56-265.19 A of the Code.

(6) On or about July 26, 2012, Faden Contracting Inc., damaged a one-half-inch plastic gas service line operated by the Company, located at or near 540 and 540 ½ Bellwood Road, Newport News, Virginia, while excavating.

(7) On or about August 13, 2012, W. E. (Billy) Curling Welding Service, Inc., damaged a one-half-inch plastic gas service line operated by the Company, located at or near 848 24th Street, Newport News, Virginia, while excavating.

(8) On the occasions set out in paragraphs (6) and (7) above, the Company failed to mark the approximate horizontal locations of the underground utility lines on the ground to within two (2) feet of either side of the underground utility lines, in violation of § 56-265.19 A of the Code.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters before the Commission arising from the Division's allegations made herein, the Company represents and undertakes that:

(1) The Company will pay a civil penalty to the Commonwealth of Virginia in the amount of Six Thousand Three Hundred Dollars (\$6,300) to be paid contemporaneously with the entry of this Order. This payment will be made by check payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

(2) Any amounts paid in accordance with this Order shall not be recovered in the Company's rates as part of the cost of service. Any such amounts shall be booked in Uniform System of Account No. 426.3. The Company shall verify its booking by filing a copy of the journal entries made to record such amounts with the Commission's Division of Utility Accounting and Finance.

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.

(2) The sum of Six Thousand Three Hundred Dollars (\$6,300) tendered contemporaneously with the entry of this Order is accepted.

(3) This case is dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

CASE NO. URS-2012-00418
NOVEMBER 5, 2012

COMMONWEALTH OF VIRGINIA, ex rel.
STATE CORPORATION COMMISSION
v.
UTILIQUEST, LLC,
Defendant

ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act ("Act"), § 56-265.14 et seq. of the Code. The Commission's Division of Utility and Railroad Safety ("Division"), charged with the investigation of probable violations of the Act, has completed investigations of certain incidents that occurred between March 6, 2012, and August 13, 2012, listed in Attachment A, involving Utiliquest, LLC ("Company"), the Defendant, and alleges that:

(1) The Company is a contract locator as that term is defined in § 56-265.15 of the Code and, as a contract locator acting on behalf of an operator, if the Company fails to perform the duties imposed by Chapter 10.3 of Title 56 of the Code, it is subject to the civil penalties set out in § 56-265.32 of the Code pursuant to § 56-265.19 D of the Code.

(2) During the aforementioned period, the Company violated the Act by the following conduct:

(a) Failing on certain occasions to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of § 56-265.19 A of the Code.

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(b) Failing on certain occasions to mark the underground utility lines within the time prescribed in the Act, in violation of § 56-265.19 A of the Code.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters before the Commission arising from the Division's allegations made herein, which includes all probable violations presented to the Underground Utility Damage Prevention Advisory Committee, and set out in Attachment A hereto, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of Five Thousand Seven Hundred Dollars (\$5,700) to be paid contemporaneously with the entry of this Order. This payment will be made by check payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.
- (2) The sum of Five Thousand Seven Hundred Dollars (\$5,700) tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2012-00419
NOVEMBER 16, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
COLUMBIA GAS OF VIRGINIA, INC.,
Defendant

ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, § 56-265.14 *et seq.* of the Code. The Commission's Division of Utility and Railroad Safety ("Division"), after having conducted an investigation of this matter, alleges that:

- (1) On or about April 10, 2012, Counts & Dobyns, Inc., damaged a one-half-inch plastic gas service line operated by Columbia Gas of Virginia, Inc. ("Company"), located at or near 810 Rivermont Avenue, Lynchburg, Virginia, while excavating.
- (2) On or about April 11, 2012, Counts & Dobyns, Inc., damaged a one-half-inch plastic gas service line operated by the Company, located at or near 808 Rivermont Avenue, Lynchburg, Virginia, while excavating.
- (3) On or about June 19, 2012, D's Auto & Wrecker Service, Inc. t/a George's Excavating, damaged a one-half-inch plastic gas service line operated by the Company, located at or near 2424 Boulevard, Colonial Heights, Virginia, while excavating.
- (4) On or about July 9, 2012, Miller Pipeline, LLC, damaged a one-and-one-quarter-inch steel gas service line operated by the Company, located at or near 605 Williams Street, Fredericksburg, Virginia, while excavating.
- (5) On or about July 16, 2012, the City of Harrisonburg damaged a one-and-one-quarter-inch steel gas service line operated by the Company, located at or near 324 Broad Street and 326 Broad Street, Rockingham County, Virginia, while excavating.
- (6) On or about July 24, 2012, Credle Concrete, Inc., damaged a three-quarter-inch steel gas service line operated by the Company, located at or near 1606 Belafonte Drive, Portsmouth, Virginia, while excavating.
- (7) On the occasions set out in paragraphs (1) through (6) above, the Company failed to mark the underground utility lines by no later than 7 a.m. on the third working day following the excavator's notice to the notification center, in violation of § 56-265.19 A of the Code.
- (8) On or about May 22, 2012, G & S Drilling Company Inc., damaged a two-inch plastic gas main operated by the Company, located at or near 8830 Smithfield Apartment Lane, Isle of Wight County, Virginia, while excavating.
- (9) On or about August 3, 2012, Miller Pipeline, LLC, damaged a one-inch plastic gas service line operated by the Company, located at or near 650 West Frederick Street, Staunton, Virginia, while excavating.
- (10) On the occasions set out in paragraphs (8) and (9) above, the Company failed to mark the approximate horizontal locations of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of § 56-265.19 A of the Code.

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As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters before the Commission arising from the Division's allegations made herein, the Company represents and undertakes that:

(1) The Company will pay a civil penalty to the Commonwealth of Virginia in the amount of Twelve Thousand Four Hundred Dollars (\$12,400) to be paid contemporaneously with the entry of this Order. This payment will be made by check payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

(2) Any amounts paid in accordance with this Order shall not be recovered in the Company's rates as part of the cost of service. Any such amounts shall be booked in Uniform System of Account No. 426.3. The Company shall verify its booking by filing a copy of the journal entries made to record such amounts with the Commission's Division of Utility Accounting and Finance.

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.

(2) The sum of Twelve Thousand Four Hundred Dollars (\$12,400) tendered contemporaneously with the entry of this Order is accepted.

(3) This case is dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2012-00427
NOVEMBER 16, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
S&N LOCATING SERVICES, LLC,
Defendant

ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, § 56-265.14 *et seq.* of the Code. The Commission's Division of Utility and Railroad Safety ("Division"), after having conducted an investigation of this matter, alleges that:

(1) S&N Locating Services, LLC ("Company"), is a contract locator as that term is defined in § 56-265.15 of the Code and, as a contract locator acting on behalf of an operator, if the Company fails to perform the duties imposed by Chapter 10.3 of Title 56 of the Code, it is subject to the civil penalties set out in § 56-265.32 of the Code pursuant to § 56-265.19 D of the Code.

(2) On or about February 7, 2012, NPL Construction Co. damaged a telecommunications service line operated by Verizon Virginia Inc., located at or near 2830 Fox Mill Road, Fairfax County, Virginia, while excavating.

(3) On or about July 6, 2012, the City of Chesapeake damaged a three-quarter-inch plastic gas service line operated by Virginia Natural Gas, Inc. ("VNG"), located at or near 719 Post Avenue, Chesapeake, Virginia, while excavating.

(4) On or about August 3, 2012, The Pepperdine Corporation damaged a two-inch plastic gas main operated by VNG, located at or near 1394 Progress Road, Suffolk, Virginia, while excavating.

(5) On or about August 3, 2012, Dunn Construction & Demolition, Inc., damaged a two-inch plastic gas main operated by VNG, located at or near 630 Tidewater Drive, Norfolk, Virginia, while excavating.

(6) On or about September 13, 2012, Verizon Virginia Inc. excavated at or near 2903 Sonnenburg Court, Chesterfield County, Virginia.

(7) On or about September 25, 2012, Verizon Virginia Inc. excavated at or near 5225 McManus Drive, Fredericksburg, Virginia.

(8) On the occasions set out in paragraphs (2) through (7) above, the Company failed to mark the underground utility lines by no later than 7 a.m. on the third working day following the excavator's notice to the notification center, in violation of § 56-265.19 A of the Code.

(9) On or about August 2, 2012, Suburban Grading & Utilities, Inc., damaged a three-quarter-inch plastic gas service line operated by VNG, located at or near 7607 Sewells Point Road, Norfolk, Virginia, while excavating.

(10) On or about August 10, 2012, FullBore Contracting, LLC, damaged a two-inch plastic gas main operated by VNG, located at or near the intersection of Kempsville Road and Chief Trail, Virginia Beach, Virginia, while excavating.

(11) On the occasions set out in paragraphs (9) and (10) above, the Company failed to mark the approximate horizontal locations of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of § 56-265.19 A of the Code.

(12) On the occasion set out in paragraph (6) above, the Company failed to provide a minimum of three separate marks for each underground utility line marking, in violation of 20 VAC 5-309-110 E of the Commission's Rules for Enforcement of the Underground Utility Damage Prevention Act, 20 VAC 5-309-10 *et seq.*

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As a proposal to settle all matters before the Commission arising from the Division's allegations herein, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of Eight Thousand One Hundred Fifty Dollars (\$8,150) to be paid contemporaneously with the entry of this Order. The payment will be made by cashier's check or money order payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.
- (2) The sum of Eight Thousand One Hundred Fifty Dollars (\$8,150) tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is hereby dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2012-00428
DECEMBER 10, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
PROMARK UTILITY LOCATORS, INC.,
Defendant

ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act ("Act"), § 56-265.14 *et seq.* of the Code. The Commission's Division of Utility and Railroad Safety ("Division"), charged with the investigation of probable violations of the Act, has completed investigations of certain incidents that occurred between October 2, 2012, and November 1, 2012, listed in Attachment A, involving Promark Utility Locators, Inc. ("Company"), the Defendant, and alleges that:

- (1) The Company is a contract locator as that term is defined in § 56-265.15 of the Code and, as a contract locator acting on behalf of an operator, if the Company fails to perform the duties imposed by Chapter 10.3 of Title 56 of the Code it is subject to the civil penalties set out in § 56-265.32 of the Code pursuant to § 56-265.19 D of the Code.
- (2) During the aforementioned period, the Company violated the Act by the following conduct:
 - (a) Failing on certain occasions to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of § 56-265.19 A of the Code.
 - (b) Failing on certain occasions to mark the underground utility lines within the time prescribed in the Act, in violation of § 56-265.19 A of the Code.
 - (c) Failing on certain occasions to report the marking status of the underground utility lines to the excavator-operator information exchange system, in violation of § 56-265.19 A of the Code.
 - (d) Failing on one occasion to provide a minimum of three separate marks for each underground utility line marking, in violation of 20 VAC 5-309-110 E of the Commission's Rules for Enforcement of the Underground Utility Damage Prevention Act, 20 VAC 5-309-10 *et seq.*

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters before the Commission arising from the Division's allegations made herein, which includes all probable violations presented to the Underground Utility Damage Prevention Advisory Committee, and set out in Attachment A hereto, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of One Hundred Three Thousand Four Hundred Dollars (\$103,400) to be paid contemporaneously with the entry of this Order. This payment will be made by cashier's check or money order, payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.
- (2) The sum of One Hundred Three Thousand Four Hundred Dollars (\$103,400) tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2012-00432
DECEMBER 10, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
S&N LOCATING SERVICES, LLC,
Defendant

ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, § 56-265.14 *et seq.* of the Code. The Commission's Division of Utility and Railroad Safety ("Division"), after having conducted an investigation of this matter, alleges that:

- (1) S&N Locating Services, LLC ("Company"), is a contract locator as that term is defined in § 56-265.15 of the Code and, as a contract locator acting on behalf of an operator, if the Company fails to perform the duties imposed by Chapter 10.3 of Title 56 of the Code, it is subject to the civil penalties set out in § 56-265.32 of the Code pursuant to § 56-265.19 D of the Code.
- (2) On or about October 16, 2012, S&N Communications, Inc., excavated at or near 2345 Wrens Nest Road, Chesterfield County, Virginia.
- (3) On or about October 16, 2012, Salisbury Nursery excavated at or near the intersection of Salisbury Road and Winterfield Road, Chesterfield County, Virginia.
- (4) On or about October 17, 2012, Joines Electric notified the notification center of plans to excavate at or near 1005 Martingale Court, Fredericksburg, Virginia.
- (5) On or about October 18, 2012, E&F General Construction notified the notification center of plans to excavate at or near 2407 Alden Court, Prince William County, Virginia.
- (6) On or about October 18, 2012, DMB Irrigation notified the notification center of plans to excavate at or near 15316 Auburn Hills, Prince William County, Virginia.
- (7) On or about October 25, 2012, Hop on Pops Moonbounce notified the notification center of plans to excavate at or near 4840 Pearson Drive, Prince William County, Virginia.
- (8) On or about October 25, 2012, Clark Associates Invisible Fencing notified the notification center of plans to excavate at or near 14725 Alps Drive, Prince William County, Virginia.
- (9) On the occasions set out in paragraphs (2) and (3) above, the Company failed to mark the approximate horizontal location of the underground utility line on the ground to within two feet of either side of the underground utility line, in violation of § 56-265.19 A of the Code.
- (10) On the occasions set out in paragraphs (4) through (8) above, the Company failed to mark the underground utility lines by no later than 7 a.m. on the third working day following the excavator's notice to the notification center, in violation of § 56-265.19 A of the Code.
- (11) On the occasion set out in paragraph (2) above, the Company failed to provide a minimum of three separate marks for each underground utility line marking, in violation of 20 VAC 5-309-110 E of the Commission's Rules for Enforcement of the Underground Utility Damage Prevention Act ("Rules"), 20 VAC 5-309-10 *et seq.*
- (12) On the occasion set out in paragraph (8) above, the Company failed to provide markings at sufficient intervals to clearly indicate the approximate horizontal location and direction of the underground utility line, in violation of 20 VAC 5-309-110 B of the Rules.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

As a proposal to settle all matters before the Commission arising from the Division's allegations herein, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of Six Thousand Nine Hundred Fifty Dollars (\$6,950) to be paid contemporaneously with the entry of this Order. The payment will be made by cashier's check or money order payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.
- (2) The sum of Six Thousand Nine Hundred Fifty Dollars (\$6,950) tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is hereby dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2012-00435
DECEMBER 14, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.
WAYJO, INC.,
Defendant

ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, § 56-265.14 *et seq.* of the Code. The Commission's Division of Utility and Railroad Safety ("Division"), after having conducted an investigation of this matter, alleges that:

- (1) On or about October 25, 2012, Wayjo, Inc. ("Company"), excavated at or near Two Rivers Road and Fowlers Lake Road, James City County, Virginia.
- (2) On the occasion set out in paragraph (1) above, the Company failed to provide notice to the notification center (Miss Utility) with proper information, in violation of § 56-265.18 of the Code.
- (3) On the occasion set out in paragraph (1) above, the Company failed to expose the underground utility line to its extremities by hand digging, in violation of § 56-265.24 A of the Code.
- (4) On the occasion set out in paragraph (1) above, the Company failed to ensure sufficient clearance was maintained between the bore path and any underground utility lines during pullback, in violation of 20 VAC 5-309-150 4 of the Commission's Rules for Enforcement of the Underground Utility Damage Prevention Act ("Rules"), 20 VAC 5-309-10 *et seq.*
- (5) On the occasion set out in paragraph (1) above, the Company failed to expose all utility lines which would be in the bore path by hand digging to establish the underground utility line's location prior to commencing bore, in violation of 20 VAC 5-309-150 6 of the Rules.
- (6) On the occasion set out in paragraph (1) above, the Company failed to visually check the drill head as it passed through potholes, entrances, and exit pits, in violation of 20 VAC 5-309-150 8 of the Rules.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As a proposal to settle all matters before the Commission arising from the Division's allegations herein, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of Seven Thousand Five Hundred Fifty Dollars (\$7,550) to be paid contemporaneously with the entry of this Order. The payment will be made by check payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.
- (2) The sum of Seven Thousand Five Hundred Fifty Dollars (\$7,550) tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is hereby dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2012-00441
DECEMBER 10, 2012**

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
v.
VIRGINIA EROSIAN CONTROL, LLC,
Defendant

ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, § 56-265.14 *et seq.* of the Code. The Commission's Division of Utility and Railroad Safety ("Division"), after having conducted an investigation of this matter, alleges that:

(1) On or about August 22, 2012, Virginia Erosian Control, LLC ("Company"),¹ damaged a two-inch plastic gas service line operated by Washington Gas Light Company, located at or near 8535 Sudley Road, Prince William County, Virginia, while excavating.

(2) On the occasion set out in paragraph (1) above, the Company failed to notify the notification center (Miss Utility) before beginning its excavation, in violation of § 56-265.17 A of the Code.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As a proposal to settle all matters before the Commission arising from the Division's allegations herein, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of Six Hundred Fifty Dollars (\$650) to be paid contemporaneously with the entry of this Order. The payment will be made by cashier's check or money order payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company is hereby accepted.

(2) The sum of Six Hundred Fifty Dollars (\$650) tendered contemporaneously with the entry of this Order is accepted.

(3) This case is hereby dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

¹ The Company signed the attached Admission and Consent form as Virginia Erosion Control LLC; however, documentation filed with the Commission indicates that the actual name of the Company is Virginia Erosian Control, LLC.

TABLES

CLERK'S OFFICE

Summary of the changes in the number of Virginia and foreign corporations and other types of business entities licensed to do business in Virginia, and of amendments and other filings related to the organizational documents of Virginia and foreign business entities during 2011 and 2012.

	<u>12/31/11</u>	<u>12/31/12</u>
CORPORATIONS		
<u>Virginia Corporations</u>		
Certificates of Incorporation issued	13,324	13,518
Voluntary terminations	3,168	3,181
Involuntary terminations	0	0
Automatic terminations (Assessment/AR/RA Resignation).....	15,438	13,825
Reinstatement of terminated corporations	4,940	4,803
Charters Amended	2,548	2,238
<u>On Record</u>		
Active Stock Corporations	134,230	131,995
Active Non-Stock Corporations	41,122	41,831
Total Active Virginia Corporations	175,352	173,826
<u>Foreign Corporations</u>		
Certificates of Authority to do business in Virginia issued	3,494	3,260
Voluntary withdrawals from Virginia	1,033	915
Automatic Revocations (Assessment/AR/RA Resignation).....	2,248	2,108
Reentry of surrendered or revoked certificates	867	869
Charters Amended	642	692
<u>On Record</u>		
Active Stock Corporations	35,949	36,296
Active Non-Stock Corporations	2,580	2,600
Total Active Foreign Corporations	38,529	38,896
Total Active Corporations (Virginia and Foreign)	213,881	212,722
LIMITED LIABILITY COMPANIES		
<u>Virginia Limited Liability Companies</u>		
Certificates of Organization issued	39,047	45,465
Voluntary cancellations	3,544	5,206
Automatic cancellations (Assessment/RA Resignation)	5,785	30,095
Reinstatement of canceled certificates	4,636	4,374
Articles of Organization amended	2,120	2,257
<u>On Record</u>		
Active Virginia Limited Liability Companies	202,855	228,837
<u>Foreign Limited Liability Companies</u>		
Certificates of Registration issued	3,438	3,329
Voluntary cancellations	665	741
Automatic cancellations (Assessment/RA Resignation)	391	1,644
Reinstatement of canceled certificates	395	317
Certificates of Registration amended	0	0
<u>On Record</u>		
Active Foreign Limited Liability Companies	18,731	21,066
Total Active Limited Liability Companies (Virginia and Foreign).....	221,586	249,903

BUSINESS TRUSTSVirginia Business Trusts

Certificates of Trust issued	45	44
Voluntary cancellations.....	5	2
Automatic cancellations (Assessment/RA Resignation)	9	41
Reinstatement of cancelled certificates.....	3	4
Articles of Trust amended.....	0	6

On Record

Active Virginia Business Trusts	180	186
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Foreign Business Trusts

Certificates of Registration issued	10	10
Voluntary cancellations.....	2	1
Automatic cancellations (Assessment/RA Resignation)	1	1
Reinstatement of cancelled certificates.....	1	0
Certificates of Registration amended.....	0	0

On Record

Foreign Business Trusts	55	62
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Total Active Business Trusts (Virginia and Foreign).....	235	248
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LIMITED PARTNERSHIPSVirginia Limited Partnerships

Certificates of Limited Partnership Filed.....	198	196
Voluntary cancellations.....	83	100
Automatic cancellations (Assessment/RA Resignation)	328	319
Reinstatement of cancelled certificates.....	94	74
Certificates of Limited Partnership amended	254	221

On Record

Active Virginia Limited Partnerships	5,582	5,385
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Foreign Limited Partnerships

Certificates of Registration Filed	119	89
Voluntary cancellations.....	78	72
Automatic cancellations (Assessment/RA Resignation)	91	68
Reinstatement of cancelled certificates.....	17	24
Certificates of Registration amended.....	0	0

On Record

Active Foreign Limited Partnerships	1,633	1,591
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Total Active Limited Partnerships (Virginia and Foreign)	7,215	6,976
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GENERAL PARTNERSHIPS

General Partnership Statements filed.....	172	128
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On Record

Active Virginia General Partnerships	1,007	916
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Active Foreign General Partnerships	102	94
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Total Active General Partnerships (Virginia and Foreign)	1,109	1,010
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REGISTERED LIMITED LIABILITY PARTNERSHIPS

Virginia Registered Limited Liability Partnerships filed	92	89
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Foreign Registered Limited Liability Partnerships filed	23	25
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Total Active Registered Limited Liability Partnerships (Virginia and Foreign)	1,389	1,384
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**COMPARISON OF REVENUES DEPOSITED BY THE CLERK'S OFFICE
FOR THE FISCAL YEAR ENDING JUNE 30, 2011, AND JUNE 30, 2012**

<u>General Fund</u>	<u>2011</u>	<u>2012</u>	<u>(Difference)</u>
Securities Application Fees-Utilities	\$10,925.00	\$7,975.00	(\$2,950.00)
Charter Fees	1,225,072.80	1,234,560.00	9,487.20
Entrance Fees	1,289,390.00	1,256,665.50	(32,724.50)
Filing Fees	657,120.00	653,705.00	(3,415.00)
Registered Name	2,870.00	2,390.00	(480.00)
Registered Office and Agent	0.00	0.00	0.00
Service of Process	70,560.00	58,290.00	(12,270.00)
Copy and Recording Fees	0.00	0.00	0.00
SCC Annual Report Sales	932.25	0.00	(932.25)
Uniform Commercial Code Revenues	1,471,457.00	1,517,939.00	46,482.00
Excess Fees Paid into State Treasury	259,640.63	250,913.09	(8,727.54)
Miscellaneous Sales	<u>6,000.00</u>	<u>.00</u>	<u>(6,000.00)</u>
TOTAL	\$4,993,967.68	\$4,982,437.59	(\$11,530.09)
 <u>Special Fund</u>			
Domestic-Foreign Corp. Registration Fee	\$32,123,765.05	\$32,222,342.55	\$98,577.50
Limited Partnership Registration Fee	368,125.00	359,280.00	(8,845.00)
Reserved Name - Limited Partnership	10,575.00	10,900.00	325.00
Certificate Limited Partnership	25,825.00	19,200.00	(6,625.00)
Application Reg. Foreign LP	12,200.00	9,900.00	(2,300.00)
Reinstatement LP	14,500.00	13,600.00	(900.00)
Registration Fee LLC	9,402,244.44	9,972,227.34	569,982.90
Application For. Reg. LLC	323,450.00	342,600.00	19,150.00
Art. of Org. Dom. LLC	3,611,122.00	4,310,396.00	699,274.00
AMEND, CANC, CORR. RAC, Etc. LLC	225,805.00	262,715.00	36,910.00
SCC Bad Check Fee	22,364.00	22,076.00	(288.00)
Interest on Del. Tax	0.00	0.00	0.00
Penalty on Non-Pay Fees by Due Date	1,214,973.82	1,198,068.18	(16,905.64)
Statement of Reg. As Domestic LLP	6,600.00	5,200.00	(1,400.00)
LLP Annual Continuation	66,150.00	62,250.00	(3,900.00)
Statement of Partnership Authority GP Dom	4,525.00	3,225.00	(1,300.00)
Statement of Partnership Authority GP For	250.00	200.00	(50.00)
Statement of Amendments - GP	1,700.00	1,800.00	100.00
Statement of Reg. As Foreign LLP	1,400.00	2,000.00	600.00
Statement of Amendment LLP	450.00	600.00	150.00
Reinstatement/Reentry LLC	480,050.00	388,335.00	(91,715.00)
Tape Sales, Misc Fees	36,000.00	50,000.00	14,000.00
Copies, Recording Fees	388,622.75	377,160.65	(11,462.10)
Recovery of Prior Yr Expenses	0.00	0.00	0.00
LLP Reinstatement	0.00	100.00	100.00
Expedite Fee Collected	<u>1,517,795.00</u>	<u>1,026,094.00</u>	<u>(491,701.00)</u>
TOTAL	\$49,858,492.06	\$50,660,269.72	\$801,777.66
 <u>Valuation Fund</u>			
Corp Operations Rec. of Copy and Cert. Fees	\$1,219.50	\$1,213.80	(\$5.70)
Recovery of Prior Year Expenses	<u>129,181.00</u>	<u>44,093.15</u>	<u>(77,087.85)</u>
TOTAL	\$130,400.50	\$45,306.95	(\$85,093.55)
 <u>Trust & Agency Fund</u>			
Fines imposed and collected by SCC:	\$346,825.00	\$1,116,825.00	\$770,000.00
Debt Set Off Collections:	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
TOTAL	\$346,825.00	\$1,116,825.00	\$770,000.00
 GRAND TOTAL	 \$55,329,685.24	 \$56,804,839.26	 \$1,475,154.02

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

**COMPARISON OF FEES COLLECTED BY THE BUREAU OF FINANCIAL INSTITUTIONS
FOR FISCAL YEARS ENDING JUNE 30, 2011, AND JUNE 30, 2012**

	<u>2011</u>	<u>2012</u>
Banks	\$8,224,329	\$8,315,851
Savings Institutions and Savings Banks	9,461	8,850
Consumer Finance Licensees	530,066	525,213
Credit Unions	1,270,996	1,359,436
Trust Subsidiaries and Trust Companies	43,312	28,918
Industrial Loan Associations	11,399	10,509
Money Order Sellers and Transmitters	529,861	545,956
Credit Counseling Agency Licensees	114,945	134,581
Mortgage Lenders and Mortgage Brokers	1,242,817	1,137,054
Mortgage Loan Originators	889,990	876,280
Check Cashers	90,500	100,250
Payday Lenders	167,262	347,200
Motor Vehicle Title Lenders		193,253
Miscellaneous Collections	<u>61,272</u>	<u>57,244</u>
TOTAL	\$13,186,210	\$13,640,595

CONSUMER SERVICES

The Bureau received and acted upon 610 formal written complaints during 2012 and recovered \$73,532 on behalf of Virginia consumers.

**COMPARISON OF FEES AND TAXES COLLECTED BY THE BUREAU OF INSURANCE
FOR THE FISCAL YEARS ENDING JUNE 30, 2011, AND JUNE 30, 2012**

<u>Kind</u>	<u>General Fund</u>	<u>2011</u>	<u>2012</u>	<u>Increase or (Decrease)</u>
Gross Premium Taxes of Insurance Companies		\$411,890,403.17	\$390,191,626.39	(\$21,698,776.78)
Fraternal Benefit Societies Licenses		500.00	460.00	(40.00)
Interest on Delinquent Taxes		92,700.92	333,618.00	240,917.08
Penalty on non-payment of taxes by due date		184,959.86	274,580.12	89,620.26
<u>Special Fund</u>				
Company License Application Fee		16,000.00	18,000.00	2,000.00
Health Maintenance Organization License Fee		0.00	0.00	0.00
Automobile Club/ Agent Licenses		6,500.00	6,900.00	400.00
Insurance Premium Finance Companies Licenses		16,000.00	13,900.00	(2,100.00)
Agents Appointment Fees		15,516,403.00	16,111,812.00	595,409.00
Surplus Lines Broker Licenses		99,750.00	98,750.00	(1,000.00)
Home Service Contract Providers License Fee		5,000.00	6,000.00	1,000.00
Title Settlement Agents Fee		17,840.00	76,090.00	58,250.00
Producer License Application Fees		896,640.00	913,055.00	16,415.00
Surety Bail Bondsmen License Fee		0.00	0.00	0.00
P&C Consultant License Fees		68,500.00	65,850.00	(2,650.00)
Recording, Copying, and Certifying				
Public Records Fee		8,728.50	8,820.00	91.50
SCC Bad Check Fee		70.00	140.00	70.00
Managed Care Health Ins. Plan Appeals Fee		1,800.00	250.00	(1,550.00)
Administrative Penalty Payment		13,000.00	190,000.00	177,000.00
State Publication Sales		0.00	0.00	0.00
Assessments To Insurance Companies for				
Maintenance of the Bureau of Insurance		7,665,521.17	7,856,857.37	191,336.20
Reinsurance Intermediary Broker Fees		1,000.00	1,000.00	0.00
Reinsurance Intermediary Managers Fee		0.00	0.00	0.00
Managing General Agent Fees		8,000.00	10,000.00	2,000.00
Viatical Settlement Provider License Fees		10,450.00	10,100.00	(350.00)
Viatical Settlement Broker License Fees		11,650.00	11,350.00	(300.00)
MCHIP Assessment		0.00	0.00	0.00
Appointment Fee Penalty		90,375.00	255,300.00	164,925.00
Miscellaneous Revenue		56.00	396.00	340.00
Recovery of Prior Year Expenses		124,557.49	71,821.70	(52,735.79)
Fire Programs Fund		29,640,900.19	30,897,805.51	1,256,905.32

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Fire Programs Fund Interest	0.00	0.00	0.00
DMV Uninsured Motorist Transfer	6,180,241.95	5,114,795.40	(1,065,446.55)
Flood Assessment Fund	192,452.55	192,667.46	214.91
Heat Assessment Fund	1,603,391.90	1,676,074.18	72,682.28
Fines Imposed by State Corporation Commission	1,267,081.81	2,210,551.44	943,469.63
Fraud Assessment Fund	4,967,343.01	5,067,883.41	100,540.40
Fraud Assessment Interest	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
TOTAL	\$480,597,816.52	\$461,686,453.98	(\$18,911,362.54)

**COMPARISON OF ASSESSMENT OF PUBLIC SERVICE COMPANIES
FOR THE YEARS 2011 AND 2012**

Class of Company	Value of All Taxable Property Including Rolling Stock		Increase or (Decrease)
	2011	2012	
Electric Light & Power Corporations	\$23,781,258,070.00	\$25,200,944,461.00	\$1,419,686,391.00
Gas Corporations	1,925,786,130.00	2,095,516,195.00	169,730,065.00
Motor Vehicle Carriers (Rolling Stock only)	37,210,451.00	37,160,224.00	(50,227.00)
Telecommunications Companies	9,147,800,581.00	8,482,949,946.00	(664,850,635.00)
Water Corporations	<u>238,204,974.00</u>	<u>231,487,158.00</u>	<u>(6,717,816.00)</u>
TOTAL	\$35,130,260,206.00	\$36,048,057,984.00	\$917,797,778.00

**COMPARISON OF ASSESSMENT OF STATE TAXES OF PUBLIC SERVICE
COMPANIES FOR THE YEARS 2011 AND 2012**

Class of Company	The Yearly License Tax		Increase or (Decrease)
	2011	2012	
Electric Light & Power Corporations	\$0.00	\$0.00	\$0.00
Gas Corporations	0.00	0.00	0.00
Water Corporations	<u>1,683,088.00</u>	<u>1,791,203.00</u>	<u>108,115.00</u>
TOTAL	\$1,683,088.00	\$1,791,203.00	\$108,115.00

**COMPARISON OF ASSESSMENT OF ADDITIONAL ANNUAL STATE TAX
FOR VALUATION AND RATE MAKING OF CERTAIN CLASSES OF
UTILITY COMPANIES FOR THE YEARS 2011 AND 2012**

Class of Company	2011	2012	Increase or (Decrease)
Motor Vehicle Carriers	\$61,099.00	\$77,266.00	\$16,167.00
Railroad Companies	1,459,535.00	1,202,154.00	(257,380.00)
Telecommunications Companies	11,958,637.00	11,972,053.00	13,416.00
Virginia Pilots Association	42,637.00	45,718.00	3,081.00
Water Corporations	<u>168,309.00</u>	<u>179,120.00</u>	<u>10,811.00</u>
TOTAL	\$13,690,217.00	\$13,476,312.00	(\$213,904.00)

Railroad Companies assessed at seven-hundredths of one percent and all other companies at two-tenth of one percent for Tax Year 2011.

Railroad Companies assessed at seven-hundredths of one percent and all other companies at two-tenth of one percent for Tax Year 2012.

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**COMPARATIVE STATEMENT OF ASSESSED VALUES OF
PROPERTIES OF PUBLIC SERVICE CORPORATIONS
AS ASSESSED BY THE STATE CORPORATION COMMISSION**

<u>Cities</u>	<u>2011</u>	<u>2012</u>	<u>Increase or Decrease</u>
Alexandria	\$687,766,453.00	\$639,251,944.00	(\$48,514,509.00)
Bedford	6,240,194.00	6,112,799.00	(127,395.00)
Bristol	12,209,545.00	12,305,503.00	95,958.00
Buena Vista	12,142,631.00	12,992,613.00	849,982.00
Charlottesville	120,795,223.00	122,975,661.00	2,180,438.00
Chesapeake	935,952,354.00	960,383,603.00	24,431,249.00
Colonial Heights	32,690,707.00	33,432,721.00	742,014.00
Covington	20,915,400.00	22,324,605.00	1,409,205.00
Danville	39,973,911.00	39,096,735.00	(877,176.00)
Emporia	15,972,870.00	16,454,878.00	482,008.00
Fairfax	110,913,773.00	106,327,237.00	(4,586,536.00)
Falls Church	23,654,038.00	22,572,149.00	(1,081,889.00)
Franklin	5,659,944.00	5,128,584.00	(531,360.00)
Fredericksburg	116,979,341.00	107,523,627.00	(9,455,714.00)
Galax	14,483,951.00	14,324,893.00	(159,058.00)
Hampton	302,841,069.00	308,891,628.00	6,050,559.00
Harrisonburg	41,799,126.00	42,088,734.00	289,608.00
Hopewell	338,963,986.00	323,963,199.00	(15,000,787.00)
Lexington	16,167,682.00	17,452,895.00	1,285,213.00
Lynchburg	186,479,729.00	185,156,295.00	(1,323,434.00)
Manassas	61,975,451.00	57,465,784.00	(4,509,667.00)
Manassas Park	26,131,153.00	25,101,056.00	(1,030,097.00)
Martinsville	22,088,145.00	21,345,366.00	(742,779.00)
Newport News	468,164,949.00	459,899,368.00	(8,265,581.00)
Norfolk	673,520,829.00	658,343,864.00	(15,176,965.00)
Norton	19,107,912.00	18,866,067.00	(241,845.00)
Petersburg	89,872,844.00	96,232,009.00	6,359,165.00
Poquoson	19,219,232.00	18,488,507.00	(730,725.00)
Portsmouth	393,574,478.00	395,284,654.00	1,710,176.00
Radford	17,343,121.00	18,362,946.00	1,019,825.00
Richmond	909,849,544.00	925,590,250.00	15,740,706.00
Roanoke	257,181,902.00	263,892,177.00	6,710,275.00
Salem	26,401,174.00	29,121,315.00	2,720,141.00
Staunton	60,631,717.00	60,302,676.00	(329,041.00)
Suffolk	241,339,508.00	295,280,616.00	53,941,108.00
Virginia Beach	937,066,352.00	928,198,708.00	(8,867,644.00)
Waynesboro	79,557,359.00	89,035,907.00	9,478,548.00
Williamsburg	53,916,134.00	55,787,329.00	1,871,195.00
Winchester	61,419,075.00	68,867,272.00	7,448,197.00
Total Cities	\$7,460,962,806.00	\$7,484,226,174.00	\$23,263,368.00

**COMPARATIVE STATEMENT OF ASSESSED VALUES OF
PROPERTIES OF PUBLIC SERVICE CORPORATIONS
AS ASSESSED BY THE STATE CORPORATION COMMISSION**

<u>Counties</u>	<u>2011</u>	<u>2012</u>	<u>Increase or (Decrease)</u>
Accomack	\$315,339,012.00	\$318,237,893.00	\$2,898,881.00
Albemarle	272,229,604.00	285,278,904.00	13,049,300.00
Alleghany	86,572,784.00	87,048,179.00	475,395.00
Amelia	29,605,945.00	36,095,417.00	6,489,472.00
Amherst	75,901,781.00	79,251,088.00	3,349,307.00
Appomattox	39,781,433.00	40,179,181.00	397,748.00
Arlington	737,011,680.00	720,904,385.00	(16,107,295.00)
Augusta	249,319,081.00	282,534,871.00	33,215,790.00
Bath	1,430,756,972.00	1,493,939,374.00	63,182,402.00
Bedford	217,967,261.00	213,702,547.00	(4,264,714)
Bland	64,969,827.00	66,422,045.00	1,452,218
Botetourt	158,371,055.00	167,467,530.00	9,096,475.00
Brunswick	53,440,570.00	59,331,979.00	5,891,409.00

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Buchanan	75,440,355.00	75,407,267.00	(33,088.00)
Buckingham	426,402,497.00	604,572,090.00	178,169,593.00
Campbell	172,725,086.00	171,299,314.00	(1,425,772.00)
Caroline	417,095,669.00	428,195,826.00	11,100,157.00
Carroll	89,037,376.00	91,505,034.00	2,467,658.00
Charles City	57,452,562.00	63,060,983.00	5,608,421.00
Charlotte	39,943,099.00	44,844,309.00	4,901,210.00
Chesterfield	1,280,350,061.00	1,326,734,386.00	46,384,325.00
Clarke	54,516,251.00	54,659,851.00	143,600.00
Craig	12,697,499.00	14,034,655.00	1,337,156.00
Culpeper	170,811,535.00	187,067,766.00	16,256,231.00
Cumberland	33,417,297.00	38,023,287.00	4,605,990.00
Dickenson	33,674,129.00	68,987,864.00	35,313,735.00
Dinwiddie	116,637,956.00	123,707,023.00	7,069,067.00
Essex	37,524,719.00	41,051,523.00	3,526,804.00
Fairfax	3,354,123,939.00	3,241,836,910.00	(112,287,029.00)
Fauquier	614,637,743.00	635,106,783.00	20,469,040.00
Floyd	56,075,544.00	51,717,911.00	(4,357,633.00)
Fluvanna	501,112,818.00	459,020,148.00	(42,092,670.00)
Franklin	154,020,860.00	149,594,948.00	(4,425,912.00)
Frederick	264,476,069.00	336,591,994.00	72,115,925.00
Giles	142,939,358.00	145,176,953.00	2,237,595.00
Gloucester	87,981,942.00	104,938,440.00	16,956,498.00
Goochland	94,053,527.00	94,456,405.00	402,878.00
Grayson	38,962,216.00	42,063,570.00	3,101,354.00
Greene	33,763,346.00	36,693,957.00	2,930,611.00
Greensville	34,980,354.00	36,111,635.00	1,131,281.00
Halifax	884,125,631.00	938,892,986.0	54,767,355.00
Hanover	590,588,119.00	576,315,669.00	(14,272,450.00)
Henrico	936,498,764.00	920,049,531.00	(16,449,233.00)
Henry	124,982,493.00	128,382,770.00	3,400,277.00
Highland	14,380,562.00	15,444,197.00	1,063,635.00
Isle of Wight	111,296,250.00	126,256,222.00	14,959,972.00
James City	205,567,460.00	215,244,615.00	9,677,155.00
King and Queen	22,917,533.00	27,120,435.00	4,202,902.00
King George	259,564,804.00	257,159,607.00	(2,405,197.00)
King William	44,077,349.00	44,276,165.00	198,816.00
Lancaster	44,173,669.00	44,806,003.00	632,334.00
Lee	46,568,297.00	48,978,217.00	2,409,920.00
Loudoun	1,706,192,363.00	1,502,311,392.00	(203,880,971.00)
Louisa	2,478,968,523.00	2,529,837,168.00	50,868,645.00
Lunenburg	39,334,414.00	38,218,304.00	(1,116,110.00)
Madison	45,943,355.00	44,818,603.00	(1,124,752.00)
Mathews	19,445,694.00	20,646,792.00	1,201,098.00
Mecklenburg	238,762,851.00	262,029,314.00	23,266,463.00
Middlesex	38,933,549.00	43,195,070.00	4,261,521.00
Montgomery	163,636,718.00	164,083,226.00	446,508.00
Nelson	78,137,174.00	79,289,079.00	1,151,905.00
New Kent	87,658,023.00	99,789,713.00	12,131,690.00
Northampton	52,038,739.00	49,707,974.00	(2,330,765.00)
Northumberland	45,441,422.00	41,926,278.00	(3,515,144.00)
Nottoway	49,837,391.00	50,875,283.00	1,037,892.00
Orange	95,902,406.00	95,410,228.00	(492,178.00)
Page	57,076,232.00	57,307,186.00	230,954.00
Patrick	51,711,665.00	52,520,654.00	808,989.00
Pittsylvania	245,029,000.00	252,604,119.00	7,575,119.00
Powhatan	85,038,204.00	81,932,711.00	(3,105,493.00)
Prince Edward	51,043,695.00	63,987,043.00	12,943,348.00
Prince George	86,928,033.00	100,263,222.00	13,335,189.00
Prince William	1,414,624,212.00	1,460,759,318.00	46,135,106.00
Pulaski	111,604,299.00	111,357,061.00	(247,238.00)
Rappahannock	29,025,579.00	51,441,940.00	22,416,361.00
Richmond	46,877,505.00	56,382,463.00	9,504,958.00
Roanoke	236,165,532.00	238,778,785.00	2,613,253.00
Rockbridge	96,430,577.00	106,408,784.00	9,978,207.00
Rockingham	206,531,952.00	211,078,178.00	4,546,226.00
Russell	189,480,948.00	219,601,057.00	30,120,109.00
Scott	69,493,614.00	68,745,270.00	(748,344.00)
Shenandoah	155,276,575.00	154,276,972.00	(999,603.00)
Smyth	84,806,314.00	89,444,787.00	4,638,473.00
Southampton	97,956,134.00	117,037,733.00	19,081,599.00
Spotsylvania	285,440,151.00	293,966,518.00	8,526,367.00

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Stafford	315,225,111.00	361,988,821.00	46,763,710.00
Surry	1,667,966,811.00	1,780,439,626.00	112,472,815.00
Sussex	44,391,050.00	75,585,097.00	31,194,047.00
Tazewell	107,721,351.00	118,982,815.00	11,261,464.00
Warren	76,956,620.00	181,341,515.00	104,384,895.00
Washington	150,036,422.00	156,015,927.00	5,979,505.00
Westmoreland	54,780,495.00	55,376,266.00	595,771.00
Wise	560,708,231.00	582,405,117.00	21,696,886.00
Wythe	116,133,374.00	133,124,217.00	16,990,843.00
York	386,532,898.00	411,599,318.00	25,066,420.00
Total Counties	<u>\$27,632,086,949.00</u>	<u>\$28,526,671,586.00</u>	<u>\$894,584,637.00</u>
Total Cities & Counties	\$35,093,049,755.00	\$36,010,897,760.00	\$917,848,005.00

COMPARISON OF FEES COLLECTED BY THE DIVISION OF SECURITIES AND RETAIL FRANCHISING FOR THE YEARS ENDING DECEMBER 31, 2011, AND DECEMBER 31, 2012

<u>Kind</u>	<u>2011</u>	<u>2012</u>	<u>Increase or (Decrease)</u>
Securities Act	\$9,426,234.11	\$9,237,062.29	(\$189,171.82)
Retail Franchising Act	463,100.00	468,550.00	5,450.00
Trademarks-Service Marks	26,190.00	28,170.00	1,980.00
Penalties	100,005.77	282,102.57	182,096.80
Global Settlement Penalties	358,734.98	202,905.69	(155,829.29)
Cost of Investigations	<u>50,850.00</u>	<u>16,000.00</u>	<u>(34,850.00)</u>
TOTAL	\$10,425,114.86	\$10,234,790.55	(\$190,324.31)

PROCEEDINGS AND ACTIVITIES BY DIVISIONS DURING THE YEAR 2012

DIVISION OF UTILITY ACCOUNTING AND FINANCE

The Division of Utility Accounting and Finance (Division) assists the Commission with its review and analysis of accounting and financial information in utility regulatory matters. The Division conducts audits and prepares testimony and reports in rate proceedings, as well as in applications involving performance-based regulatory plans, affiliate transactions, mergers and acquisitions, financing plans, and certificates of public convenience and necessity. The Division also conducts audits of electric utility fuel costs and analyzes depreciation studies of electric, gas, and water and sewer utilities.

Below is a listing of major rate proceedings, certificate cases and financial review filings analyzed by the Division during 2012.

<u>General Rate Cases/Biennial Reviews</u>	
Electric Cooperatives	4
Water Companies	<u>3</u>
Total General Rate Cases/Biennial Reviews	7
<u>Expedited Rate Cases</u>	
Gas Companies	<u>4</u>
Total Expedited Rate Cases	4
Total Rate Cases	11
<u>Certificate/License Cases</u>	
Telephone Companies	2
Gas Companies	1
Competitive Service Providers	<u>4</u>
Total Certificate Cases	7
<u>Rate Adjustment Clauses/Demand Side Management Programs</u>	
Electric Companies	8
Electric Cooperatives	<u>3</u>
Total Rate Adjustment Cases	11
<u>Steps to Advance Virginia's Energy (SAVE) Plans/CARE Plans/Hexane Tariff</u>	
Gas Companies	7

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<u>Annual Informational Filings/Earnings Tests</u>	
Electric Companies	1
Gas Companies	4
Water Companies	<u>4</u>
Total Annual Informational Filings/Earnings Tests	9
<u>Fuel Factor Cases</u>	
Electric Companies	7
<u>Depreciation Studies</u>	
Electric Companies	1
Natural Gas Companies	<u>1</u>
Total Depreciation Studies	2
<u>Ex Parte/Pilot Program/Rules to Show Cause Cases</u>	
	5
<u>Special Studies</u>	
Electric	1
<u>Other</u>	
Electric Companies	1
Electric Cooperatives	1

During 2012 the Division submitted reports recommending action in applications filed pursuant to Chapters 3 (Issuances of Utility Securities), 4 (Affiliates Act), and 5 (Utility Transfers Act) of Title 56 of the Code of Virginia as follows:

2012 Affiliates Act and Utility Transfers Act

<u>Affiliates Act Cases</u>	
Service Agreements	15
Fuel Agreements	3
Transportation Service Agreements	1
Storage Service Agreements	1
Credit Agreement	1
Asset Transfer Agreement	1
LNG Truck Loading Agreement	1
Anchor Shipper Agreement	<u>1</u>
Total	24
<u>Utility Transfers Act</u>	
Transfer of Control	13
Transfer of Assets	<u>7</u>
Total	20
<u>Issuance of Securities Cases</u>	<u>22</u>
Total of Affiliate Act, Transfers Act and Security Cases	<u>66</u>

DIVISION OF COMMUNICATIONS

The Division of Communications assists the Commission in carrying out its duties as prescribed by the Code of Virginia. It oversees and monitors the continued implementation of competition in landline telecommunications markets with the goal of achieving an effective regulatory environment that balances the advancement of competition with the protection of consumers. The Division assists the Commission in developing, implementing, and enforcing alternatives to traditional forms of regulation as competition evolves. It monitors, enforces, and makes interpretations on certain rates, tariffs, and operating procedures of investor-owned telecommunications utilities. The Division enforces service standards and investigates and resolves consumer inquiries and complaints. It assures compliance with tariff regulations, maintains territorial maps, coordinates extended area service studies, enforces pay telephone regulations, and performs special studies. The Staff testifies in rate, service, and generic hearings, and meets with the public on communications issues and problems. The Staff also assists in carrying out provisions of the Federal Telecommunications Act of 1996, monitors developments at the federal level, and prepares Commission responses where appropriate.

At the end of 2012, there were subject to the regulatory oversight of the Division:

- 14 Incumbent Investor-Owned Local Exchange Telephone Companies
- 143 Competitive Local Exchange Telephone Companies
- 98 Long Distance Telephone Companies
- 92 Payphone Service Providers
- 11 Operator Service Providers for Payphones

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SUMMARY OF 2012 ACTIVITIES

Consumer Complaints Investigated:	4,098
Wireline Complaints	3,738
Wireless Complaints	360
Total Consumer Credit Adjustments:	\$484,330
Wireline Credit Adjustments	\$443,574
Wireless Credit Adjustments	\$40,756
Service Quality Oversight:	
Network Access Lines (reported as of June 30, 2012)	3,123,551
Tariff revisions received:	
Incumbent Local Exchange Companies	115
Competitive Local Exchange Companies	122
Interexchange Companies	7
Tariff sheets filed:	
Incumbent Local Exchange Companies	2,825
Competitive Local Exchange Companies	1,601
Interexchange Companies	40
Promotional Filings:	
Incumbent Local Exchange Companies	24
Competitive Local Exchange Companies	61
Interexchange Companies	0
Cases in which staff members prepared testimony, reports, or comments	12
Certificates of Convenience and Necessity:	
Competitive Local Exchange Companies	
Granted	8
Amended	6
Cancelled	14
Interexchange Companies	
Granted	6
Amended	2
Cancelled	12
Interconnection Agreements or Amendments approved or dismissed	48
Payphone registration and rules enforcement provided on:	
Local Exchange Company payphone service providers	8
Local Exchange Company payphones	315
Private payphone service providers	84
Private payphones	5,286
Payphone audits	520
General Network/Infrastructure Field Reviews	7

OTHER:

Assisted the Commission in the continued implementation and operation of the Federal Telecommunications Act of 1996.
 Monitored Verizon Virginia's Performance Assurance Plan.
 Assisted Commission counsel with respect to formal rate, service, and generic matters.
 Participated in matters affecting communications policy with federal agencies.
 Pursued various activities relating to the Commission's alternative plans for regulating telephone companies.
 Continued outreach activities by making presentations to trade and citizen groups, associations, and telephone companies.
 Represented the Commission during the General Assembly session on matters relating to telecommunications legislation.
 Responded to questionnaires and inquiries from the National Association of Regulatory Utility Commissioners ("NARUC") and others with respect to telecommunications matters.
 Submitted comments to the FCC concerning annual access tariff filings, 911 resiliency and reliability, and cramming rules.
 Managed Virginia's telephone number utilization program.
 Monitored Virginia Universal Service Plan (Lifeline) participation, reviewed and implemented revised FCC requirements, and participated in a multi-state Universal Service/Eligible Telecommunications Carrier group.
 Monitored and maintained Local Exchange Company bonds, received biannual reporting and monitoring information, and conducted required Gross Domestic Product Price Index calculations.
 Staff member serves on the NARUC Staff Subcommittee on Communications.
 Participated in the Metropolitan Washington Council of Governments 911 Telecommunications Network Steering Group.

DIVISION OF ENERGY REGULATION

Activities for Calendar Year 2012

The Division of Energy Regulation assists the Commission in fulfilling its statutory responsibilities pursuant to Title 56, Chapter 10 of the Code of Virginia. Activities include reviewing investor-owned electric, natural gas and water/sewer utilities' cost of service studies; reviewing cost allocation methodology and rate design philosophies; reviewing long term utility resource plans; and providing expert testimony in these matters.

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The Division provides expert testimony in certificate cases for service areas and major facility construction of public utilities and independent power producers. After such certificates are granted, the Division is responsible for maintaining the official certificates and associated maps.

The Division has monitoring responsibilities relative to: the collection of gas costs by gas utilities, the incurrence of wholesale purchased power expenses by electric cooperatives, and the recovery of fuel expenses and the construction and operation of major facilities by the investor-owned utilities. It also reviews extraordinary costs and policies related to nuclear power, including decommissioning of nuclear power plants and the storage of spent nuclear fuel.

The Division investigates and resolves informal consumer complaints/inquiries relative to regulated utilities and licensed electricity and natural gas suppliers.

Finally, the Division develops annual energy related financial forecasts, and provides the Commission with technical expertise pertaining to regulatory policy, regional transmission organizations, and utility mergers and acquisitions.

Summary of Activities for Calendar Year 2012

Consumer Complaints and Inquiries Received	2,490
Written Public Comments Relative to Commission Cases Received	8,948
Testimony and Reports Filed by Staff	55
Certificates of Convenience and Necessity Granted, Transferred, or Revised	13
Affiliates Applications	11
Meter Tests Witnessed	5
Community Meetings and Presentations	2

BUREAU OF FINANCIAL INSTITUTIONS

The Bureau of Financial Institutions is responsible under Title 6.2 of the Code of Virginia for the regulation and supervision of the following types of institutions: state chartered banks, independent trust companies, state chartered savings institutions, state chartered credit unions, industrial loan associations, consumer finance licensees, money transmitter licensees, mortgage lenders and brokers, mortgage loan originators, credit counseling agencies, check cashers, motor vehicle title lenders, and payday lenders. Financial institutions domiciled outside of Virginia that have deposit taking subsidiaries within the Commonwealth are also subject to the Bureau regulatory authority, as are out-of-state deposit taking subsidiaries of financial holding companies domiciled in Virginia.

During the calendar year, the Bureau of Financial Institutions received, investigated, and processed 3,858 applications for various certificates of authority as shown below:

**APPLICATIONS RECEIVED AND/OR ACTED UPON
BY THE BUREAU OF FINANCIAL INSTITUTIONS IN 2012**

Bank Branches	50
Bank Branch Office Relocations	11
Establish a Branch (out-of-the state Bank)	6
Out-of-State Branch Move (Bank)	5
Bank Acquisitions Pursuant to § 6.2-704A	4
Bank Acquisitions Pursuant to § 6.2-704C	1
Acquire a VA Savings Institution	3
Bank Merger	3
Out of State Bank Merger	2
Relocation Bank Main Office	1
New Private Trust Company	1
New Credit Union	1
Credit Union Mergers	2
Credit Union Service Facilities	3
Credit Union Office Relocations	2
New Consumer Finance	8
Consumer Finance Offices	92
Consumer Finance Other Business	18
Consumer Finance Office Relocations	5
Acquire a Consumer Finance Institution	1
New Mortgage Lenders and/or Brokers	113
Acquisitions of Mortgage Lenders/Brokers	9
Determination of a Bona Fide Non-Profit Status	2
Mortgage Additional Offices	393
Mortgage Loan Originator Licensees	2,890
New Motor Vehicle Title Lender	9
Motor Vehicle Title Lender Additional Offices	58
Motor Vehicle Title Lender Office Relocations	10
Motor Vehicle Title Lender Other Business	7

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New Money Order Sellers/Money Transmitters	17
Acquisitions of Money Order Sellers/Money Transmitters	1
Credit Counseling Agency Additional Offices	30
Credit Counseling Office Relocations	14
New Credit Counseling Agencies	3
New Check Cashers	66
New Payday Lender	1
Payday Office Relocations	5
Payday Lender Additional Offices	1
Payday Lender Other Business	9
Acquire a Payday Lender	1

At the end of 2012, there were under the supervision of the Bureau 78 banks with 1,022 branches, 49 Virginia bank holding companies, 3 non-Virginia bank holding companies with a subsidiary Virginia bank, 3 subsidiary trust companies, 1 savings institution, 54 credit unions, 5 industrial loan associations, 21 consumer finance companies with 147 Virginia offices, 69 money transmitters, 39 credit counseling agencies, 503 check cashers, 94 mortgage lenders with 455 offices, 408 mortgage brokers with 928 offices, 222 mortgage lender/brokers with 1,405 offices, 8,116 mortgage loan originators, 5 private trust companies, 25 motor vehicle title lenders with 393 offices, and 23 payday lenders with 244 offices.

BUREAU OF INSURANCE REGULATION ACTIVITIES FOR THE FISCAL YEAR ENDING JUNE 30, 2012

The regulation of insurance was transferred to the State Corporation Commission from the Auditor of Public Accounts in 1906. The Bureau of Insurance (Bureau) has licensed and examined the affairs of insurance companies since that time. Here in the Commonwealth of Virginia, the functions of the Bureau have increased with the complexity and importance of insurance in our daily lives. In keeping with the Commission's mission, Bureau staff strives to balance the interests of insurance consumers with its duty to regulate Virginia's business responsibility.

The Bureau of Insurance is divided into the following four divisions: The Financial Regulation Division licenses, analyzes, and examines insurance companies and, if necessary, takes steps to resolve financial problems before a company becomes unable to meet its obligations; the Life and Health Market Regulation Division regulates the activities of life insurers, accident and sickness insurers, health service plans, and health maintenance organizations; the Property and Casualty Market Regulation Division regulates the activities of property and casualty insurers (automobile and homeowners); and the Agent Regulation and Administration Division regulates the activities of insurance agents, collects various special taxes and assessments on insurance companies and works in an auxiliary role in support of the Bureau's other divisions.

The regulatory functions of the Bureau of Insurance include: (1) Agent Investigations staff monitor the activities of insurance agents and agencies to ensure their actions comply with state law; (2) Consumer Services staff answer questions and assist consumers with problems concerning insurance companies or agents by investigating consumer complaints; (3) Market Regulation staff conduct on-site field examinations of insurance company practices in Virginia to ensure compliance with state law, to verify whether a company pays claims timely, to ensure that underwriting decisions are not unfairly discriminatory, and to evaluate marketing materials to ensure that they are not misleading; (4) the Office of the Managed Care Ombudsman promotes and protects the interests of covered persons under managed care health insurance plans (MCHIP) and assists consumers in understanding and exercising their rights of appeal of adverse decisions made by MCHIPS; and (5) Policy Forms and Rates Filing staff evaluate insurance policies and rates to ensure compliance with state law, that policies are written in understandable language, and that premiums charged are reasonable and not unfairly discriminatory.

SUMMARY OF 2012 ACTIVITIES

New insurance companies licensed to do business in Virginia	32
Insurance company financial statements analyzed	875
Financial examinations of insurance companies conducted	29
Property and Casualty insurance rules, rates and form submissions	4,424
Life and Health insurance policy forms and rates submissions	3,428
Property and Casualty insurance complaints received	2,293
Life and Health insurance complaints received	1,980
Market conduct examinations completed by the Life and Health Division	4
Market Regulation Continuum Actions completed by the Life and Health Division	24
Market conduct examinations completed by the Property and Casualty Division	7
Market Regulation Continuum Actions completed by the Property and Casualty Division	100
Insurance agents and agencies licensed	199,317
Tax and assessment audits	8,204
Ombudsman Office inquiries received	385
Individuals assisted by Ombudsman Office in appealing MCHIP denials	52

EXTERNAL APPEAL FISCAL YEAR 2012

Number of Cases Reviewed	196
Eligible Appeals	116
Ineligible Appeals	80
Eligibility Pending	0
Final Adverse Decision Upheld By Reviewer	71
Final Adverse Decision Overturned by Reviewer	40

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Final Adverse Decision Modified	6
MCHIP Reversed Itself	5
Appeal Decisions Pending	0
Terminated or Withdrawn	2
Approximate Cost Savings to Appellants	\$743,805

NOTICE OF INSURANCE-RELATED ENTITIES IN RECEIVERSHIP

Pursuant to Virginia Code § 38.2-1517, please TAKE NOTICE that the following insurance-related entities are in receivership under authority of various provisions of Title 38.2 of the Code of Virginia:

Fidelity Bankers Life Insurance Company d/b/a First Dominion Life Insurance (FBL/FD). Date of receivership: May 13, 1991. The company will not resume the transaction of the business of insurance. For more information/updates you can e-mail www.fblic.com.

HOW Insurance Company, a Risk Retention Group, Home Owners Warranty Corporation and Home Warranty Corporation (the HOW Companies). Date of receivership: October 7, 1994. The company will not resume the transaction of the business of insurance. For more information/updates you can e-mail www.howcorp.com.

The Commission is the Receiver, and Commissioner of Insurance Jacqueline Cunningham is the Deputy receiver, of FBL/FD and the HOW Companies. Any inquiries concerning the conduct of the receivership of First Dominion Life Insurance Company and the HOW Companies may be directed to their Special Deputy Receiver, Patrick H. Cantilo, Esquire, Cantilo & Bennett, LLP, Suite 300, 11401 Century Oaks Terrace, Austin, Texas 78758.

Reciprocal of America (ROA) and The Reciprocal Group (TRG). Date of receivership: January 29, 2003. An Order of Liquidation with a Finding of Insolvency and Directing the Cancellation of Direct Insurance Policies was entered on June 20, 2003, and on October 28, 2003, the proposed plan of liquidation was approved by entry of an Order Setting Final Bar Date and Granting the Deputy Receiver Continuing Authority to Liquidate Companies.

The Commission is the Receiver, and the Commissioner of Insurance, Jacqueline K. Cunningham, is the Deputy Receiver of ROA and TRG. Any inquiries concerning the conduct of the receivership of ROA and TRG may be directed to Mike R. Parker, Special Deputy Receiver, 4200 Innsbrook Drive, Glen Allen, Virginia 23060, or P.O. Box 85058, Richmond, Virginia 23285-5058 or by e-mail at www.reciprocalgroup.com.

Shenandoah Life Insurance Company (SLIC). Date of receivership: February 12, 2009. The State Corporation Commission was named receiver for SLIC by the Circuit Court of the City of Richmond. On May 8, 2012, a Final Order was entered terminating the rehabilitation proceedings permitting the company to resume possession of its property and the management of its affairs.

Southern Title Insurance Corporation (STIC). Date of receivership: December 20, 2011. The State Corporation Commission was named receiver for STIC by the Circuit Court of the City of Richmond.

The Commission is the Receiver, and the Commissioner of Insurance, Jacqueline K. Cunningham, is the Deputy Receiver of STIC. Any inquiries concerning the conduct of the receivership of STIC may be directed to Donald Beatty with the Commission's Office of General Counsel, Special Deputy Receiver of STIC.

DIVISION OF SECURITIES AND RETAIL FRANCHISING

The Division of Securities and Retail Franchising of the State Corporation Commission is charged with the administration of the following laws:

Virginia Securities Act (known as the "Blue Sky" Law), Virginia Code §§ 13.1-501 through 13.1-527.3.
 Virginia Trademark and Service Mark Act, Virginia Code §§ 59.1-92.1 through 59.1-92.21.
 Virginia Retail Franchising Act, Virginia Code §§ 13.1-557 through 13.1-574.

UNDER THE VIRGINIA SECURITIES ACT:

364	investment company notice filings originals denied, withdrawn, or terminated
3,120	investment company notice filings originals accepted
14	securities registrations denied, withdrawn, or terminated
38	securities registrations approved
11	exemption notice filings for federal-covered securities denied, withdrawn, or terminated
23	exemptions from registration approved
1	exemption from registration denied, withdrawn, or terminated
1,609	exemption notice filings for federal-covered securities accepted
173	broker-dealer from registration denied, withdrawn, or terminated
2,298	broker-dealer registrations and renewals approved
21	broker-dealer registrations and renewals denied, withdrawn, or terminated
76	broker-dealer audits completed
200,089	broker-dealer agent registrations and renewals approved
33,201	broker-dealer agent registrations and renewals denied, withdrawn, or terminated
186	investment advisor from registration denied, withdrawn, or terminated
75	investment advisor other amendments approved
10	investment advisor other amendments denied, withdrawn, or terminated
2,992	investment advisor registrations, renewals, and amendments approved
208	investment advisor registrations, renewals, and amendments denied, withdrawn, or terminated

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80	investment advisor audits completed
514	audit violation deficiencies resolved
13,410	investment advisor representative registrations and renewals approved
2,112	investment advisor representative registrations and renewals denied, withdrawn, or terminated
11	agent of issuer from registration denied, withdrawn, or terminated
73	agent of issuer registrations and renewals approved
9	agent of issuer registrations and renewals denied, withdrawn, or terminated
140	investigations completed

UNDER THE VIRGINIA TRADEMARK AND SERVICE MARK ACT:

758	trademarks and/or service marks approved, renewed, or assigned
443	trademarks and/or service marks denied, abandoned, expired, or withdrawn

UNDER THE VIRGINIA RETAIL FRANCHISING ACT:

1,653	franchise registrations, renewals, or post-effective amendments approved
321	franchise registrations, renewals, or post-effective amendments denied, withdrawn, non-renewed, or terminated
19	investigations completed

ORDERS, JUDGMENTS AND SETTLEMENTS:

16	orders granting exemptions and/or official interpretations
44	orders for subpoena of records by banks, corporations, and individuals
3	orders of show cause
22	judgments of compromise and settlement
19	final orders and/or judgments
0	temporary injunctions
1	special supervision

TELEPHONE CALLS, E-MAILS AND COMPLAINTS:

72	investigation general inquiry calls/e-mails
636	calls/e-mails regarding pending investigations
309	enforcement general inquiry calls/e-mails
1,865	calls/e-mails regarding pending enforcements
718	calls/e-mails regarding pending registrations
12,120	registration general inquiry calls/e-mails
314	calls/e-mails regarding pending audits
238	audit general inquiry calls/e-mails
5,971	examination general inquiry calls/e-mails
370	calls/e-mails regarding pending examinations
168	complaints resulting in investigations
59	complaints referred
4	complaints with no authority to investigate
30	complaints with no violation of Securities or Franchise Acts
358	from registration denied, withdrawn, or terminated
178	notice filings approved
1,991	registrations approved
2	registrations denied, withdrawn, or terminated
1,129	renewals approved
4	renewals denied, withdrawn, or terminated

UNIFORM COMMERCIAL CODE

The Clerk's Office is the central filing office in the Commonwealth for financing statements, amendments, assignments and terminations filed under the Uniform Commercial Code – Secured Transactions. The Clerk's Office is the filing office in the Commonwealth for notices and certificates applicable to the personal property of corporations and partnerships filed under the Uniform Federal Lien Registration Act.

SUMMARY OF CALENDAR YEAR ACTIVITIES

	<u>12/31/11</u>	<u>12/31/12</u>
Financing/Subsequent Statements Filed	68,020	69,413
Federal Tax Liens/Subsequent Liens Filed	7,255	6,215
Reels of Microfilmed documents sold	416	397

DIVISION OF UTILITY AND RAILROAD SAFETY

The Division of Utility and Railroad Safety assists the Commission in administering three safety programs: Gas and Hazardous Liquid Pipeline Safety, Railroad Safety and Underground Utility Damage Prevention. The Pipeline Safety Section of the Division helps ensure the safe operation of gas and hazardous liquid pipeline facilities, through inspections of facilities and new constructions, review of safety records and programs, and investigation of incidents. In 2012, the Division's pipeline safety activities involved 10 natural gas companies, with a total of 20,777 miles of pipelines serving 1,209,972 customers, 133 master-metered operators, 33 propane systems and 4 hazardous liquid pipeline companies with a total of 897 miles of pipelines.

Summary of 2012 Activities

Gas Safety Inspection Man-days Conducted	945
Hazardous Liquid Safety Inspection Man-days Conducted	106
Number of Counts of Probable Violations Cited	1,363
Pipeline Accidents Investigated	30
Pipeline Safety Trainings Conducted	24
Testimony and Reports Prepared	3

The Rail Safety Section of the Division helps ensure the safe operation of jurisdictional railroads by conducting inspections of tracks and motive power and equipment and investigations of certain accidents. The Division's inspections involve more than 3,600 miles of track and thousands of cars and locomotives.

Summary of 2012 Activities

Number of Track Units ¹ Inspected	9,304
Number of Locomotive and Car Units ² Inspected	18,807
Number of Operating Practice Units ³ Inspected	2,725
Number of Defects Noted	7,407
Number of Violations Cited	51
Number of Accidents Investigated	246
Number of Complaints Investigated	23

The Damage Prevention Section of the Division investigates all reports of "probable violations" of the Underground Utility Damage Prevention Act ("Act") and on a monthly basis presents its findings and recommendations to an Advisory Committee appointed in accordance with the Act. This Committee then makes enforcement recommendations to the Commission. The Division provides free training relative to the Act and safe digging practices to excavators, utilities and others, conducts public education campaigns and promotes partnership among the stakeholders to further underground utility damage prevention in Virginia.

Summary of 2012 Activities

Underground Utility Damage Reports Investigated	1,188
Number of Individuals Having Received Damage Prevention Training	1,370
Number of Damage Prevention Educational Material Disseminated	75,428
Number of Damage Prevention Field Audits Conducted	649

¹ Each mile of track, record, crossing at grade, among other things, is considered a track unit.

² Each locomotive, car, motive power equipment record, among other things, is considered a unit.

³ Each location where operations are or may occur such as switchyards, field offices, yard offices, trains, yard crew locations and dispatching are considered an operating practice unit.

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LIST OF CASES ESTABLISHED IN 2012

BAN/BFI:	BUREAU OF FINANCIAL INSTITUTIONS
BAN20120001	excelente multiservice, llc To open a check casher at 795 Center Street, Suite 5B, Herndon, VA
BAN20120002	Atlantic Bay Holding Company, Inc. To acquire 25 percent or more of Atlantic Bay Mortgage Bankers, LLC
BAN20120003	MotorMax Financial Services Corporation To open a consumer finance office
BAN20120004	Virginia Heritage Bank To open a branch at 8245 Boone Boulevard, Suite 820, Vienna, Fairfax County, VA
BAN20120005	ClearPoint Financial Solutions, Inc. d/b/a ClearPoint Credit Counseling Solutions To open an additional credit counseling office at 4010 Watson Plaza Drive, Suite 225, Lakewood, CA
BAN20120006	ClearPoint Financial Solutions, Inc. d/b/a ClearPoint Credit Counseling Solutions To open an additional credit counseling office at 85 NE Loop 410, Suite 615, San Antonio, TX
BAN20120007	ClearPoint Financial Solutions, Inc. d/b/a ClearPoint Credit Counseling Solutions To relocate a credit counseling office from 6001 E. Washington Boulevard, Los Angeles, CA to 6055 East Washington Boulevard, Suite 390, Commerce, CA
BAN20120008	EZ Checks Cashed, Inc. To open a check casher at 13251 Occoquan Road, Woodbridge, VA
BAN20120009	Unirush, LLC For a money order license
BAN20120010	TMX Finance of Virginia, Inc. To open a consumer finance office at 4288 Holland Road, City of Virginia Beach, VA
BAN20120011	TMX Finance of Virginia, Inc. To open a consumer finance office at 3022 W. Mercury Boulevard, City of Hampton, VA
BAN20120012	TMX Finance of Virginia, Inc. To open a consumer finance office at 11109 Jefferson Avenue, City of Newport News, VA
BAN20120013	TMX Finance of Virginia, Inc. To open a consumer finance office at 5203 Jefferson Davis Highway, Spotsylvania County, VA
BAN20120014	TMX Finance of Virginia, Inc. To open a consumer finance office at 7913 Sudley Road, Suite 105, Prince William County, VA
BAN20120015	TMX Finance of Virginia, Inc. To open a consumer finance office at 3645 Virginia Beach Boulevard, City of Virginia Beach, VA
BAN20120016	TMX Finance of Virginia, Inc. To open a consumer finance office at 20 East Belt Boulevard, City of Richmond, VA
BAN20120017	TMX Finance of Virginia, Inc. To open a consumer finance office at 4711 West Broad Street, City of Richmond, VA
BAN20120018	TMX Finance of Virginia, Inc. To open a consumer finance office at 2716 S. Crater Road, City of Petersburg, VA
BAN20120019	TMX Finance of Virginia, Inc. To open a consumer finance office at 10801 Fairfax Boulevard, City of Fairfax, VA
BAN20120020	TMX Finance of Virginia, Inc. To open a consumer finance office at 1356 S. Military Highway, Suite B, City of Chesapeake, VA
BAN20120021	TMX Finance of Virginia, Inc. To open a consumer finance office at 504B & 506B S. Van Dorn Street, City of Alexandria, VA
BAN20120022	TMX Finance of Virginia, Inc. To open a consumer finance office at 1911 Opitz Boulevard, Woodbridge, Prince William County, VA
BAN20120023	TMX Finance of Virginia, Inc. To open a consumer finance office at 901 N. Main Street, City of Suffolk, VA
BAN20120024	TMX Finance of Virginia, Inc. To open a consumer finance office at 1421 Kempsville Road, Suite D & E, City of Chesapeake, VA
BAN20120025	TMX Finance of Virginia, Inc. To open a consumer finance office at 13747 Warwick Boulevard, City of Newport News, VA
BAN20120026	TMX Finance of Virginia, Inc. To open a consumer finance office at 2605 Moses Grady Trail, Suite 101-D, City of Chesapeake, VA
BAN20120027	TMX Finance of Virginia, Inc. To open a consumer finance office at 4416 Portsmouth Boulevard, Suite A, City of Chesapeake, VA
BAN20120028	TMX Finance of Virginia, Inc. To open a consumer finance office at 604 Newtown Road, City of Virginia Beach, VA
BAN20120029	TMX Finance of Virginia, Inc. To open a consumer finance office at 1702 Boulevard, City of Colonial Heights, VA
BAN20120030	TMX Finance of Virginia, Inc. To open a consumer finance office at 202 Battlefield Boulevard S, City of Chesapeake, VA
BAN20120031	TMX Finance of Virginia, Inc. To open a consumer finance office at 3133 Western Branch Boulevard, City of Chesapeake, VA
BAN20120032	TMX Finance of Virginia, Inc. To open a consumer finance office at 2947 S. Military Highway, Suite 105 & 106, City of Chesapeake, VA
BAN20120033	TMX Finance of Virginia, Inc. To open a consumer finance office at 1128 N. Battlefield Boulevard, Suite 101 & 102, City of Chesapeake, VA

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BAN20120034 TMX Finance of Virginia, Inc.
To open a consumer finance office at 1330 Old Bridge Road, Woodbridge, Prince William County, VA

BAN20120035 TMX Finance of Virginia, Inc.
To open a consumer finance office at 1092 Lynnhaven Parkway, City of Virginia Beach, VA

BAN20120036 TMX Finance of Virginia, Inc.
To open a consumer finance office at 5870 Leesburg Pike, Fairfax County, VA

BAN20120037 TMX Finance of Virginia, Inc.
To open a consumer finance office at 6325 Richmond Highway, Fairfax County, VA

BAN20120038 TMX Finance of Virginia, Inc.
To open a consumer finance office at 2554 Airline Boulevard, City of Portsmouth, VA

BAN20120039 TMX Finance of Virginia, Inc.
To open a consumer finance office at 1943 Victory Drive, City of Portsmouth, VA

BAN20120040 TMX Finance of Virginia, Inc.
To open a consumer finance office at 660 J. Clyde Morris Boulevard, City of Newport News, VA

BAN20120041 TMX Finance of Virginia, Inc.
To open a consumer finance office at 8723 Cooper Road, Fairfax County, VA

BAN20120042 TMX Finance of Virginia, Inc.
To open a consumer finance office at 7807 West Broad Street, Henrico County, VA

BAN20120043 TMX Finance of Virginia, Inc.
To open a consumer finance office at 2007 S. Military Highway, City of Chesapeake, VA

BAN20120044 TMX Finance of Virginia, Inc.
To open a consumer finance office at 8016 Centreville Road, Prince William County, VA

BAN20120045 TMX Finance of Virginia, Inc.
To open a consumer finance office at 21430 Cedar Drive, Suite 110, Sterling, Loudoun County, VA

BAN20120046 TMX Finance of Virginia, Inc.
To conduct consumer finance business where a motor vehicle title lending business will also be conducted

BAN20120047 TMX Finance of Virginia, Inc.
To open a consumer finance office at 3930 Prince William Parkway, Woodbridge, Prince William County, VA

BAN20120048 FFS of Arlington LLC
To open a check casher at 942 South George Mason Drive, Arlington, VA

BAN20120049 Springboard Nonprofit Consumer Credit Management, Inc.
To open an additional credit counseling office at 12 Gill Street, Suite 1900, Woburn, MA

BAN20120050 Kenneth R. Lehman
To acquire control of First Capital Bancorp, Inc.

BAN20120051 First Community Bank d/b/a People's Community Bank (In Certain Offices)
To open a branch at 306 S. Poplar Street, Elizabethtown, NC

BAN20120052 First Community Bank d/b/a People's Community Bank (In Certain Offices)
To open a branch at 8001 E. Oak Island Drive, Oak Island, NC

BAN20120053 First Community Bank d/b/a People's Community Bank (In Certain Offices)
To open a branch at 923 Seaside Road SW, Ocean Isle Beach, NC

BAN20120054 First Community Bank d/b/a People's Community Bank (In Certain Offices)
To open a branch at 4949 Main Street, Shallotte, NC

BAN20120055 First Community Bank d/b/a People's Community Bank (In Certain Offices)
To open a branch at 701 North Howe Street, Southport, NC

BAN20120056 First Community Bank d/b/a People's Community Bank (In Certain Offices)
To open a branch at 4949 Southport Supply Road, Southport, NC

BAN20120057 First Community Bank d/b/a People's Community Bank (In Certain Offices)
To open a branch at 3178 Holden Beach Road SW, Holden, NC

BAN20120058 First Community Bank d/b/a Waccamaw Bank, a Division of First Community Bank (In certain Offices)
To open a branch at 111 Strawberry Boulevard, Chadbourne, NC

BAN20120059 First Community Bank d/b/a People's Community Bank (In Certain Offices)
To open a branch at 105 Hickman Road, Tabor City, NC

BAN20120060 First Community Bank d/b/a People's Community Bank (In Certain Offices)
To open a branch at 110 North J.K. Powell Boulevard, Whiteville, NC

BAN20120061 First Community Bank d/b/a People's Community Bank (In Certain Offices)
To open a branch at 29 South Kerr Avenue, Wilmington, NC

BAN20120062 First Community Bank d/b/a People's Community Bank (In Certain Offices)
To open a branch at 112 Waccamaw Medical Park, Conway, SC

BAN20120063 First Community Bank d/b/a People's Community Bank (In Certain Offices)
To open a branch at 1230 16th Avenue, Conway, SC

BAN20120064 First Community Bank d/b/a People's Community Bank (In Certain Offices)
To open a branch at 1180 Highway 17, Little River, SC

BAN20120065 First Community Bank d/b/a People's Community Bank (In Certain Offices)
To open a branch at Main and Caston Streets NW, Heath Springs, SC

BAN20120066 Monarch Bank
To open a branch at 2999 Corporate Lane, Suite B8 & B9, City of Suffolk, VA

BAN20120067 Jeff Davis Store, Inc. d/b/a MarketPlace Store
To open a check casher at 7933 Jefferson Davis Highway, North Chesterfield, VA

BAN20120068 Waverly Stores, Inc. d/b/a Waverly Exxon
To open a check casher at 110 N. County Drive, Waverly, VA

BAN20120069 Ana'a Market, Inc.
To open a check casher at 707 East Market Street, Suite L, Leesburg, VA

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BAN20120070 Alankar Investments USA Inc.
For a license to engage in business as a motor vehicle title lender

BAN20120071 ClearPoint Financial Solutions, Inc. d/b/a ClearPoint Credit Counseling Solutions
To relocate a credit counseling office from 412 W. Broadway, Suite 212, Glendale, CA to 200 North Maryland Avenue, Suite 102, Glendale, CA

BAN20120072 Bitco-Two, Inc d/b/a New Exxon Mart
To open a check casher at 11216 Washington Highway, Glen Allen, VA

BAN20120073 Community Capital Bank of Virginia
To relocate office from 100 West Franklin Street, Suite 301, City of Richmond, VA to 100 West Franklin Street, Suite 200, City of Richmond, VA

BAN20120074 CareOne Services, Inc. d/b/a CareOne
To open an additional credit counseling office at 11508 S. Dolly Circle, Berlin, MD

BAN20120075 CareOne Services, Inc. d/b/a CareOne
To open an additional credit counseling office at 4216 12th Avenue, Temple, PA

BAN20120076 CareOne Services, Inc. d/b/a CareOne
To open an additional credit counseling office at 2709 Gibbons Avenue, Apt. 3, Baltimore, MD

BAN20120077 CareOne Services, Inc. d/b/a CareOne
To open an additional credit counseling office at 4784 Andalusia Avenue, San Diego, CA

BAN20120078 CareOne Services, Inc. d/b/a CareOne
To open an additional credit counseling office at 5991 West Pinedale Avenue, Fresno, CA

BAN20120079 Omni Financial of Virginia, Inc.
To relocate consumer finance office from 7504 Granby Street, City of Norfolk, VA to 131 West Little Creek Road, City of Norfolk, VA

BAN20120080 ACAC, Inc.
To relocate a motor vehicle title lending office from 546 Cummings Street, Abingdon, Virginia 24210 to 325 Town Center Drive, Abingdon, Virginia 24210

BAN20120081 Approved Cash Advance Centers (Virginia), LLC d/b/a Approved Cash Advance
To relocate a payday lender's office from 546 Cummings Street, Abingdon, VA to 325 Town Center Drive, Abingdon, VA

BAN20120082 SFP Trust Co.,LLC
To engage in business as a private trust company at 5016 Monument Avenue, Richmond, Virginia 23230

BAN20120083 F & L Marketing Enterprises LLC d/b/a Cash-2-U Payday Loans
To relocate a payday lender's office from 2515 West Mercury Boulevard, Hampton, VA to 2811 West Mercury Boulevard, Hampton, VA

BAN20120084 Cash-2-U Financial Services of Virginia, LLC d/b/a Cash-2-U Title Loans
To relocate a motor vehicle title lending office from 2515 West Mercury Boulevard, Hampton, Virginia 23666 to 2811 West Mercury Boulevard, Hampton, Virginia 23666

BAN20120085 ClearPoint Financial Solutions, Inc. d/b/a ClearPoint Credit Counseling Solutions
To open an additional credit counseling office at 7200 Corporate Center Drive, Suite 200, Miami, FL

BAN20120086 Biller Services LLC
For a money order license

BAN20120087 Blanton & Pleasants, Incorporated
To open a check casher at 2308 Cartersville Road, Cartersville, VA

BAN20120088 CareOne Services, Inc. d/b/a CareOne
To relocate a credit counseling office from 2337-2 Boston Street, Baltimore, MD to 7517 Old Chapel Drive, Bowie, MD

BAN20120089 Bank of Clarke County
To open a branch at 203 Hirst Road, Purcellville, Loudoun County, VA

BAN20120090 Cash-2-U Financial Services of Virginia, LLC d/b/a Cash-2-U Title Loans
To establish an additional motor vehicle title lending office at 5151 Plank Road, Fredericksburg, Virginia 22047

BAN20120091 F & L Marketing Enterprises LLC d/b/a Cash-2-U Payday Loans
To open a payday lender's office at 5151 Plank Road, Fredericksburg, VA

BAN20120092 CapGen Capital Group VILP
To acquire Hampton Roads Bankshares, Inc.

BAN20120093 TitleMax of Virginia, Inc. d/b/a TitleMax
To establish an additional motor vehicle title lending office at 2007 S. Military Highway, Chesapeake, Virginia 23320

BAN20120094 TitleMax of Virginia, Inc. d/b/a TitleMax
To establish an additional motor vehicle title lending office at 8200 Leesburg Pike, Vienna, Virginia 22182

BAN20120095 TitleMax of Virginia, Inc. d/b/a TitleMax
To establish an additional motor vehicle title lending office at 9607 Fairfax Boulevard, Suite F, Fairfax, Virginia 22031

BAN20120096 TitleMax of Virginia, Inc. d/b/a TitleMax
To establish an additional motor vehicle title lending office at 7124 Mechanicsville Turnpike, Mechanicsville, Virginia 23111

BAN20120097 TitleMax of Virginia, Inc. d/b/a TitleMax
To establish an additional motor vehicle title lending office at 1114 Azalea Ave, Suite 47, Richmond, Virginia 23227

BAN20120098 QC E-Services, Inc. d/b/a The Loan Store
To open a check casher at 7310 Staples Mill Road, Richmond, VA

BAN20120099 Cash-2-U Financial Services of Virginia, LLC d/b/a Cash-2-U Title Loans
To relocate a motor vehicle title lending office from 1380 Piney Forest Road, Danville, Virginia 24540 to 2450 Riverside Drive, Suite D, Danville, Virginia 24540

BAN20120100 F & L Marketing Enterprises LLC d/b/a Cash-2-U Payday Loans
To relocate a payday lender's office from 1380 Piney Forest Road, Danville, VA to 2450 Riverside Drive, Suite D, Danville, VA

BAN20120101 United Grocery Group Corp. d/b/a United Latin Market
To open a check casher at 7511 Midlothian Turnpike, Richmond, VA

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BAN20120102 TitleMax of Virginia, Inc. d/b/a TitleMax
To establish an additional motor vehicle title lending office at 135 Hill Carter Parkway, Ashland, Virginia 23005

BAN20120103 TitleMax of Virginia, Inc. d/b/a TitleMax
To establish an additional motor vehicle title lending office at 5108 Nine Mile Road, Richmond, Virginia 23223

BAN20120104 TitleMax of Virginia, Inc. d/b/a TitleMax
To establish an additional motor vehicle title lending office at 2721 George Washington Memorial Highway, Yorktown, Virginia 23693

BAN20120105 CareOne Services, Inc. d/b/a CareOne
To relocate a credit counseling office from 1531 W. Lemon Street, Tampa, FL to 3413 Lago De Talavera, Wellington, FL

BAN20120106 Beal Bank USA
To open a branch at 8130 Boone Boulevard, Suite 115, Vienna, VA

BAN20120107 Hafez Group, Inc.
For a money order license

BAN20120108 First Community Bank d/b/a People's Community Bank (In Certain Offices)
To merge into it Peoples Bank of Virginia

BAN20120109 TMX Finance of Virginia, Inc.
To open a consumer finance office at 5108 Nine Mile Road, Henrico County, VA

BAN20120110 TMX Finance of Virginia, Inc.
To open a consumer finance office at 8200 Leesburg Pike, Vienna, VA

BAN20120111 TMX Finance of Virginia, Inc.
To open a consumer finance office at 7124 Mechanicsville Turnpike, Mechanicsville, Hanover County, VA

BAN20120112 TMX Finance of Virginia, Inc.
To open a consumer finance office at 1114 Azalea Avenue, Suite 47, Henrico County, VA

BAN20120113 TMX Finance of Virginia, Inc.
To open a consumer finance office at 6221 Hull Street Road, City of Richmond, VA

BAN20120114 TMX Finance of Virginia, Inc.
To open a consumer finance office at 9607 Fairfax Boulevard, Suite F, Fairfax County, VA

BAN20120115 TMX Finance of Virginia, Inc.
To open a consumer finance office at 135 Hill Carter Parkway, Ashland, Hanover County, VA

BAN20120116 TMX Finance of Virginia, Inc.
To conduct consumer finance business where a motor vehicle title lending business will also be conducted

BAN20120117 TMX Finance of Virginia, Inc.
To open a consumer finance office at 2721 George Washington Memorial Highway, Yorktown, York County, VA

BAN20120118 Military Credit Services, LLC
To open a consumer finance office

BAN20120119 Springleaf Financial Services of America, Inc.
To relocate consumer finance office from 928 Tanyard Road, Rocky Mount, Franklin County, VA to 400 Old Franklin Turnpike, Suite 102, Rocky Mount, Franklin County, VA

BAN20120120 Springleaf Financial Services of America, Inc.
To relocate consumer finance office from 2810 Valley Avenue, City of Winchester, VA to 2007 S. Loudoun Street, City of Winchester, VA

BAN20120121 Branch Banking and Trust Company
To relocate office from 3001 North Washington Boulevard, Arlington County, VA to 3033 North Washington Boulevard, Arlington County, VA

BAN20120122 Infiniti Lending Group LLC d/b/a EZ Title Loan
For a license to engage in business as a motor vehicle title lender

BAN20120123 Ramos, Inc. d/b/a Rio Bravo
To open a check casher at 950 Capitol Landing Road, Williamsburg, VA

BAN20120124 Bazar Y Tienda Anabely, LLC
To open a check casher at 6009 Belmont Road, Richmond, VA

BAN20120125 ClearPoint Financial Solutions, Inc. d/b/a ClearPoint Credit Counseling Solutions
To open an additional credit counseling office at 75 College Avenue, 4th Floor, Suite 403, Rochester, NY

BAN20120126 Springleaf Financial Services of America, Inc.
To relocate consumer finance office from 829 Lynnhaven Parkway, Suite 120, City of Virginia Beach, VA to 2720 North Mall Drive Suite 124, City of Virginia Beach, VA

BAN20120127 Cardinal Bank
To relocate office from 10695 Braddock Road, Fairfax County, VA to Inter§ of Braddock Road and ChainBridge Road, Fairfax County, VA

BAN20120128 Eagle U.S. Sub, Inc.
To acquire 25 percent or more of Advance America, Cash Advance Centers of Virginia, Inc.

BAN20120129 Kings Avenue LLC d/b/a Kings Market
To open a check casher at 80 King Avenue, Waynesboro, VA

BAN20120130 Blue Ridge Bank, Inc.
To relocate office from 204 Albemarle Square, Albemarle County, VA to 1807 Seminole Trail, Albemarle County, VA

BAN20120131 P.W.C. Employees Credit Union
To relocate a credit union office from 8807 Sudley Road, Suite 109, Manassas, VA to 8959 Center Street, Manassas, VA

BAN20120132 First Community Bancshares, Inc.
To acquire Peoples Bank of Virginia

BAN20120133 Chimbo Inc. d/b/a Chimbo Supermarket
To open a check casher at 515 Chimborazo Boulevard, Richmond, VA

BAN20120134 City Holding Company
To acquire Virginia Savings Bancorp, Inc.

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BAN20120135 E. R. M. Enterperises LLC
To open a check casher at 8228 B Richmond Highway, Alexandria, VA

BAN20120136 Whetstone Partners Virginia, LLC
For a license to engage in business as a motor vehicle title lender

BAN20120137 Castellon Ochoa, LLC d/b/a Tienda Xpress
To open a check casher at 18292 Forest Road, Suite A, Forest, VA

BAN20120138 Dominion Management Services, Inc. d/b/a CashPoint
To establish an additional motor vehicle title lending office at 3517 Mechanicsville Turnpike, Richmond, Virginia 23223

BAN20120139 Dominion Management Services, Inc. d/b/a CashPoint
To establish an additional motor vehicle title lending office at 6531 Arlington Boulevard, Falls Church, Virginia 22044

BAN20120140 Dominion Management Services, Inc. d/b/a CashPoint
To relocate a motor vehicle title lending office from 215 N. Royal Avenue, Front Royal, Virginia 22630, to 841 John Marshall Highway, Front Royal, Virginia 22630

BAN20120141 Allied Title Lending LLC d/b/a Allied Cash Advance
To relocate a motor vehicle title lending office from 7124 Mechanicsville Turnpike, Space P, Mechanicsville, Virginia 23111 to 6300 Mechanicsville Turnpike, Suite K, Mechanicsville, Virginia 23111

BAN20120142 First Bank and Trust Company, The
To relocate office from 1880 East Market Street, City of Harrisonburg, VA to 120 University Boulevard, City of Harrisonburg, VA

BAN20120143 StellarOne Bank
To open a branch at 5711 Patterson Avenue, City of Richmond, VA

BAN20120144 Jai Shree Jalaram, LLC d/b/a Crossroads Market and Deli
To open a check casher at 10143 Three Notch Road, Troy, VA

BAN20120145 KI Group LLC
To open a check casher at 4811 Columbia Pike, Arlington, VA

BAN20120146 Aaran International LLC
For a money order license

BAN20120147 StellarOne Bank
To open a branch at 4505 Columbus Street, Suite 100, City of Virginia Beach, VA

BAN20120148 Premier Interchange Corporation
To open a check casher at 4315 Indian River Road, Chesapeake, VA

BAN20120149 First Community Bank d/b/a People's Community Bank (In Certain Offices)
To open a branch at 11039 Ocean Highway, Pawleys Island, SC

BAN20120150 First Community Bank d/b/a People's Community Bank (In Certain Offices)
To open a branch at 11975 Highway 17 Bypass, Murrells Inlet, SC

BAN20120151 First Community Bank d/b/a People's Community Bank (In Certain Offices)
To open a branch at 1012 38th Avenue North, Myrtle Beach, SC

BAN20120152 First Community Bank d/b/a People's Community Bank (In Certain Offices)
To open a branch at 501 Roper Mountain Road, Greenville, SC

BAN20120153 First Community Bank d/b/a People's Community Bank (In Certain Offices)
To open a branch at 1818 Augusta Street, Greenville, SC

BAN20120154 First Community Bank d/b/a People's Community Bank (In Certain Offices)
To open a branch at 8599 Pelham Road, Greenville, SC

BAN20120155 TitleMax of Virginia, Inc. d/b/a TitleMax
To establish an additional motor vehicle title lending office at 3405 Plank Road, Fredericksburg, Virginia 22407

BAN20120156 TMX Finance of Virginia, Inc.
To open a consumer finance office at 8191 Brook Road, Suites 6 & 7, Henrico County, VA

BAN20120157 TMX Finance of Virginia, Inc.
To open a consumer finance office at 3405 Plank Road, Spotsylvania County, VA

BAN20120158 TMX Finance of Virginia, Inc.
To conduct consumer finance business where a motor vehicle title lending business will also be conducted

BAN20120159 TitleMax of Virginia, Inc. d/b/a TitleMax
To establish an additional motor vehicle title lending office at 8191 Brook Road, Suites 6 and 7, Richmond, Virginia 23227

BAN20120160 Sonabank
To open a branch at 37 North Market Street, Frederick, MD

BAN20120161 Sonabank
To open a branch at 7908 Woodmont Avenue, Bethesda, MD

BAN20120162 Sonabank
To open a branch at 12800 Middlebrook Road, Germantown, MD

BAN20120163 Sonabank
To open a branch at 9707 Medical Center Drive, Suite 150, Rockville, MD

BAN20120164 EagleBank, Inc. (Used in VA By: EagleBank)
To open a branch at 277 South Washington Street, City of Alexandria, VA

BAN20120165 A R Snack Mart, Inc.
To open a check casher at 7373 Miramar Drive, Manassas, VA

BAN20120166 Alfonso Recalde d/b/a Snack Mart II
To open a check casher at 4802 Dale Boulevard, Woodbridge, VA

BAN20120167 Payne's Title Loans, LLC
For authority for an other business operator to conduct business as an agent of a money order seller or money transmitter from the licensee's motor vehicle title lending offices

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BAN20120168	Payne's Title Loans, LLC For authority for an other business operator to conduct payday lending business from the licensee's motor vehicle title lending offices
BAN20120169	Payne's Title Loans, LLC For a license to engage in business as a motor vehicle title lender
BAN20120170	Square, Inc. of California (Used in VA by: Square, Inc.) For a money order license
BAN20120171	Anderson Financial Services, LLC LoanMax (Used in Virginia by: Anderson Financial Services, LLC) d/b/a LoanMax To establish an additional motor vehicle title lending office at 4116 Lankford Highway, Exmore, Virginia 23350
BAN20120172	Vaibhav Enterprises, Inc. To open a check casher at 1385 S. Boston Road, Danville, VA
BAN20120173	Credit Card Management Services, Inc. d/b/a Debthelper.com To relocate a credit counseling office from 4611 Okeechobee Boulevard, Suite 114, West Palm Beach, FL to 1325 N. Congress Avenue, Suite 201, West Palm Beach, FL
BAN20120174	Facebook Payments Inc. For a money order license
BAN20120175	David L. Sokol and The David L. Sokol Revocable Trust To acquire 25 percent or more of Middleburg Financial Corporation
BAN20120176	AscendantFX Capital USA, Inc. d/b/a AscendantFX For a money order license
BAN20120177	Luxton Corp. d/b/a Payne's Check Cashing For authority for an other business operator to conduct a motor vehicle title lending business from the licensee's payday lending offices
BAN20120178	Loudoun Credit Union To relocate a credit union office from 803 Sycolin Road, Suite 105, Leesburg, VA to 801 Sycolin Road SE, Suite 101, Leesburg, VA
BAN20120179	Assurity Financial LLC To open a consumer finance office
BAN20120180	Consolidated Credit Solutions, Inc. To open a credit counseling office
BAN20120181	SKS Market, LLC d/b/a La Feria Latina To open a check casher at 3842 Mt. Vernon Avenue, Alexandria, VA
BAN20120182	Advance America, Cash Advance Centers of Virginia, Inc. d/b/a Advance America, Cash Advance Centers To relocate a payday lender's office from 5642 Brook Road, Richmond, VA to 5642 Brook Road, Richmond, VA
BAN20120183	Fast Auto Loans, Inc. To relocate a motor vehicle title lending office from 9911 Three Chopt Road, Henrico, Virginia 23229 to 2448 Virginia Beach Boulevard, Virginia Beach, Virginia 23454
BAN20120184	GreenPath, Inc. d/b/a GreenPath Debt Solutions To relocate a credit counseling office from 38505 Country Club Drive, Suite 120, Farmington Hills, MI to 33533 Twelve Mile Road, Suite 178, Farmington Hills, MI
BAN20120185	GreenPath, Inc. d/b/a GreenPath Debt Solutions To relocate a credit counseling office from 3250 Westchester Avenue, Suite 111, Bronx, NY to One Barker Avenue, Suite 420, White Plains, NY
BAN20120186	Calvin S. Powell d/b/a Runt's To open a check casher at 2097 James D. Hagood Highway, South Boston, VA
BAN20120187	Edwin A. Deras- Lemas To open a check casher at 8328 Shoppers Square, Manassas, VA
BAN20120188	Olga Sanchez To acquire 25 percent or more of United Mortgage Express Inc.
BAN20120189	CareOne Services, Inc. d/b/a CareOne To relocate a credit counseling office from 712 Alameda Street, Altadena, CA to 619 Washington Boulevard, Suite 12, Pasadena, CA
BAN20120190	CareOne Services, Inc. d/b/a CareOne To relocate a credit counseling office from 3 Wellesley, Irvine, CA to 513 10th Court South, Birmingham, AL
BAN20120191	CareOne Services, Inc. d/b/a CareOne To relocate a credit counseling office from 31 W. Lamington Road, Hampton, VA to 207 Valirey Drive, Hampton, VA
BAN20120192	Community Capital Bank of Virginia To relocate main office from 990 Cambria Street, N.E., Christiansburg, VA to 930 Cambria Street, N.E., Christiansburg, VA
BAN20120193	TitleMax of Virginia, Inc. d/b/a TitleMax To establish an additional motor vehicle title lending office at 4722 South Laburnum Avenue, Richmond, Virginia 23231
BAN20120194	TitleMax of Virginia, Inc. d/b/a TitleMax To establish an additional motor vehicle title lending office at 3813 Wards Road, Unit 5, Lynchburg, Virginia 24502
BAN20120195	TitleMax of Virginia, Inc. d/b/a TitleMax To establish an additional motor vehicle title lending office at 1617 West Main Street, Salem, Virginia 24153
BAN20120196	TitleMax of Virginia, Inc. d/b/a TitleMax To establish an additional motor vehicle title lending office at 4824 Williamson Road, Roanoke, Virginia 24012
BAN20120197	TitleMax of Virginia, Inc. d/b/a TitleMax To establish an additional motor vehicle title lending office at 6198-C Arlington Boulevard, Falls Church, Virginia 22044
BAN20120198	TitleMax of Virginia, Inc. d/b/a TitleMax To establish an additional motor vehicle title lending office at 7340-C Forest Hill Avenue, Richmond, Virginia 23235
BAN20120199	TitleMax of Virginia, Inc. d/b/a TitleMax To establish an additional motor vehicle title lending office at 345 East Market Street, Leesburg, Virginia 20176

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BAN20120200	TMX Finance of Virginia, Inc. To open a consumer finance office at 6198-C Arlington Boulevard, Fairfax County, VA
BAN20120201	TMX Finance of Virginia, Inc. To open a consumer finance office at 7340-C Forest Hill Avenue, City of Richmond, VA
BAN20120202	TMX Finance of Virginia, Inc. To open a consumer finance office at 345 E. Market Street, Leesburg, Loudoun County, VA
BAN20120203	TMX Finance of Virginia, Inc. To open a consumer finance office at 4824 Williamson Road, City of Roanoke, VA
BAN20120204	TMX Finance of Virginia, Inc. To open a consumer finance office at 1617 W. Main Street, City of Salem, VA
BAN20120205	TMX Finance of Virginia, Inc. To open a consumer finance office at 3813 Wards Road, Unit 5, City of Lynchburg, VA
BAN20120206	TMX Finance of Virginia, Inc. To conduct consumer finance business where a motor vehicle title lending business will also be conducted
BAN20120207	USA Check Cashers Inc. For authority for an other business operator to conduct a tax preparation and electronic filing service business from the licensee's payday lending offices
BAN20120208	TMX Finance of Virginia, Inc. To open a consumer finance office at 4722 S. Laburnum Avenue, Henrico County, VA
BAN20120209	WashingtonFirst Bank To open a branch at 11921 Freedom Drive, Suite 250, Reston, Fairfax County, VA
BAN20120210	Tienda Mi Alcancia Corporation To open a check casher at 2112 Broad Rock Boulevard, Richmond, VA
BAN20120211	AJW Equity, LP To acquire 25 percent or more of 360 Mortgage Group, LLC
BAN20120212	Eastman Credit Union To open a credit union service office at 159 Valley Street, Abingdon, VA
BAN20120213	Sonabank To open a branch at 6719 Leaberry Way, Unit L The Shoppes at Haymarket, Prince William County, VA
BAN20120214	Fast Auto Loans, Inc. To establish an additional motor vehicle title lending office at 801 East Main Street, Pulaski, Virginia 24301
BAN20120215	Fast Auto Loans, Inc. To establish an additional motor vehicle title lending office at 253B Garrisonville Road, Stafford, Virginia 22554
BAN20120216	Fast Auto Loans, Inc. To establish an additional motor vehicle title lending office at 301 Market Drive, Suite A, Emporia, Virginia 23847
BAN20120217	Newport News Shipbuilding Employees' Credit Union, Inc. d/b/a Bayport Credit Union To merge into it members Trust Credit Union Virginia Beach, VA
BAN20120218	Fauquier Bank, The To open a branch at 7485 Limestone Drive, Gainesville, Prince William County, VA
BAN20120219	Norfolk, Va., Postal Credit Union, Incorporated To merge into it HRT Employees Federal Credit Union
BAN20120220	Monarch Bank To relocate office from 3701 Pacific Avenue, City of Virginia Beach, VA to 300 32nd Street, City of Virginia Beach, VA
BAN20120221	Luxton Corp. d/b/a Payne's Check Cashing For authority for an other business operator to conduct a motor vehicle title lending business from the licensee's payday lending offices
BAN20120222	Emma J. Humphries d/b/a John's Full Serve To open a check casher at 12 Edmunds Street, South Boston, VA
BAN20120223	First Community Bank d/b/a People's Community Bank (In Certain Offices) To open a branch at 200 Smith Avenue, Shalotte, NC
BAN20120224	Center for Child & Family Services, Inc. d/b/a Consumer Credit Counseling Service of Hampton Roads To open an additional credit counseling office at 740 Eden Way, Chesapeake, VA
BAN20120225	Center for Child & Family Services, Inc. d/b/a Consumer Credit Counseling Service of Hampton Roads To open an additional credit counseling office at 1613 Laskin Road, Virginia Beach, VA
BAN20120226	Center for Child & Family Services, Inc. d/b/a Consumer Credit Counseling Service of Hampton Roads To open an additional credit counseling office at 312 Waller Mill Road, Williamsburg, VA
BAN20120227	Manufacturers and Traders Trust Company To open a branch at 9408 Grant Avenue, Manassas, VA
BAN20120228	Allen Lamont Knudson To acquire 25 percent or more of Village Capital & Investment, LLC
BAN20120229	TitleMax of Virginia, Inc. d/b/a TitleMax To establish an additional motor vehicle title lending office at 4418 Melrose Ave. NW, Roanoke, Virginia 24017
BAN20120230	TitleMax of Virginia, Inc. d/b/a TitleMax To establish an additional motor vehicle title lending office at 1435 S. Main Street, Blackstone, Virginia 23824
BAN20120231	TitleMax of Virginia, Inc. d/b/a TitleMax To establish an additional motor vehicle title lending office at 5200 Brook Road, Richmond, Virginia 23227
BAN20120232	TitleMax of Virginia, Inc. d/b/a TitleMax To establish an additional motor vehicle title lending office at 2559 Greensboro Road, Martinsville, Virginia 24112
BAN20120233	TMX Finance of Virginia, Inc. To open a consumer finance office at 4418 Melrose Avenue NW, City of Roanoke, VA
BAN20120234	TMX Finance of Virginia, Inc. To open a consumer finance office at 5200 Brook Road, Henrico County, VA

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BAN20120235 TMX Finance of Virginia, Inc.
To open a consumer finance office at 1435 S. Main Street, Blackstone, Nottoway County, VA

BAN20120236 TMX Finance of Virginia, Inc.
To conduct consumer finance business where a motor vehicle title lending business will also be conducted

BAN20120237 TMX Finance of Virginia, Inc.
To open a consumer finance office at 2559 Greensboro Road, Henry County, VA

BAN20120238 William B. Pendleton
To acquire 25 percent or more of Primary Capital Advisors LC

BAN20120239 Shri Hari Inc
To open a check casher at 565 Newtown Road, Virginia Beach, VA

BAN20120240 Middleburg Bank
To open a branch at 315 Libbie Avenue, City of Richmond, VA

BAN20120241 University of Virginia Community Credit Union, Inc.
To open a credit union service office at 757 Davis Highway, Mineral, VA

BAN20120242 MILAGROS GENERAL SERVICES Inc.
To open a check casher at 18181 Purvis Drive #B, Triangle, VA

BAN20120243 Bazar Dollar Market and More LLC
To open a check casher at 1611 Washington Plaza, Reston, VA

BAN20120244 Global Check Cashing, Inc.
To open a check casher at 13813 Foulger Square, Woodbridge, VA

BAN20120245 TMX Finance of Virginia, Inc.
To conduct consumer finance business where a motor vehicle title lending business will also be conducted

BAN20120246 TitleMax of Virginia, Inc. d/b/a TitleMax
To establish an additional motor vehicle title lending office at 1128 E. Stuart Drive, Suite A, Galax, Virginia 24333

BAN20120247 TitleMax of Virginia, Inc. d/b/a TitleMax
To establish an additional motor vehicle title lending office at 3275 Mechanicsville Turnpike, Richmond, Virginia 23223

BAN20120248 TitleMax of Virginia, Inc. d/b/a TitleMax
To establish an additional motor vehicle title lending office at 6812 Midlothian Turnpike, Richmond, Virginia 23225

BAN20120249 TitleMax of Virginia, Inc. d/b/a TitleMax
To establish an additional motor vehicle title lending office at 2165 Seminole Trail, Charlottesville, Virginia 22901

BAN20120250 TitleMax of Virginia, Inc. d/b/a TitleMax
To establish an additional motor vehicle title lending office at 3217 Halifax Road, South Boston, Virginia 24592

BAN20120251 TitleMax of Virginia, Inc. d/b/a TitleMax
To establish an additional motor vehicle title lending office at 4702 Virginia Beach Boulevard, Virginia Beach, Virginia 23462

BAN20120252 TMX Finance of Virginia, Inc.
To open a consumer finance office at 4702 Virginia Beach Boulevard, City of Virginia Beach, VA

BAN20120253 TMX Finance of Virginia, Inc.
To open a consumer finance office at 3217 Halifax Road, South Boston, Halifax County, VA

BAN20120254 TMX Finance of Virginia, Inc.
To open a consumer finance office at 2165 Seminole Trail, Albemarle County, VA

BAN20120255 TMX Finance of Virginia, Inc.
To open a consumer finance office at 6812 Midlothian Turnpike, City of Richmond, VA

BAN20120256 TMX Finance of Virginia, Inc.
To open a consumer finance office at 3275 Mechanicsville Turnpike, Henrico County, VA

BAN20120257 TMX Finance of Virginia, Inc.
To open a consumer finance office at 1128 E. Stuart Drive, Suite A, City of Galax, VA

BAN20120258 Shree Sai Krupa LLC d/b/a Sai Express #1
To open a check casher at 17164 Jefferson Davis Highway, Dumfries, VA

BAN20120259 Valley Bank
To open a branch at 4003 Challenger Avenue, City of Roanoke, VA

BAN20120260 First Virginia Community Bank
To merge into it 1st Commonwealth Bank of Virginia

BAN20120261 Fast Auto Loans, Inc.
To relocate a motor vehicle title lending office from 4802 Melrose Avenue, NW, Roanoke, Virginia 24017 to 4701 Melrose Avenue, NW, Roanoke, Virginia 24017

BAN20120262 Fast Auto Loans, Inc.
To relocate a motor vehicle title lending office from 712 J. Clyde Morris Boulevard, Newport News, Virginia 23601 to 605 J. Clyde Morris Boulevard, Newport News, Virginia 23601

BAN20120263 Sophiea Mihyang Yi d/b/a Pilgrim Wireless
To open a check casher at 13294 Warwick Boulevard, Newport News, VA

BAN20120264 Virginia Finance, LLC
To conduct consumer finance business where sales finance business will also be conducted

BAN20120265 Military Credit Services LLC
To conduct consumer finance business where sales finance business will also be conducted

BAN20120266 Military Credit Services, LLC
To conduct consumer finance business where auto club memberships will also be sold

BAN20120267 Americana Grocery Route 1, Inc.
To open a check casher at 14428 Jefferson Davis Highway, Woodbridge, VA

BAN20120268 Pioneer Bank
To open a branch at Stoneridge Drive, North Gateway Center, Lot 1A, Ruckersville, Greene County, VA

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BAN20120269	WashingtonFirst Bankshares, Inc. To acquire Alliance Bankshares Corporation
BAN20120270	WashingtonFirst Bank To merge into it Alliance Bank Corporation
BAN20120271	Towne Bank To open a branch at 5200 Providence Road, City of Virginia Beach, VA
BAN20120272	CareOne Services, Inc. d/b/a CareOne To relocate a credit counseling office from 6715 Dana Avenue, Mira Loma, CA to 24282 Chrisanta Avenue, Mission Viejo, CA
BAN20120273	CareOne Services, Inc. d/b/a CareOne To relocate a credit counseling office from 10450 Faulkner Ridge Circle, Columbia, MD to 1132 Morven Street, Lancaster, CA
BAN20120274	CareOne Services, Inc. d/b/a CareOne To open an additional credit counseling office at 722 S. 46th Street, San Diego, CA
BAN20120275	CareOne Services, Inc. d/b/a CareOne To open an additional credit counseling office at 3000 Poplar Terrace, Baltimore, MD
BAN20120276	CareOne Services, Inc. d/b/a CareOne To open an additional credit counseling office at 5306 Breadley Lane, Arlington, TX
BAN20120277	CareOne Services, Inc. d/b/a CareOne To open an additional credit counseling office at 8129 Via Luna, Rancho Santa Fe, CA
BAN20120278	CareOne Services, Inc. d/b/a CareOne To open an additional credit counseling office at 5545 Ocean Gate Lane, Apt. 226, San Diego, CA
BAN20120279	CareOne Services, Inc. d/b/a CareOne To open an additional credit counseling office at 2766 Fountain View Boulevard, Cedar Hill, TX
BAN20120280	YHC Corporation To open a check casher at 3111 Hull Street, Richmond, VA
BAN20120281	Allied Title Lending LLC d/b/a Allied Cash Advance For authority for an other business operator to conduct an open-end credit business from the licensee's motor vehicle title lending offices
BAN20120282	Allied Title Lending LLC d/b/a Allied Cash Advance For authority for an other business operator to conduct a check cashing business from the licensee's motor vehicle title lending offices
BAN20120283	Allied Title Lending LLC d/b/a Allied Cash Advance For authority for an other business operator to conduct business as an agent of a money order seller or money transmitter from the licensee's motor vehicle title lending offices
BAN20120284	Allied Title Lending LLC d/b/a Allied Cash Advance For a license to engage in business as a motor vehicle title lender
BAN20120285	Cardinal Bank To open a branch at 1825 Wisconsin Avenue, NW, Washington, DC
BAN20120286	Citizens Bank and Trust Company To open a branch at Route 10 and Oliver's Way, Chesterfield County, VA
BAN20120287	Westview Financial Services VA, LLC To open a consumer finance office
BAN20120288	Pilot Travel Centers LLC d/b/a Pilot Travel Center #491 To open a check casher at 3634 North Valley Pike, Harrisonburg, VA
BAN20120289	TMX Credit, Inc For a license to engage in business as a motor vehicle title lender
BAN20120290	7 Corners Financial, Inc. To open a consumer finance office
BAN20120291	Sonabank To relocate office from 7908 Woodmont Avenue, Bethesda, MD to 7700 Wisconsin Avenue, Bethesda, MD
BAN20120292	Mary Elizabeth Friert To acquire 25 percent or more of Financial Security Consultants, Inc.
BAN20120293	Arthur O Charron To acquire 25 percent or more of Financial Security Consultants, Inc.
BAN20120294	Monarch Bank To open a branch at 4097 Ironbound Road, Suite C, James City County, VA
BAN20120295	La Palmita Deli & Market Inc. To open a check casher at 8406 W. Main Street, Marshall, VA
BAN20120296	Fast Auto Loans, Inc. To establish an additional motor vehicle title lending office at 7185 Lee Highway, Falls Church, Virginia 22046
BAN20120297	I. Andrade's Corporation d/b/a Andrades Market To open a check casher at 8641 Sudley Road, Manassas, VA
BAN20120298	Chesapeake Bank To open a branch at 6000 Patriots Colony Drive, James City County, VA
BAN20120299	Branch Banking and Trust Company To relocate office from 8780 Centreville Road, Manassas, VA to 8650 Centreville Road, Manassas, VA
BAN20120300	Branch Banking and Trust Company To open a branch at 1901 Mount Vernon Avenue, Alexandria, VA
BAN20120301	Nilam Corporation d/b/a One Stop Market #1 To open a check casher at 2223 Williamson Road, Roanoke, VA

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BAN20120302 TitleMax of Virginia, Inc. d/b/a TitleMax
To establish an additional motor vehicle title lending office at 5649 Princess Anne Road, Virginia Beach, Virginia 23462

BAN20120303 TitleMax of Virginia, Inc. d/b/a TitleMax
To establish an additional motor vehicle title lending office at 2852 Riverside Drive, Danville, Virginia 24540

BAN20120304 TitleMax of Virginia, Inc. d/b/a TitleMax
To establish an additional motor vehicle title lending office at 1391 Armory Drive, Franklin, Virginia 23851

BAN20120305 TitleMax of Virginia, Inc. d/b/a TitleMax
To establish an additional motor vehicle title lending office at 7516 Richmond Highway, Alexandria, Virginia 22306

BAN20120306 TitleMax of Virginia, Inc. d/b/a TitleMax
To establish an additional motor vehicle title lending office at 6030 Burke Commons Road, Suite L, Burke, Virginia 22015

BAN20120307 TitleMax of Virginia, Inc. d/b/a TitleMax
To establish an additional motor vehicle title lending office at 13661 Lee Jackson Memorial Highway, Chantilly, Virginia 20151

BAN20120308 Omni Financial of Virginia, Inc.
To relocate consumer finance office from 2334 E. Washington Street, City of Petersburg, VA to 4229 Crossings Boulevard, Prince George County, VA

BAN20120309 TMX Finance of Virginia, Inc.
To conduct consumer finance business where a motor vehicle title lending business will also be conducted

BAN20120310 TMX Finance of Virginia, Inc.
To open a consumer finance office at 13661 Lee Jackson Memorial Highway, Chantilly, VA

BAN20120311 TMX Finance of Virginia, Inc.
To open a consumer finance office at 6030 Burke Commons Road, Suite L, Burke, VA

BAN20120312 TMX Finance of Virginia, Inc.
To open a consumer finance office at 7516 Richmond Highway, Fairfax County, VA

BAN20120313 TMX Finance of Virginia, Inc.
To open a consumer finance office at 1391 Armory Drive, City of Franklin, VA

BAN20120314 TMX Finance of Virginia, Inc.
To open a consumer finance office at 2852 Riverside Drive, City of Danville, VA

BAN20120315 TMX Finance of Virginia, Inc.
To open a consumer finance office at 5649 Princess Anne Road, City of Virginia Beach, VA

BAN20120316 First Community Bank d/b/a Waccamaw Bank, a Division of First Community Bank (In certain Offices)
To relocate office from 923 Seaside Road SW, Ocean Isle Beach, NC to 7290-17 Beach Drive SW, Ocean Isle Beach, NC

BAN20120317 PRA Financial Services, LLC
To open a consumer finance office

BAN20120318 Habitat for Humanity in the Roanoke Valley, Inc
For determination of a bona fide non-profit status

BAN20120319 Set Financial Corporation
To conduct consumer finance business where auto club memberships will also be sold

BAN20120320 Global Dynamics Inc.
For a license to engage in business as a motor vehicle title lender

BAN20120321 Allied Title Lending, LLC
To open a check casher at 645 Oakley Avenue, Suite J, Lynchburg, VA

BAN20120322 Foxhill Convenience Store Inc
To open a check casher at 61 E. Mercury Boulevard, Hampton, VA

BAN20120323 El Torito Inc.
To open a check casher at 2160 S. Loundon Street, Winchester, VA

BAN20120324 Multiservicios Hispanos LLC
To open a check casher at 932 Edwards Ferry Road NE, Leesburg, VA

BAN20120325 CareOne Services, Inc. d/b/a CareOne
To open an additional credit counseling office at 232 West 4th Street, Unit B, Waynesboro, PA

BAN20120326 CareOne Services, Inc. d/b/a CareOne
To open an additional credit counseling office at 1344 Mark Street, N.E., Grand Rapids, MI

BAN20120327 CareOne Services, Inc. d/b/a CareOne
To open an additional credit counseling office at 348 S. Washington Street, Greencastle, PA

BAN20120328 Sunshine Business Ventures, LLC
To open a check casher at 23746 Rogers Clark Boulevard, Ruther Glen, VA

BAN20120329 Sonia Mendoza Martinez d/b/a La Comercial Tienda Mexicana
To open a check casher at 2947 S. Military Highway, Suite 102, Chesapeake, VA

BAN20120330 Alliance Bank Corporation
To relocate office from 9150 Manassas Drive, City of Manassas Park, VA to 9113 Manassas Drive, City of Manassas Park, VA

BAN20120331 Lord Cuts, Inc.
To open a check casher at 14023 Lee Jackson Memorial Highway, Chantilly, VA

BAN20120332 Alankar Investments USA Inc.
For authority for an other business operator to conduct a closed-end installment loan business from the licensee's motor vehicle title lending offices

BAN20120333 TitleMax of Virginia, Inc. d/b/a TitleMax
To establish an additional motor vehicle title lending office at 7409 Little River Turnpike, Suite A, Annandale, Virginia 22003

BAN20120334 TitleMax of Virginia, Inc. d/b/a TitleMax
To establish an additional motor vehicle title lending office at 13592 Jefferson Davis Highway, Woodbridge, Virginia 22191

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BAN20120335 TitleMax of Virginia, Inc. d/b/a TitleMax
To establish an additional motor vehicle title lending office at 2505 Memorial Avenue, Lynchburg, Virginia 24501

BAN20120336 TitleMax of Virginia, Inc. d/b/a TitleMax
To establish an additional motor vehicle title lending office at 4001 College Avenue, Bluefield, Virginia 24605

BAN20120337 TitleMax of Virginia, Inc. d/b/a TitleMax
To establish an additional motor vehicle title lending office at 1039 North Main Street, Marion, Virginia 24354

BAN20120338 TitleMax of Virginia, Inc. d/b/a TitleMax
To establish an additional motor vehicle title lending office at 1550 East Market Street, Harrisonburg, Virginia 22801

BAN20120339 TMX Finance of Virginia, Inc.
To conduct consumer finance business where a motor vehicle title lending business will also be conducted

BAN20120340 TMX Finance of Virginia, Inc.
To open a consumer finance office at 7409 Little River Turnpike, Suite A, Annandale, Fairfax County, VA

BAN20120341 TMX Finance of Virginia, Inc.
To open a consumer finance office at 13592 Jefferson Davis Highway, Woodbridge, Prince William County, VA

BAN20120342 TMX Finance of Virginia, Inc.
To open a consumer finance office at 2505 Memorial Avenue, City of Lynchburg, VA

BAN20120343 TMX Finance of Virginia, Inc.
To open a consumer finance office at 4001 College Avenue, Bluefield, Tazewell County, VA

BAN20120344 TMX Finance of Virginia, Inc.
To open a consumer finance office at 1039 N. Main Street, Marion, Smyth County, VA

BAN20120345 TMX Finance of Virginia, Inc.
To open a consumer finance office at 1550 E. Market Street, City of Harrisonburg, VA

BAN20120346 Gregoria Izaguirre d/b/a Las tres Hermanas
To open a check casher at 473 Cople Highway, Montross, VA

BAN20120347 First Bank and Trust Company, The
To open a branch at 610 North Main Street, Uint B, Rockingham County, VA

BAN20120348 City Holding Company
To acquire Community Financial Corporation

BAN20120349 Dominion Management Services, Inc. d/b/a CashPoint
To relocate a motor vehicle title lending office from 373 Garrisonville Road #109, Stafford, Virginia 22554 to 171 Garrisonville Road, Stafford, Virginia 22554

BAN20120350 DSI-ITI, LLC
For a money order license

BAN20120351 Creditcorp of Virginia, LLC d/b/a Check into Cash
To relocate a motor vehicle title lending office from 1309 Fordham Drive, Suite 104, Virginia Beach, Virginia 23464 to 5394 Kemps River Drive, Suite 109, Virginia Beach, Virginia 23464

BAN20120352 CareOne Services, Inc. d/b/a CareOne
To open an additional credit counseling office at 7129 O'Neil Street, High Point, NC

BAN20120353 CareOne Services, Inc. d/b/a CareOne
To open an additional credit counseling office at 1201 E. Glade Avenue, Mesa, AZ

BAN20120354 CareOne Services, Inc. d/b/a CareOne
To open an additional credit counseling office at 14 Stone Falls Court, Nottingham, MD

BAN20120355 CareOne Services, Inc. d/b/a CareOne
To open an additional credit counseling office at 7611 Augustine Way, Gaithersburg, MD

BAN20120356 CareOne Services, Inc. d/b/a CareOne
To open an additional credit counseling office at 2509 Pawnee Street, Adelphi, MD

BAN20120357 CareOne Services, Inc. d/b/a CareOne
To open an additional credit counseling office at 8700 Pershing Drive, Unit 1316, Playa del Ray, CA

BAN20120358 Crystal Jewelry, Inc. d/b/a Crystal Jewelry
To open a check casher at 8328 Shoppers Square, Manassas, VA

BAN20120359 GTH, LLC d/b/a Merado World Foods
To open a check casher at 900 Gardens Boulevard, Suite 300, Charlottesville, VA

BAN20120360 Dhillon, Inc. d/b/a Dhillon Grocery
To open a check casher at 15421 Antioch Road, Milford, VA

BAN20120361 Mi Favorita Corporation d/b/a Mi Favorita Tienda Latina
To open a check casher at 3715 Bainbridge Boulevard, #B, Chesapeake, VA

BAN20120362 Lempira Latin Store, Inc.
To open a check casher at 6916 N. Military Hwy., Norfolk, VA

BAN20120363 Armondo Flores
To open a check casher at 7930 Chesapeake Boulevard, Suite C, Norfolk, VA

BAN20120364 TouchPay Holdings, LP
For a money order license

BAN20120365 Blue Eagle Credit Union
To open a credit union office

BAN20120366 TitleBucks of Virginia, Inc.
For a license to engage in business as a motor vehicle title lender

BAN20120367 Sang H. Jeung
To acquire 25 percent or more of CIS Financial Services, Inc.

BAN20120368 IDT Payment Services, Inc.
For a money order license

BAN20120369 Anderson Financial Services, LLC LoanMax (Used in Virginia by: Anderson Financial Services, LLC) d/b/a LoanMax
To establish an additional motor vehicle title lending office at 7221 Little River Turnpike, Annandale, Virginia 22003

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BAN20120370 DELETED
(Duplicate entry of BAN20120362)

BAN20120371 Mega Giros LLC - To open a check casher at 10540 Lomond Drive, Manassas, VA

BAN20120372 Cross Bros, Inc. - To open a check casher at 107-109 S. Railroad Avenue, Ashland, VA

BAN20120373 Farmers Bank, Windsor, Virginia - To open a branch at 28319 Southampton Parkway, Southampton County, VA

BAN20120374 CareOne Services, Inc. d/b/a CareOne - To relocate a credit counseling office from 40 Beach Plum Drive, Millville, DE to 125 Biltmore Road, Clayton, NC

BAN20120375 CareOne Services, Inc. d/b/a CareOne - To relocate a credit counseling office from 300 Temple Court, Bel Air, MD to 122 Nottingham, Berlin, MD

BAN20120376 Vandana, Inc. d/b/a Whistle Stop - To open a check casher at 518 Moores Ordinary Road, Meherrin, VA

BAN20120377 Tosh of Utah, Inc. (Used in VA by: Tosh, Inc.) d/b/a Check City Check Cashing - For authority for an other business operator to conduct a bill pay business from the licensee's payday lending offices

BAN20120378 AnyKind Check Cashing LC d/b/a Check City - For authority for an other business operator to conduct a bill pay business from the licensee's payday lending offices

BAN20120379 Angelita Express Services, Inc. - To open a check casher at 13412 Jefferson Davis Highway, #J2, Woodbridge, VA

BAN20120380 Customers Bancorp, Inc. - To acquire Acacia Federal Savings Bank

BAN20120381 Anderson Financial Services, LLC LoanMax (Used in Virginia by: Anderson Financial Services, LLC) d/b/a LoanMax - To establish an additional motor vehicle title lending office at 3006 West Main Street, Danville, Virginia 24541

BAN20120382 Anderson Financial Services, LLC LoanMax (Used in Virginia by: Anderson Financial Services, LLC) d/b/a LoanMax - To establish an additional motor vehicle title lending office at 609 East Atlantic Street, South Hill, Virginia 23970

BAN20120383 Ruiz, LLC d/b/a Mi Rancho To open a check casher at 2142 S. Military Highway, Chesapeake, VA

BAN20120384 TMX Finance of Virginia, Inc. - To open a consumer finance office at 2655 Valley Avenue, City of Winchester, VA

BAN20120385 TMX Finance of Virginia, Inc. - To conduct consumer finance business where a motor vehicle title lending business will also be conducted

BAN20120386 TMX Finance of Virginia, Inc. - To open a consumer finance office at 6907 Staples Mill Road, Henrico County, VA

BAN20120387 TitleMax of Virginia, Inc. d/b/a TitleMax - To establish an additional motor vehicle title lending office at 6907 Staples Mill Road, Richmond, Virginia 23228

BAN20120388 TitleMax of Virginia, Inc. d/b/a TitleMax - To establish an additional motor vehicle title lending office at 2655 Valley Avenue, Winchester, Virginia 22601

BAN20120389 Black Hills Children's Ranch, Inc. - To open a credit counseling office

BAN20120390 U. S. Financial of Virginia, Inc. d/b/a EZ Cash Depot - To open a check casher at 2602 Columbia Pike, Arlington, VA

BAN20120391 La Lomita Store LLC - To open a check casher at 215 E. Culpeper Street, Culpeper, VA

BAN20120392 GL Beyond Income Fund - To open a consumer finance office

BAN20120393 Neighborhood Title Loans, Inc. - For a license to engage in business as a motor vehicle title lender

BAN20120394 Branch Banking and Trust Company - To relocate office from 13927 Jefferson Davis Highway, Woodbridge, VA to 14091 Jefferson Davis Highway, Woodbridge, VA

BAN20120395 WP Raven Acquisition, LLC - To acquire 25 percent or more of Mariner Finance, LLC

BAN20120396 WP Raven Acquisition, LLC - To acquire 25 percent or more of Mariner Finance of Virginia, LLC

BAN20120397 Towne Bank - To open a branch at 3100 Shore Drive, City of Virginia Beach, VA

BAN20120398 Bank of Georgetown - To open a branch at 1420 Chain Bridge Road, McLean, Fairfax County, VA

BAN20120399 Gigante Multiservices, Inc. - To open a check casher at 3834 Mt. Vernon Avenue, Alexandria, VA

BAN20120400 Advance America, Cash Advance Centers of Virginia, Inc. d/b/a Advance America, Cash Advance Centers - To relocate a payday lender's office from 1229 North Lee Highway, Lexington, VA to 172 Walker Street, Lexington, VA

BAN20120401 Bank of Hampton Roads, The - To relocate office from 999 Waterside Drive Suite 101, City of Norfolk, VA to 641 Lynnhaven Parkway, City of Virginia Beach, VA

BAN20120402 Branch Banking and Trust Company - To open a branch at 3030 Annandale Road, Falls Church, VA

BAN20120403 Towne Bank - To open a branch at Inter§ of Louisiana Dr. & Granby Street, Surburban Park Shopping Center Ward's Corner, City of Norfolk, VA

BAN20120404 LT Group Inc. (formerly Tanduary Holdings, Inc.) - To acquire 25 percent or more of PNB Remittance Centers, Inc.

BAN20120405 Jefferson Convenience Market Inc. d/b/a Market Place - To open a check casher at 13377 Jefferson Avenue, Newport News, VA

BAN20120406 TMX Finance of Virginia, Inc. - To conduct consumer finance business where a motor vehicle title lending business will also be conducted

BAN20120407 TMX Finance of Virginia, Inc. - To open a consumer finance office at 8016 Centreville Road, Manassas, Prince William County, VA

BAN20120408 TitleMax of Virginia, Inc. d/b/a TitleMax - To establish an additional motor vehicle title lending office at 8016 Centreville Road, Manassas, Virginia 20111

BAN20120409 Jacob Chung Corporation - To open a check casher at 200 N. County Drive, Wakefield, VA

BAN20120410 Dominion Pawn, Inc. - To open a check casher at 10450 Dumfries Road, Manassas, VA

BAN20120411 Vericrest Financial, Inc. - To open a consumer finance office

BAN20120412 Bank of McKenney - To relocate office from 13117 Rivers Bend Boulevard, Chester, Chesterfield County, VA to 200 Johnson Creek, Chester, Chesterfield County, VA

BAN20120413 StellarOne Bank - To open a branch at 9605 Gayton Road, Henrico County, VA

BAN20120414 HomeTown Bank - To open a branch at 50 Ponderosa Drive, Christiansburg, Montgomery County, VA

BAN20120415 Transfermate Inc. - For a money order license

BFI-2012-00003 Daniel McDonald - For approval of mortgage loan originator license

BFI-2012-00006 Service 1st Mortgage - Alleged violation of VA Code § 6.2-941 (C) and 10 VAC 5-160-60

BFI-2012-00007 Mortgage America Bankers - Alleged violations of Chapter 16 (§§ 6.2-1600 *et seq.*) and Chapter 17 (§§ 6.2-1700 *et seq.*)

BFI-2012-00013 National Mortgage Servicing Settlement - *In re*: National Mortgage Servicing Settlement

BFI-2012-00014 MicroFinance International Corporation d/b/a Alante Financial - Alleged violation of VA Code §§ 6.2-1906 (B)

BFI-2012-00015 GoMax Lending Inc - Alleged violation of VA Code § 6.2-1619

BFI-2012-00018 QC Financial Services - Alleged violation of VA Code §§ 6.2-1816 (6), 6.2-1816 (7), *et al.*

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BFI-2012-00022	<i>Ex Parte: In re: Mortgage Loan Originators - To amend Mortgage Loan Rules</i>
BFI-2012-00025	JPay - Alleged violation of VA Code § 6.2-1901
BFI-2012-00030	<i>Ex Parte: In re: database inquiry fee</i>
BFI-2012-00031	Official Payments Corporation - Alleged violation of VA Code § 6.2-1901
BFI-2012-00037	Nicole G. Hathaway - Alleged violation of VA Code § 6.2-1620
BFI-2012-00038	Envoy Mortgage - Alleged violation of VA Code § 6.2-406 A (2), 10 VAC 5-160-20 (7) and 10 VAC 5-160-30 (B)
BFI-2012-00062	Justin Enterprises - Alleged violation of subdivisions 1, 6, 7, 8, 17 and 25 of VA Code § 6.2-1816, <i>et al.</i>
BFI-2012-00063	Integrity PDL Services - Alleged violation of VA Code § 6.2-1801
BFI-2012-00065	Sentrix Financial Services - Alleged violations of Chapter 16 of Title 6.2 of the Code of Virginia
BFI-2012-00068	<i>Ex Parte: In re: Mortgage Lenders and Mortgage Brokers</i>
CLK:	OFFICE OF THE CLERK
CLK-2011-00013	Middle Peninsula Aquaculture Corporation - For order of involuntary dissolution pursuant to VA Code § 13.1-749
CLK-2012-00001	Election of Chairman pursuant to VA Code § 12.1-7
CLK-2012-00002	Administrative Order designating supervision of divisions to the members of the Commission as provided
CLK-2012-00003	Mario's Land Corporation and Alan Levine -For correction of Commission records to eliminate the effects of filings made by persons without authority to act on behalf of the corporation or for a declaratory judgment
CLK-2012-00004	Playcore Holdings - Correcting Order
CLK-2012-00006	The Disthene Group - For involuntary Dissolution
INS:	BUREAU OF INSURANCE:
INS-2012-00001	Anthem Health Plans of Virginia - For approval to have contractors located outside of the United States conduct medical review of post service claims
INS-2012-00002	Petfirst Healthcare - Alleged violation of VA Code § 38.2-1826 C
INS-2012-00003	Ryan Allen Caudle - Alleged violation of VA Code §§ 38.2-512, 38.2-1809, 38.2-1813 and 38.2-1826
INS-2012-00004	Don Russell Handley - Alleged violation of VA Code § 38.2-1826 C
INS-2012-00006	Myron P. Ubl - Alleged violation of VA Code § 38.2-1826 C
INS-2012-00007	Benjamin L. Tindal - Alleged violation of VA Code § 38.2-1826 C
INS-2012-00008	Harold B. Reniere - Alleged violation of VA Code §§ 38.2-503
INS-2012-00009	In the matter of refunding overpayments of the retaliatory tax of insurance companies for the taxable year 2010
INS-2012-00010	David C. Johnson - Alleged violation of VA Code § 38.2-1826 C
INS-2012-00011	David A. DeMarco - Alleged violation of VA Code §§ 38.2-512, 38.2-1809, 38.2-1813 and 38.2-1826
INS-2012-00012	SMS Group - Alleged violation of VA Code §§ 55-525.24 and 55-525.25
INS-2012-00013	National States Insurance Company - For approval of an assumption reinsurance agreement pursuant to VA Code § 38.2-136 C
INS-2012-00014	<i>Ex Parte: In the matter of adoption of adjusted prima facie rates for credit life and credit accident and sickness insurance pursuant to §§ 38.2-3725</i>
INS-2012-00015	Brock Allen Cartwright - Alleged violation of VA Code § 38.2-502
INS-2012-00017	Zayan Takaful - Alleged violation of VA Code § 38.2-1826 C
INS-2012-00018	James Timothy Shelnut - Alleged violation of VA Code § 38.2-1826 C
INS-2012-00019	<i>Ex Parte: In the matter of refunding overpayments of the premium license tax on direct gross premium income of insurance companies for the taxable year 2009</i>
INS-2012-00020	<i>Ex Parte: In the matter of refunding overpayments of the retaliatory tax of insurance companies for the taxable year 2010</i>
INS-2012-00021	<i>Ex Parte: In the matter of refunding overpayments of the retaliatory tax of insurance companies for the taxable year 2008</i>
INS-2012-00022	<i>Ex Parte: In the matter of refunding overpayments of the premium license tax on direct gross premium income of insurance companies for the taxable year 2010</i>
INS-2012-00023	<i>Ex Parte: In the matter of refunding overpayments of the assessment for the maintenance of the Bureau of Insurance on direct gross premium income of surplus lines brokers for the assessable year 2010</i>
INS-2012-00025	First Sealord Surety - Alleged violation of VA Code §§ 38.2-1038, <i>et al.</i>
INS-2012-00026	Permanent General Assurance Corporation and Permanent General Assurance Corporation of Ohio - Alleged violation of VA Code §§ 38.2-305 A
INS-2012-00027	Farmers Insurance Exchange and Mid-Century Insurance Company - Alleged violation of VA Code § 38.2-304
INS-2012-00028	Unitrin Auto and Home Insurance Company - Alleged violation of VA Code §§ 38.2-1906 D
INS-2012-00029	Main Street Title & Settlement Services - Alleged violation of VA Code § 55-525.30
INS-2012-00030	Amanda Michelle Lunde - Alleged violation of VA Code § 38.2-1826 C
INS-2012-00031	Carl Jones Baker II - Alleged violation of VA Code §§ 38.2-1826 C and subsection 1 of 38.2-1831
INS-2012-00033	Building Industry Insurance Association - Alleged violation of VA Code § 38.2-1331 A
INS-2012-00034	Frank S. Sparger - Alleged violation of VA Code § 38.2-1826 C
INS-2012-00035	Michael P. Schwartz - Alleged violation of VA Code § 38.2-1826 C
INS-2012-00036	Jasper Carl Williams and Supreme Insurance - Alleged violation of VA Code § 38.2-1813
INS-2012-00037	James Milton Carr - Alleged violation of VA Code § 38.2-502
INS-2012-00038	Lawyers Advantage Title Group - Alleged violation of VA Code §§ 38.2-1813, 55-525.11, 55-525.24, and 55-525.27 of the Code of Virginia, as well as 14 VAC 5-395-70
INS-2012-00039	Frank A. Gutta - Alleged violation of VA Code § 38.2-1826 C
INS-2012-00040	Skyline Title and Escrow - Alleged violation of VA Code § 55-525.20
INS-2012-00041	Alltech Title Group - Alleged violation of VA Code § 55-525.20
INS-2012-00042	American Equity Investment Life Insurance Company - Alleged violation of VA Code § 38.2-316 A
INS-2012-00043	Commercial Travelers Mutual Insurance Company - To eliminate impairment and restore surplus to the minimum amount required by law
INS-2012-00044	<i>Ex Parte: In the matter of Amending the Rules Governing Advertisement of Life Insurance and Annuities</i>

INS-2012-00045	Building Industry Insurance Association - <i>Ex Parte</i> : In the matter of Amending the Rules Governing Advertisement of Life Insurance and Annuities
INS-2012-00046	Premier Brokers Inc. - Alleged violation of VA Code § 38.2-512
INS-2012-00048	In the matter of approval of multi-state regulatory settlement agreement between Prudential Ins. Co. of America
INS-2012-00049	Anthem Health Plans of Virginia
INS-2012-00050	Elvin S. Taylor Jr. - Alleged violation of VA Code § 38.2-1809
INS-2012-00052	Christopher Matthew Cunningham - Alleged violation of VA Code § 38.2-1826 C
INS-2012-00053	Richard L. Coale - Alleged violation of VA Code § 38.2-1826 C
INS-2012-00054	Millers First Insurance Company - To eliminate impairment and restore surplus to the minimum amount required by law
INS-2012-00055	Massachusetts Mutual Life Insurance Company - Alleged violation of VA Code § 38.2-502
INS-2012-00057	Thomas Joseph Spellman III - Alleged violation of VA Code §§ 38.2-1809 and 38.2-1826 B
INS-2012-00058	<i>Ex Parte</i> : In the matter of Adopting Revisions to the Rules Governing Credit for Reinsurance
INS-2012-00059	Mysty Leigh Reyna - Alleged violation of VA Code § 38.2-512
INS-2012-00060	Robert W. Pierce and Robert W. Pierce Insurance Agency
INS-2012-00061	Russell Lee Taylor - Alleged violation of VA Code § 38.2-502
INS-2012-00062	Tom Hamsher - Alleged violation of VA Code §§ 38.2-1826 A and 38.2-1826 C
INS-2012-00063	D & L Insurance Agency - Alleged violation of VA Code §§ 38.2-1813 and 38.2-1822
INS-2012-00064	Glenda Donohue - Alleged violation of VA Code § 38.2-1822
INS-2012-00065	Johnny Ray Green - Alleged violation of VA Code §§ 38.2-1813 and 38.2-1822
INS-2012-00066	Lisa M. Ringuette - Alleged violation of VA Code § 38.2-1822
INS-2012-00067	Jessica Roche - Alleged violation of VA Code § 38.2-1822
INS-2012-00068	Douglas W. Rothell - Alleged violation of VA Code §§ 38.2-1813 and 38.2-1822
INS-2012-00069	Robert Christian Ford - Alleged violation of VA Code § 38.2-509
INS-2012-00070	Richard Arlen Baum - Alleged violation of VA Code §§ 38.2-503 and 38.2-1822 E
INS-2012-00071	Vespers Financial - Alleged violation of VA Code § 38.2-6002
INS-2012-00072	360 Settlement and Title Services of Virginia Beach - Alleged violation of VA Code § 55-525.27 and 14 VAC 5-395-70
INS-2012-00073	Lititz Mutual Insurance Company - Alleged violation of VA § 38.2-305 A
INS-2012-00074	William B. Pitcock - For review of Shenandoah Life Insurance Company Deputy Receiver's Determination of Appeal
INS-2012-00075	Great American Insurance Company - Alleged violation of VA Code § 38.2-1096 D
INS-2012-00076	Alfa Alliance Insurance Corporation - Alleged violation of VA Code § 38.2-1906 A
INS-2012-00077	David Brian Rutstein - Alleged violation of VA Code § 38.2-1826 C
INS-2012-00078	John E. Burke II - Alleged violation of VA Code § 38.2-1826 C
INS-2012-00079	Mark Patrick Santos - Alleged violation of VA Code § 38.2-1826 C
INS-2012-00080	Julio Cesar Fonseca - Alleged violation of VA Code § 38.2-1826 C
INS-2012-00081	John Kimberly Richard - Alleged violation of subsection 10 of VA Code § 38.2-1831
INS-2012-00082	Juan Ramos Montermoso - Alleged violation of VA Code § 38.2-1826 C
INS-2012-00083	Carlo John Pennella III - Alleged violation of VA Code § 38.2-1809
INS-2012-00084	Roy Miller Smith - Alleged violation of VA Code §§ 38.2-1826 C and subsection 1 of 38.2-1831
INS-2012-00085	Steven George Knez - Alleged violation of VA Code § 38.2-1826 C
INS-2012-00086	Ronald Joseph Unger
INS-2012-00087	Hugo W. Ordonez - Alleged violation of VA Code §§ 38.2-512, 38.2-1822 A and 38.2-1822 B
INS-2012-00088	Visoth Sok Sum - Alleged violation of VA Code §§ 38.2-512 and 38.2-1822 A
INS-2012-00089	Douglas R. Bishop - Alleged violation of VA Code §§ 38.2-512
INS-2012-00090	Thomas V. Alvarez - Alleged violation of VA Code §§ 38.2-512 and 38.2-1822 A
INS-2012-00091	Mandy Wen Xing Zhang Baird - Alleged violation of VA Code §§ 38.2-512 and 38.2-1822 A
INS-2012-00092	Warren T. Ellsworth - Alleged violation of VA Code §§ 38.2-512
INS-2012-00093	Angie C. Kim - Alleged violation of VA Code §§ 38.2-512 and 38.2-1822 A
INS-2012-00094	Soraida G. Gomez - Alleged violation of VA Code §§ 38.2-512
INS-2012-00095	In Re: Establishing Fees for the Licensing And Renewal Licensing for Public Adjusters
INS-2012-00096	Maria E. Lopez-Arias - Alleged violation of VA Code §§ 38.2-512 and 38.2-1822 A
INS-2012-00097	Jocelyn B. Delacruz - Alleged violation of VA Code §§ 38.2-512
INS-2012-00099	Arsalan Sajjad - Alleged violation of VA Code §§ 38.2-512
INS-2012-00100	Carmen Judith Zelada - Alleged violation of VA Code §§ 38.2-512
INS-2012-00101	Christine Mary O'Connor - Alleged violation of VA Code §§ 38.2-512
INS-2012-00102	David E. Contreras - Alleged violation of VA Code §§ 38.2-512
INS-2012-00103	Patricia Elizabeth Sandoval - Alleged violation of VA Code §§ 38.2-512
INS-2012-00104	Shore Thing Title - Alleged violation of VA Code § 55-525.30
INS-2012-00105	Kelly L. Witt - Alleged violation of VA Code §§ 38.2-1813 and 38.2-1834.1 A
INS-2012-00107	Genatt Associates - Alleged violation of VA Code § 38.2-4809 A 2
INS-2012-00108	Pacific Wholesale Insurance Brokers - Alleged violation of VA Code § 38.2-4809 A 2
INS-2012-00109	Alpha Risk Management - Alleged violation of VA Code § 38.2-4809 A 2
INS-2012-00110	Carol A. Thornhill - Alleged violation of VA Code § 38.2-4809 A 2
INS-2012-00111	Stephen A. Genatt - Alleged violation of VA Code § 38.2-4809 A 2
INS-2012-00113	Michael J. Leamanczyk - Alleged violation of VA Code § 38.2-4809 A 2
INS-2012-00114	Marc Joseph Bishara - Alleged violation of VA Code § 38.2-4809 A 2
INS-2012-00115	Ryan Alan Horst - Alleged violation of VA Code § 38.2-4809 A 2
INS-2012-00116	Michael Patrick Dugan - Alleged violation of VA Code § 38.2-4809 A 2
INS-2012-00117	Bradford Alexander Boyd - Alleged violation of VA Code § 38.2-4809 A 2
INS-2012-00120	James B. Ringer - Alleged violation of subsection 1 of VA Code § 38.2-1831
INS-2012-00121	<i>Ex Parte</i> : In the matter of refunding overpayments of the premium license tax on direct gross premium income of surplus lines brokers for the taxable year 2011

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INS-2012-00122	Ex Parte: In the matter of refunding overpayments of the assessment for the maintenance of the Bureau of Insurance on direct gross premium income of surplus lines brokers for the assessable year 2011
INS-2012-00123	Henry Richard Peche - Alleged violation of VA Code §§ 38.2-1826 C and subsection 1 of 38.2-1831
INS-2012-00124	Metropolitan Life Ins. <i>et al.</i> - In the matter of approval of multi-state regulatory settlement agree. between MetLife Ins. Co. & Florida Office of Ins. Regulation
INS-2012-00125	Jill Hufford and Jill Hufford Insurance Agency - Alleged violation of VA Code § 38.2-512
INS-2012-00127	Daniel S. Byrd - Alleged violation of VA Code §§ 38.2-1826 C
INS-2012-00128	William R. Lawrence - Alleged violation of VA Code § 38.2-1826 C
INS-2012-00129	Shannan Kathleen James - Alleged violation of VA Code §§ 38.2-512 and 38.2-1831(10)
INS-2012-00130	Commerce & Industry Insurance Company - Alleged violation of VA Code §§ 38.2-305 A and 38.2-305 B
INS-2012-00131	Response Insurance Company and Response Worldwide Direct Auto Insurance Company - Alleged violation of VA Code §§ 38.2-305 A
INS-2012-00132	Progressive Capital Solutions - Alleged violation of VA Code § 38.2-6002
INS-2012-00133	Ex Parte: In the matter of refunding overpayments of the Flood Prevention and Protection Assistance Fund assessment based on direct gross premium income of insurance companies for the assessable year 2011
INS-2012-00134	Ex Parte: In the matter of refunding overpayments of the Fire Programs Fund assessment based on direct gross premium income of insurance companies for the assessable year 2011
INS-2012-00135	Ex Parte: In the matter of refunding overpayments of the Fire Programs Fund assessment based on direct gross premium income of insurance companies for the assessable year 2010
INS-2012-00136	Ex Parte: In the matter of refunding overpayments of the Virginia State Police
INS-2012-00137	Ex Parte: In the matter of refunding overpayments of the Virginia State Police
INS-2012-00138	Anthem Health Plans of Virginia - Alleged violation of VA Code §§ 38.2-502 (1), <i>et al.</i>
INS-2012-00139	Priority Health Care - Alleged violation of VA Code §§ 38.2-502 (1), <i>et al.</i>
INS-2012-00140	Peninsula Health Care - Alleged violation of VA Code §§ 38.2-502 (1), <i>et al.</i>
INS-2012-00141	Healthkeepers - Alleged violation of VA Code §§ 38.2-502 (1), <i>et al.</i>
INS-2012-00142	Peerless Insurance Co., Excelsior Insurance Co., The Netherlands Insurance Co., Peerless Indemnity Insurance Co. and Montgomery Mutual Insurance Co. - Alleged violation of 14 VAC 5-335-10 <i>et seq.</i>
INS-2012-00143	American Economy Insurance Co., American States Insurance Co., General Insurance Co. of America, First National Insurance Co. of America and Safeco Insurance Co. of America - Alleged violation of 14 VAC 5-535-10 <i>et seq.</i>
INS-2012-00144	National Council on Compensation Insurance - For revisions of advisory loss costs and assigned risk workers' compensation insurance rates
INS-2012-00146	Roger Metzger Associates - Alleged violation of VA Code §§ 38.2-4809 and 38.2-4809.1
INS-2012-00148	William E. Jones - Alleged violation of VA Code §§ 38.2-4809 and 38.2-4809.1
INS-2012-00149	Philip Graeme Cabaud III - Alleged violation of VA Code §§ 38.2-4809 and 38.2-4809.1
INS-2012-00150	Joshua Sun Kim - Alleged violation of VA Code §§ 38.2-4809 and 38.2-4809.1
INS-2012-00151	Roger W. Metzger - Alleged violation of VA Code §§ 38.2-4809 and 38.2-4809.1
INS-2012-00152	Kimberly A. Williams - Alleged violation of VA Code §§ 38.2-4809 and 38.2-4809.1
INS-2012-00153	Roanoke Airport Transportation Services - For a review of a decision by the National Council on Compensation Insurance pursuant to VA Code § 38.2-1923
INS-2012-00154	Washington Settlement Group - Alleged violation of VA Code § 55-525.27
INS-2012-00155	Garry C. Howard, <i>et al.</i> - Alleged violation of VA Code § 38.2-1802
INS-2012-00156	Ernest Evans Bridges - Alleged violation of VA Code §§ 38.2-1812 and 38.2-1822
INS-2012-00157	Andrea S. Young & Morris & Young Insurance Agency - Alleged violation of VA Code §§ 38.2-1809 and 38.2-1813
INS-2012-00158	Chimenem C. Amadi - Alleged violation of VA Code § 38.2-512
INS-2012-00159	nHealth - Alleged violation of VA Code § 38.2-1330.1
INS-2012-00160	PMA Insurance Services - Alleged violation of VA Code §§ 38.2-4809 and 38.2-4809.1
INS-2012-00161	Virgil Lee Anderson - Alleged violation of VA Code §§ 38.2-4809 and 38.2-4809.1
INS-2012-00163	Matthew Evart Wells - Alleged violation of VA Code §§ 38.2-1826 and subsection 1 of 38.2-1831
INS-2012-00164	John V. Kamenicky - Alleged violation of VA Code § 38.2-1822 A
INS-2012-00165	Mendota Insurance Company - Alleged violation of VA Code §§ 38.2-305 A
INS-2012-00166	CSMB - Alleged violation of VA Code § 55-525.30
INS-2012-00167	William E. Meador - Alleged violation of VA Code § 38.2-512 B
INS-2012-00169	AmeriTitle Inc. - Alleged violation of VA Code § 55-525.30
INS-2012-00170	Matthew James Taylor - Alleged violation of VA Code § 38.2-1813
INS-2012-00171	In Re: Adoption of the 2010 Multi-State Market Conduct Examination of the National Council on Compensation Insurance Inc.
INS-2012-00172	Teachers Insurance and Annuity Association of America - Alleged violation of VA Code § 38.2-503
INS-2012-00173	Damien D. Byrd - Alleged violation of VA Code §§ 38.2-1822 E and subsection 1 of 38.2-1831
INS-2012-00174	<i>Ex Parte:</i> In the matter of Approval of Multi-State Regulatory Settlement Agree. between Allianz & Ins. Commissioners or Directors of Iowa
INS-2012-00175	Angela Denise Harris and Cole Insurance Agency of Richlands - Alleged violation of VA Code § 38.2-1813
INS-2012-00176	Genesis Title Agency - Alleged violation of VA Code § 55-525.30
INS-2012-00177	Larry Taylor Goodrich - Alleged violation of VA Code § 38.2-512
INS-2012-00178	Heritage Title & Escrow Company - Alleged violation of VA Code § 55-525.30
INS-2012-00180	Andrew M. Haley - Alleged violation of VA Code § 38.2-1826 and subsection 1 of § 38.2-1831
INS-2012-00181	Guidone Mutual Insurance Company and Guideone Specialty Mutual Insurance Company - Alleged violation of VA Code § 38.2-317
INS-2012-00182	Alphastaff Group - Alleged violation of 14 VAC 5-410-40 D
INS-2012-00183	Strategic Outsourcing - Alleged violation of 14 VAC 5-410-40 D
INS-2012-00184	First Command Financial Planning - Alleged violation of 14 VAC 5-410-40 D
INS-2012-00185	The Group and Blanket Accident & Health Trust - Alleged violation of 14 VAC 5-410-40 D
INS-2012-00186	Communicating for America - Alleged violation of 14 VAC 5-410-40 D

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INS-2012-00187 WellPoint - For approval of acquisition of control of or merger with a domestic insurer pursuant to VA Code § 38.2-1323
 INS-2012-00188 Ken Bennett - For review of Southern Title Insurance Corporation Deputy Receiver's Determination of Appeal
 INS-2012-00189 Dennis Lee Travis - Alleged violation of VA Code § 38.2-1826 C
 INS-2012-00190 Christopher Powell Hill - Alleged violation of VA Code § 38.2-1826 C
 INS-2012-00191 Rebecca Tran - Alleged violation of VA Code § 38.2-1826 C
 INS-2012-00192 Wallace Henry Flinchum Jr. - Alleged violation of VA Code § 38.2-1813
 INS-2012-00193 Robert Husnick - Alleged violation of VA Code §§ 38.2-1826 C and subsection 1 of 38.2-1831
 INS-2012-00194 Government Employees Insurance Company, GEICO General Insurance Company and GEICO Casualty Company - Alleged violation of VA Code § 38.2-502
 INS-2012-00195 Sensible Home Warranty - Alleged violation of VA Code § 38.2-2619
 INS-2012-00196 Thomas Michael Knasel and Anne L. Knasel - For review of Southern Title Insurance Corporation Deputy Receiver's Determination of Appeal
 INS-2012-00197 Colonial Home Warranty - Alleged violation of VA Code § 38.2-2619
 INS-2012-00198 Timberland Investors, Luther J. Bowles, III, Bobla, LLC, George Marshall Butler, Jr. and James A. McPherson - For review of Southern Title Insurance Corporation Deputy Receiver's Determination of Appeal
 INS-2012-00199 Elephant Insurance Company - Alleged violation of VA Code §§ 38.2-305 A
 INS-2012-00200 Richard M. Hunt - Alleged violation of VA Code § 38.2-1826 C
 INS-2012-00201 Brittany A. Collins - Alleged violation of VA Code § 38.2-1826 C
 INS-2012-00202 Natalie Butbul - Alleged violation of VA Code § 38.2-1826 C
 INS-2012-00203 Michael C. Sanders - Alleged violation of VA Code § 38.2-1826 C
 INS-2012-00204 Francis J. Gaetani - Alleged violation of VA Code § 38.2-1826 C
 INS-2012-00205 James David Wilkins - Alleged violation of VA Code § 38.2-1826 C
 INS-2012-00206 Bennie Kennedy - Alleged violation of subsection 10 of VA Code § 38.2-1831
 INS-2012-00207 Settlement Corp. - Alleged violations of VA Code § 55-525.30
 INS-2012-00208 Christy Bullington West - Alleged violation of VA Code §§ 38.2-502
 INS-2012-00209 Shelli Jo Richardson - Alleged violation of VA Code §§ 38.2-502
 INS-2012-00212 Lindsey B. Weathers - Alleged violation of VA Code § 38.2-1826 C
 INS-2012-00213 Insurance Consulting Services LLC - Alleged violation of VA Code §§ 38.2-1826
 INS-2012-00214 Larry Andrew Fallen - Alleged violation of VA Code § 38.2-512
 INS-2012-00215 California Casualty Indemnity Exchange - Alleged violation of VA Code §§ 38.2-228
 INS-2012-00216 Lincoln Heritage Life Insurance Company - Alleged violation of subsection 1 of VA Code § 38.2-502
 INS-2012-00217 Carolina Casualty Insurance Company - Alleged violation of 14 VAC 5-335-10 *et seq.*
 INS-2012-00218 Electric Insurance Company - Alleged violation of VA Code § 38.2-1906 D
 INS-2012-00219 Sentry Select Insurance Company - Alleged violation of VA Code § 38.2-317
 INS-2012-00220 Executive Life Insurance Company of New York - To effectuate transfer of insurance policies pursuant to VA Code § 38.2-136 C
 INS-2012-00221 Paula Rieck - Alleged violation of subsection 1 of VA Code § 38.2-1831
 INS-2012-00222 Miguel Boyadjian - For review of Southern Title Insurance Corporation Deputy Receiver's Determination of Appeal
 INS-2012-00223 Hiawathia Smith - Alleged violation of VA Code §§ 38.2-512 and 38.2-3403
 INS-2012-00224 Donald R. Tew - Alleged violation of VA Code § 38.2-512
 INS-2012-00226 Carl G. Balestrieir - Alleged violation of VA Code §§ 38.2-502
 INS-2012-00227 American Automobile Insurance Corporation, Associated Indemnity Corporation, Fireman's Fund Insurance Company, National Surety Corporation and The American Insurance Company - Alleged violation of VA Code § 38.2-1906 D
 INS-2012-00228 Peerless Ins Co, The Netherlands Ins Co, Excelsior Ins Co, Montgomery Mutual Ins Co, American Fire & Casualty Co, Ohio Casualty Ins Co, West American Ins Co, Peerless Indemnity Ins Co & Liberty Mutual Ins Corp - Alleged violation of VA Code § 38.2-317
 INS-2012-00229 Marcus D. Slate - Alleged violation of VA Code §§ 38.2-512 A
 INS-2012-00230 Aetna Inc - Form A Statement Regarding the Acquisition of Control of Coventry Health Care of Virginia Inc.
 INS-2012-00231 Bituminous Casualty Corporation and Bituminous Fire and Marine Insurance Company - Alleged violation of VA Code § 38.2-1906 D
 INS-2012-00232 State Auto Property and Casualty Insurance Company and State Auto Mutual Insurance Company - Alleged violation of VA Code § 38.2-317 *et al.*
 INS-2012-00233 Medmarc Casualty Insurance Company - Alleged violation of 14 VAC 5-335-10 *et seq.*
 INS-2012-00234 Sentinel Insurance Company Limited - Alleged violation of VA Code § 38.2-1906 D
 INS-2012-00235 Shawn A. Bako - Alleged violation of VA Code § 38.2-1826 C and subsection 1 of 38.2-1831
 INS-2012-00236 Debbie Ann Marie Newman - Alleged violation of VA Code § 38.2-1826 C
 INS-2012-00237 Dominic Alessi - Alleged violation of VA Code § 38.2-1826 C
 INS-2012-00238 Cassie Sprague - Alleged violation of VA Code § 38.2-1826 C
 INS-2012-00239 Stevey L. Mitchell - Alleged violation of VA Code § 38.2-1826 C
 INS-2012-00240 Lorene Michele Kehoe - Alleged violation of VA Code § 38.2-1826 C
 INS-2012-00241 Joshua Steven Griffin - Alleged violation of VA Code § 38.2-1826 C
 INS-2012-00242 Joseph M. Wagner - Alleged violation of VA Code § 38.2-1826 C
 INS-2012-00243 Jazide Mirel Rosales - Alleged violation of VA Code § 38.2-1826 C
 INS-2012-00244 Teresa Lynn Laperna - Alleged violation of VA Code § 38.2-1826 C
 INS-2012-00245 Inova Health System Foundation - Form A Application for Approval of Acquisition of Control of or Merger with a Domestic Insurer in accordance with § 38.2-1323 of the Code of Virginia and the applicable regulations.
 INS-2012-00246 Christie Annette Green - Alleged violation of VA Code §§ 38.2-1809 and 38.2-1826
 INS-2012-00247 Perry Richardson Agency Inc. - Alleged violation of VA Code §§ 38.2-512, 38.2-1809 and 38.2-1813
 INS-2012-00248 Curtis D. Perry - Alleged violation of VA Code §§ 38.2-512, 38.2-1809 and 38.2-1813
 INS-2012-00249 Jason L. Richardson - Alleged violation of VA Code §§ 38.2-512, 38.2-1809 and 38.2-1813
 INS-2012-00251 Ray Bradley Price, Stacey Groome Price & Virginia's Preferred Insurance Agency, Inc. - Alleged violation of VA Code § 38.2-1822

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INS-2012-00252	Graham Huston Messer - Alleged violation of VA Code § 38.2-1809
INS-2012-00254	Jason Tenhouse Wilkins - Alleged violation of VA Code § 38.2-1831
INS-2012-00255	Temesgen Petros - Alleged violation of VA Code § 38.2-1822
INS-2012-00256	Genet Gorems - Alleged violation of VA Code § 38.2-512
INS-2012-00257	Best Financial Services - Alleged violation of VA Code §§ 38.2-512, 38.2-1813 and 38.2-1822
INS-2012-00260	Keith Henry Gilliard - Alleged violation of VA Code §§ 38.2-1809 and 38.2-1813
INS-2012-00261	AIU Insurance Company - Alleged violation of VA Code §§ 38.2-305 A <i>et al.</i>
INS-2012-00262	Kaiser Permanete Insurance Company - Alleged violation of VA Code §§ 38.2-510 A 15 <i>et al.</i>
INS-2012-00263	National States Insurance Company in Liquidation - Petition for Order Effectuating Transfer of Policies Without Policyholder Consent
INS-2012-00264	In the matter of Approval of a Multi-State Regulatory Settlement Agreement between National Union Fire Insurance Co. of Pittsburgh
INS-2012-00265	Mid-Century Insurance Company - Alleged violation of VA Code § 38.2-1906 D
INS-2012-00266	Empire Fire and Marine Insurance Company - Alleged violation of VA Code § 38.2-1906 D
INS-2012-00267	Joseph Alexander Biles - Alleged violation of VA Code § 38.2-1831
INS-2012-00268	Dounia Amelia White - Alleged violation of VA Code § 38.2-1826
INS-2012-00269	Adriana Jaime - Alleged violation of VA Code § 38.2-1826
INS-2012-00270	Roger Gerard Haigney Jr - Alleged violation of VA Code § 38.2-1826
INS-2012-00271	Corey Lamar Battley - Alleged violation of VA Code § 38.2-1809 and 38.2-1826
INS-2012-00272	Berkley National Insurance Company - Alleged violation of VA Code § 38.2-1906 D
INS-2012-00274	In re: Assessment upon certain companies and surplus lines brokers to pay the expense of the Bureau of Insurance for the calendar year 2013
INS-2012-00275	Sentinel Insurance Company Limited - Alleged violation of VA Code § 38.2-1906 D
INS-2012-00276	Nationwide Financial Services <i>et al.</i> - In the matter of approval of multi-state regulatory settlement agreement between Nationwide Financial Services and Florida Office of Insurance Regulation
INS-2012-00277	Sompo Japan Insurance Company of America - Alleged violation of VA Code § 38.2-2220
INS-2012-00278	Continental Insurance Co., American Casualty Co. of Reading PA, National Fire Insurance Co. of Hartford, Transportation Insurance Co., Valley Forge Insurance Co. and Continental Casualty Co. - Alleged violation of VA Code § 38.2-1906 D
INS-2012-00279	Sentry Select Insurance Company - Alleged violation of VA Code § 38.2-1906 D
INS-2012-00280	Allstate Insurance Company - Alleged violation of VA Code §§ 38.2-317 and 38.2-1906 A
INS-2012-00281	Anthem Health Plans of Virginia Inc. and Healthkeepers, Inc. - Petition for approval to offer new behavioral health services to Virginia customers from a newly-created call center located outside of Virginia.
INS-2012-00282	In the matter of investigation long-term care insurance premium rates
INS-2012-00283	American Home Assurance Co., National Union Fire Ins Co of Pittsburgh, PA, NH Ins. Co., Granite State Ins. Co., Commerce & Industry Ins. Co., American International S Ins Co, AIG Casualty Co & Ins Co of State PA - Alleged violation VA Code §§ 38.2-317 <i>et al.</i>
INS-2012-00284	Gramercy Insurance Company - To eliminate impairment in its surplus and restore same to amount required by law
INS-2012-00285	American General Assurance Co., American General Life Ins Co. DE, American Gen Life & Acc Ins Co, American General Life Ins Co, SunAmerica Annuity & Life Ass Co, SunAmerica Life Ins Co & Western National Life Ins Co - Approval of Settlement
INS-2012-00286	John David Shover - Alleged violation of VA Code § 38.2-1813
INS-2012-00288	Andrew O Niel Bryan - Alleged violation of VA Code § 38.2-1826
INS-2012-00289	Trena Nichelle Clark - Petition for Review of Deputy Receiver's Determination of Appeal.

PST:**DIVISION OF PUBLIC SERVICE TAXATION**

PST-2011-00028	XO Virginia - For review and correction of certification of gross receipts for the year ending December 31, 2009
PST-2011-00031	XO Virginia -

PUC:**DIVISION OF COMMUNICATIONS**

PUC-2011-00028	Winstar of Virginia
PUC-2011-00079	HyperCube Telecom
PUC-2011-00082	24/7 Cable Company - For cancellation of certificates for the provision of local exchange and interexchange telecommunications services
PUC-2011-00083	Telecents of Virginia
PUC-2011-00084	Ntera of Virginia
PUC-2011-00085	FRE Communications
PUC-2012-00001	American Fiber Network of Virginia
PUC-2012-00003	NationsLine Virginia
PUC-2012-00004	Verizon South Inc. and MCIMetro Access Transmission Services of Virginia
PUC-2012-00005	365 Wireless
PUC-2012-00006	NextG Networks Atlantic
PUC-2012-00007	Liberty-Bell Telecom LLC of Virginia - For a certificate to provide local exchange telecommunications services
PUC-2012-00008	In re: For purposes of considering the Joint Motion and Joint Stipulation of Verizon Virginia LLC
PUC-2012-00009	Central Telephone Company of Virginia d/b/a CenturyLink and United Telephone Southeast d/b/a CenturyLink - Alternative Dispute Resolution Petition.
PUC-2012-00010	Verizon Virginia LLC and Quantumshift Communications of Virginia
PUC-2012-00011	Verizon South Inc. f/k/a GTE South Incorporated and Comcast Business Communications of Virginia
PUC-2012-00012	Verizon South Inc. and Quantumshift Communications of Virginia
PUC-2012-00013	Verizon Virginia Inc. - For amendment and reissuance of certificates to reflect new company name
PUC-2012-00014	LTS of Rocky Mount - For cancellation of a certificate to provide local exchange telecommunications services

PUC-2012-00015	NA Communications - For approval to cancel certificates to provide local and interexchange telecommunications services
PUC-2012-00016	R&B Network Inc. - For approval to cancel certificates to provide local and interexchange telecommunications services
PUC-2012-00017	Roanoke and Botetourt Telephone Company - for Amendment to its Certificates of Public Convenience and Necessity to reflect the applicant's new name
PUC-2012-00018	NTELOS Network Inc. - To amend its certificates to provide local and interexchange telecommunications services to reflect a new corporate name
PUC-2012-00019	NTELOS Telephone Inc. - To amend its certificates to provide local and interexchange telecommunications services to reflect a new corporate name
PUC-2012-00020	Verizon Virginia LLC and Waterford Telephone Company - Interconnection Agreement
PUC-2012-00021	PEG Bandwidth VA - For certificates to provide local exchange and interexchange telecommunications services
PUC-2012-00022	Central Telephone Company of Virginia d/b/a CenturyLink and United Telephone Southeast LLC d/b/a CenturyLink and QuantumShift Communications of Virginia - Negotiated Interconnection, Collocation and Resale Agreement
PUC-2012-00023	AboveNet, Inc., AboveNet Communications, Inc., AboveNet of VA, L.L.C. and Zayo Group, LLC - For Approval of the transfer of indirect control of AboveNet of VA, L.L.C. to Zayo Group, LLC, pursuant to VA Code §§ 56-88 <i>et seq.</i>
PUC-2012-00024	Central Telephone Company of Virginia d/b/a CenturyLink and United Telephone Southeast LLC d/b/a Century Link and MGW Networks, L.L.C. - Negotiated Interconnection, Collocation and Resale Agreement
PUC-2012-00025	CenturyLink and Qwest Communications Corporation of Virginia - Interconnection, Collocation and Resale Agreement
PUC-2012-00026	24/7 Cable Company LLC - For cancellation of surety bond
PUC-2012-00027	RCN New York Communications - For amendment and reissuance of certificates to reflect new company name
PUC-2012-00029	First Communications, LLC and FirstEnergy Corp. - For approval of acquisition of control under Utility Transfers Act
PUC-2012-00030	24/7 Mid-Atlantic Network of Virginia - For certificates to provide local exchange and interexchange telecommunications service
PUC-2012-00031	Verizon Virginia LLC and Verizon South Inc. - Notification of Planned Disconnection of Service to CoreTel Virginia for Nonpayment of Charges
PUC-2012-00033	CoreTel Virginia - For resolution of billing issues with Verizon Virginia LLC and Verizon South Inc.
PUC-2012-00035	Navigator Telecommunications - For cancellation of certificates to provide local exchange and interexchange telecommunications services
PUC-2012-00037	Liberty-Bell Telecom - For amendment and reissuance of a certificate to reflect new company name
PUC-2012-00038	Jeffrey W. Smith d/b/a S.T.S. - Alleged violation of 20 VAC 5-407-40
PUC-2012-00039	Network Billing Systems, L.L.C., Fusion Telecommunications International, Inc. and Fusion NBS Acquisition Corp. - For approval of the transfer of control of Network Billing Systems, L.L.C. pursuant to VA Code §§ 56-88 <i>et seq.</i>
PUC-2012-00041	FiberGate of Virginia, LLC, FiberGate, Inc., FiberGate Holdings, Inc. and Zayo Group, LLC - For approval of the indirect transfer of control of FiberGate of Virginia, to Zayo Group, LLC pursuant to VA Code §§ 56-88 <i>et seq.</i>
PUC-2012-00042	<i>In re:</i> In the matter of investigating 911 emergency call service outages and problems
PUC-2012-00043	Verizon South Inc. f/k/a GTE South Incorporated and Southwestern Bell Mobile Systems, LLC d/b/a Cingular Wireless - Amendment No. 1 to the Interconnection Agreement under Section 252(e) of the Telecommunications Act of 1996
PUC-2012-00046	Broadview Networks of Virginia - Broadview Networks Holdings, Inc., Broadview Networks, Inc., ATX Telecommunications and MCG Capital Corp., et al. - For approval of an indirect transfer of control pursuant to VA Code §§ 56-88 <i>et seq.</i>
PUC-2012-00047	Verizon Virginia LLC f/k/a Verizon Virginia Inc. and Vista PCS, LLC - Amendment No. 1 to the Interconnection Agreement under Section 252(e) of the Telecommunications Act of 1996
PUC-2012-00048	Verizon Virginia LLC f/k/a Verizon Virginia Inc. and MCIMetro Access Transmission Services of Virginia - Interconnection Agreement under Section 252(e) of the Telecommunications Act of 1996.
PUC-2012-00049	Verizon South Inc. f/k/a GTE South Incorporated and Vista PCS - Amendment No. 1 to the Interconnection Agreement
PUC-2012-00050	Verizon South Inc f/k/a GTE South Incorporated and Virginia Cellular LLC - Amendment No. 1 to the Interconnection Agreement
PUC-2012-00051	Shenandoah Telecommunications Co., Shentel Service, LLC and Shentel Communications Co.- For approval of internal reorganization transactions pursuant to the Utility Transfer Act section 56-88 <i>et seq.</i> of the Code of Virginia
PUC-2012-00052	Verizon Virginia LLC and NextGen Communications - Interconnection Agreement
PUC-2012-00053	Baldwin County Internet/DSSI Service - For cancellation of certificates for the provision of local exchange and interexchange telecommunications services and off the associated bond and tariffs
PUC-2012-00054	Central Telephone Company of Virginia d/b/a CenturyLink and United Telephone Southeast LLC d/b/a CenturyLink and Access Point - Negotiated Interconnection, Collocation and Resale Agreement
PUC-2012-00055	Century Telephone Company of Virginia d/b/a CenturyLink and United Telephone Southeast LLC d/b/a CenturyLink and Comsoft Corporation d/b/a Aquis Communications - Paging Interconnection Agreement
PUC-2012-00056	EarthLink Business - For certificates to provide local exchange and interexchange telecommunications services
PUC-2012-00057	Plan B Communications of Virginia - For reissuance of a certificate to provide local exchange telecommunications services to reflect company name change
PUC-2012-00058	Unite Private Networks and Ridgemont Equity Partners I, L.P. - Transfer of Control
PUC-2012-00059	Cox Virginia Telcom - Application for Designation as a Lifeline-Only Eligible Telecommunications Carrier in Non-Rural Areas
PUC-2012-00060	Common Point LLC - For a certificate to provide local exchange and interexchange telecommunications service - For a certificate to provide local exchange and interexchange telecommunications service
PUC-2012-00061	EarthLink Inc., CTC Communications Corp., CTC Communications of Virginia, Inc., EarthLink Business, LLC, <i>et al.</i> - For approval of the certain pro forma intra-company changes pursuant to VA Code §§ 56-88 <i>et seq.</i>
PUC-2012-00062	Allegheny Communications Connect of Virginia - For cancellation of certificate to provide interexchange telecommunications services
PUC-2012-00063	Teleport Communications America - For certificates to provide local exchange and interexchange and telecommunications services
PUC-2012-00064	Local Access LLC - For a certificate to provide local exchange and interexchange telecommunications services
PUC-2012-00065	New Edge Networks of Virginia - For cancellation of its certificates to provide local exchange and interexchange telecommunications services

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PUC-2012-00066	Summit Infrastructure Group LLC, d/b/a Summit InfrastructureGroup -For a Certificate of Public Convenience and Necessity to Provide Local Exchange and Interexchange Telecommunications Service in the Commonwealth of Virginia
PUC-2012-00067	TCG Virginia and Teleport Communications America, LLC - Joint Application for authority to merge
PUC-2012-00069	People's Mutual Telephone Company d/b/a FairPoint Communications - Application to voluntarily relinquish its Interexchange Certificate of Public Convenience and Necessity
PUC-2012-00070	ShenTel Communications Company - Application to amend and reissue its certificate of public convenience and necessity to provide local exchange telecommunications services to reflect Shentel's new name
PUC-2012-00071	Conterra Ultra Broadband - Application for a Certificate of Public Convenience and Necessity to provide local exchange telecommunications services throughout the Commonwealth of Virginia as a competitive local exchange carrier and supporting exhibits
PUC-2012-00072	First Communications LLC and Summit Data Services Inc. - Petition for Approval of a Transfer of Control.
PUC-2012-00073	Peoples Mutual Telephone Company d/b/a FairPoint Communications and Virginia PCS Alliance, L.C. d/b/a NTELOS - Amendment No. 1 to the Interconnection Agreement
PUC-2012-00074	Peoples Mutual Telephone Company d/b/a FairPoint Communications and Sprint Nextel - Amendment No. 1 to Interconnection Agreement
PUC-2012-00075	DIECA Communications Inc. d/b/a Covad Communications Company - Application for an Amended and Reissued CPCN to reflect its new name MegaPath Corporation.
PUC-2012-00076	Bay Telcom Inc. - Request for Cancellation of its CPCN to provide local exchange telecommunications services in Virginia.
PUC-2012-00077	Waterford Telephone Company - Application for Temporary waiver of Compliance with Surety Bond Requirement.
PUC-2012-00078	Zayo Group LLC - Joint Application for Approval of Pro Forma Intra-Company Transaction Pursuant to Va. Code § 56-88 <i>et seq.</i>
PUC-2012-00079	Sprint Communications Company of Virginia - Joint Petition for approval of an indirect transfer of control of Sprint Communication Company of Virginia, Inc. to Starburst II, Inc.
PUC-2012-00082	dPi Teleconnect - Company Name Change Notification and Request to update Company Certificate T-154 to reflect new corporate name
PUC-2012-00083	NextG Networks Atlantic Inc - For Cancellation & Reissuance of Certificate of Public Convenience and Necessity to Provide Local Exchange and Interexchange Telecommunications Services to Reflect Company Name Change to Crown Castle NG Atlantic Inc.
PUC-2012-00084	Central Telephone Company of Virginia d/b/a CenturyLink and United Telephone Southeast LLC d/b/a CenturyLink and XO Communications Services LLC - ICC VoIP Amendment to the Interconnection Agreement.
PUC-2012-00085	Central Telephone Company of Virginia d/b/a CenturyLink and United Telephone Southeast LLC d/b/a CenturyLink and Plan B Communications of VA
PUC-2013-00001	Birch Communications of Virginia d/b/a Birch Communications and Covista of Virginia, Inc. - Joint Petition for Approval to Transfer Customers and Assets
PUC-2013-00002	Yankee Metro Partners LLC <i>et al.</i> - Joint Petition for Approval to Transfer Control of NEON Virginia Connect, LLC and Sidera Networks, LLC Pursuant to Va. Code sec. 56-88 <i>et seq.</i>

PUE:**DIVISION OF ENERGY REGULATION**

PUE-2011-00122	Columbia Gas of Virginia - For partial waiver of PGA Procedures in accordance with tariff
PUE-2011-00127	Virginia-American Water Company - For a general increase in rates
PUE-2011-00128	In re: Determination of the proper procedures and mechanisms for implementing § 56-585.1 A 3 of the Code of Virginia
PUE-2011-00131	Washington Gas Light Company - For an annual informational filing for the Twelve Months Ended September 30
PUE-2011-00132	Northern Virginia Electric Cooperative - For authority to refinance long-term debt
PUE-2011-00133	Appalachian Natural Gas Distribution Company - For an Annual Informational Filing for 2011
PUE-2011-00134	Virginia Natural Gas and Compass Energy Services, Inc. - For approval of natural gas sales under Chapter 4 of Title 56 of the Code of Virginia
PUE-2012-00001	Central Virginia Electric Cooperative - For approval of a loan guarantee
PUE-2012-00002	Prince George Electric Cooperative - For approval of a demand-side management program including promotional allowances
PUE-2012-00003	Northern Neck Electric Cooperative - For approval of a demand-side management program including promotional allowances
PUE-2012-00004	Virginia American Water Company and American Water Works Company
PUE-2012-00005	Appalachian Natural Gas Distribution Company - For extension of certificates authorizing the Company to provide natural gas distribution service in a specified portion of Tazewell County
PUE-2012-00006	Appalachian Power Company - For approval of modifications to its Economic Development Rider
PUE-2012-00007	Appalachian Power Company - For a certificate authorizing operation of the Falling Branch-Merrimac 138 kV Transmission Line
PUE-2012-00009	Columbia Gas of Virginia - For approval of an Anchor Shipper Precedent Agreement and a Credit Agreement with Columbia Gas Transmission, LLC pursuant to Chapter 4 of Title 56 of the Code of Virginia
PUE-2012-00010	Atmos Energy Corporation - For an Annual Informational Filing
PUE-2012-00011	Appalachian Natural Gas Distribution Company - For an expedited increase in rates
PUE-2012-00012	Virginia Natural Gas - For approval of a SAVE plan and rider as provided by VA Code § 56-604
PUE-2012-00013	Columbia Gas of Virginia - For authority to extend and amend its natural gas conservation and ratemaking efficiency plan
PUE-2012-00014	Washington Gas Light Company - For approval to recover hexane costs and to revise tariffs
PUE-2012-00015	Roanoke Gas Company - For approval of certain transactions pursuant to the Affiliates Act of Title 56 of the Code of Virginia
PUE-2012-00016	Aquarius Water Systems - For approval of the sale of assets of a public utility pursuant to Chapter 5 of Title 56 of the Code of Virginia
PUE-2012-00017	Virginia Electric and Power Company and Dominion Resources Services - For approval of a Revised Support Services Agreement under Chapter 4 of Title 56 of the Code of Virginia
PUE-2012-00018	Virginia Electric and Power Co., Dominion Energy Kewaunee, Inc., Dominion Nuclear Connecticut, Inc., Dominion Products and Services, Inc., <i>et al.</i> - For approval of affiliate support services agreements and future exemptions under Chapter 4 of Title 56

PUE-2012-00019	Caroline Water Company, Inc. d/b/a Ladysmith Water Company and William Seltzer - Rule to Show Cause pursuant to 5 VAC 5-20-90
PUE-2012-00020	Kentucky Utilities Company d/b/a Old Dominion Power Company - To revise its fuel factor pursuant to VA Code § 56-249.6
PUE-2012-00021	<i>Ex Parte: In re:</i> In the matter of adopting rules and regulations for consideration of the Performance Incentive authorized by VA Code § 56-585.1 A 2 c
PUE-2012-00022	Rappahannock Electric Cooperative - For authority to refinance long-term debt
PUE-2012-00024	Appalachian Natural Gas Distribution Company - For approval of a Firm Transportation Service Tariff
PUE-2012-00026	Virginia Natural Gas Inc. - For an Annual Informational Filing for 2011
PUE-2012-00027	Columbia Gas of Virginia - For approval to extend an FSS Service Agreement and to consolidate and extend SST Service Agreements with Columbia Gas Transmission, LLC
PUE-2012-00028	BARC Electric Cooperative - For authority to incur long-term indebtedness
PUE-2012-00029	Virginia Electric and Power Co. d/b/a Dominion Virginia Power - For approval and certification of electric facilities: Surry-Skiffes Creek 500 kV Trans. Line
PUE-2012-00030	Roanoke Gas Company - For approval of a SAVE Plan and Rider pursuant to Virginia Code §§ 56-603 <i>et seq.</i>
PUE-2012-00031	Kentucky Utilities Company d/b/a Old Dominion Power Company - 2011 Annual Informational Filing
PUE-2012-00032	Virginia American Water Company - For authority to issue debt securities
PUE-2012-00033	Kentucky Utilities Company d/b/a Old Dominion Power Company
PUE-2012-00034	Boxwood Green Home Owners Association Inc. and Western Virginia Water Authority - For approval of a transfer of utility assets
PUE-2012-00035	Frontier Natural Gas Virginia - For a certificate pursuant to VA Code § 56-265.3
PUE-2012-00036	Appalachian Power Company - For approval of a rate adjustment clause: Rider G, Dresden Generating Plant
PUE-2012-00037	Massanutten Public Service Corporation - Annual Informational Filing for period ended December 31
PUE-2012-00038	Aqua Virginia Inc., Reston/Lake Anne Air Conditioning Corporation, Aqua Virginia Water Utilities, Inc., Aqua Virginia Utilities, Inc. and Aqua Services, Inc. - For approval of amended services agreement
PUE-2012-00041	Community Electric Cooperative - For a general increase in electric rates
PUE-2012-00042	Appalachian Natural Gas Distribution Company - For approval of a Firm Transportation Service Tariff
PUE-2012-00043	<i>In re:</i> Revising the rules of the State Corporation Commission governing utility rate applications subject to the Virginia Electric Utility Regulation Act
PUE-2012-00045	Central Virginia Electric Cooperative - For a general increase in electric rates
PUE-2012-00046	Virginia Electric and Power Company - For approval and certification of electric transmission facilities for the Lexington-Cloverdale 500 kV Transmission Line Rebuild pursuant to §§ 56-46.1 and 56-265.1 <i>et seq.</i>
PUE-2012-00047	Colchester Utilities - For finding that Transfers Act approval is not required in connection with its indirect change of control and Highstar Capital II Prism Fund, L.P., <i>et al.</i> and Colchester Utilities - For approval under the Utility Transfers Act
PUE-2012-00048	Highstar Capital II Prism Fund
PUE-2012-00049	Atmos Energy Corporation - For approval of a SAVE Plan and Rider pursuant to VA Code §§ 56-603 <i>et seq.</i>
PUE-2012-00050	Virginia Electric and Power Company - To revise its fuel factor pursuant to VA Code § 56-249.6
PUE-2012-00051	Appalachian Power Company - To revise its fuel factor pursuant to VA Code § 56-249.6
PUE-2012-00052	Virginia Electric and Power Company - For approval of a rate adjustment clause pursuant to § 56-585.1 A 4 of the Code of Virginia
PUE-2012-00053	Southside Electric Cooperative - For authority to refinance long-term debt
PUE-2012-00054	Virginia Electric and Power Company d/b/a Dominion Virginia Power and Southside Electric Cooperative - For revision of certificates under the Facilities Act
PUE-2012-00055	Dale Service Corporation - For an Annual Informational Filing
PUE-2012-00056	Northern Neck Electric Cooperative - For authority to incur additional long-term debt
PUE-2012-00057	Columbia Gas of Virginia - For an Annual Informational Filing
PUE-2012-00058	Deca Energy Inc. - For a license to conduct business as a competitive service provider for natural gas
PUE-2012-00059	Virginia Electric and Power Company and Virginia Power Services
PUE-2012-00060	Virginia Electric and Power Company, Virginia Power Services Energy Corp., Inc., and Virginia Power Energy Marketing, Inc. - For approval of a Revised Affiliate Fuel Agreement pursuant to Chapter 4 of Title 56 of the Code of Virginia
PUE-2012-00061	Virginia Electric and Power Company and Virginia Power Energy Marketing, Inc. - For approval of Revised Fuel Purchase, Sale and Services Agreement pursuant to Chapter 4 of Title 56 of the Code of Virginia
PUE-2012-00062	Sunset Bay Utilities - For approval to expand certificated service area
PUE-2012-00063	Shenandoah Valley Electric Cooperative - For authority to refinance long-term debt
PUE-2012-00064	Virginia Electric and Power Company - For approval of a special tariff to facilitate customer-owned distributed solar generation pursuant to Chapter 771 of the 2011 Virginia Acts of Assembly
PUE-2012-00065	Virginia Electric and Power Co. d/b/a Dominion Virginia Power - For approval & certification of electric trans. facilities in Prince William & City of Manassas: Cloverhill - Liberty 230 kV Trans. Line
PUE-2012-00066	BARC Electric Cooperative - For approval of a reconnection charge and the elimination of several rate schedules
PUE-2012-00067	Virginia Electric and Power Company - For revision of rate adjustment clause: Rider W
PUE-2012-00068	Virginia Electric and Power Company - To revise a rate adjustment clause: Rider R
PUE-2012-00069	Appalachian Power Company - For approval of a cycle-based vegetation management pilot program
PUE-2012-00070	Magnum Hunter Production - - To furnish natural gas service in Lee County, Virginia
PUE-2012-00071	Virginia Electric and Power Company - For revision of rate adjustment clause: Rider S
PUE-2012-00072	Virginia Electric and Power Company - For revision of rate adjustment clause: Rider B
PUE-2012-00073	Columbia Gas of Virginia - For approval to modify allocation bases in a service agreement between Columbia Gas of Virginia, Inc. and NiSource Corporate Services Company
PUE-2012-00074	Washington Gas Light - For approval of an extension of time to provide computation to Staff for 2012 weather normalization adjustment
PUE-2012-00075	Virginia Electric and Power Company d/b/a Dominion Virginia Power - Notice of intent to file applications or petitions pursuant to § 56-585.1 A 5 of the Code of Virginia.
PUE-2012-00076	Southwestern Virginia Gas Company - For an expedited increase in rates

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PUE-2012-00078	Kentucky Utilities Company d/b/a Old Dominion Power Co. - For authority to issue securities and assume obligations under Chapter 3 of Title 56 of the Code of VA and to engage in an affiliate transaction under Chapter 4 of Title 56 of the Code of VA
PUE-2012-00079	BARC Electric Cooperative - For amendment of 100% Renewable Energy Attributes Electric Service Tariff
PUE-2012-00080	Shenandoah Valley Electric Cooperative - For amendment of 100% Renewable Energy Attributes Electric Service Tariff
PUE-2012-00081	Northern Virginia Electric Cooperative - For amendment of Electric Service Backed 100% by Renewable Energy Certificates Tariff
PUE-2012-00082	Southside Electric Cooperative - For amendment of Electric Service Backed 100% by Renewable Energy Certificates Tariff
PUE-2012-00083	Prince George Electric Cooperative - For amendment of Electric Service Backed 100% by Renewable Energy Certificates Tariff
PUE-2012-00084	<i>Ex Parte</i> : In the matter concerning rules for electricity and natural gas submetering and for energy allocation equipment at campgrounds
PUE-2012-00085	Mecklenburg Electric Cooperative - For authority to incur indebtedness
PUE-2012-00086	Roanoke Gas Company - For an expedited increase in rates
PUE-2012-00087	Mecklenburg Electric Cooperative - For amendment of Electric Service Backed 100% by Renewable Energy Certificates Tariff
PUE-2012-00089	Appalachian Power Company and American Electric Power Service Corporation - For authority to enter into an affiliate transaction under Title 56
PUE-2012-00090	A & N Electric Cooperative - For amendment of Electric Service Backed 100% by Renewable Energy Certificates Tariff
PUE-2012-00092	Central Virginia Electric Cooperative - For amendment of Electric Service Backed 100% by Renewable Energy Certificates Tariff
PUE-2012-00093	Northern Neck Electric Cooperative - For amendment of 100% Renewable Energy Attributes Electric Service Rider Tariff
PUE-2012-00094	Appalachian Power Company - For approval of the recovery of incremental costs of participation in the renewable energy portfolio program pursuant to VA Code §§ 56-585.1 A 5 D and 56-285.2 E
PUE-2012-00095	Virginia Electric and Power Company - For approval and certification of electric transmission facilities under VA Code § 56-46.1 and the Utility Facilities Act
PUE-2012-00096	Washington Gas Light Company - For authority to amend its SAVE Plan pursuant to § 56-604 B of the Code of Virginia
PUE-2012-00097	Columbia Gas of Virginia - For approval to implement a 2013 SAVE Plan Infrastructure Replacement Current Rate in accordance with Section 20 of its General Terms and Conditions
PUE-2012-00098	Virginia Natural Gas Inc. and Atlanta Gas Light Company - For exemption from approval or
PUE-2012-00099	In re: Virginia Electric and Power Company's Integrated Resource Plan Filing pursuant to Va. Code § 56-597 <i>et seq.</i>
PUE-2012-00100	Virginia Electric and Power Company - For approval to extend two demand-side management programs and for approval of two updated rate adjustment clauses pursuant to § 56-585.1 A 5 of the Code of Virginia
PUE-2012-00101	Virginia Electric and Power Company - For approval of conversion and operation of Bremono Power Station
PUE-2012-00102	Collegiate Clean Energy - For a license to conduct business as a competitive service provider for electricity in the Commonwealth of Virginia
PUE-2012-00103	In Re: Investigation of the reasonableness of the structure of fuel procurement agreements involving Virginia Electric and Power Company
PUE-2012-00104	In re: Kentucky Utilities Company d/b/a Old Dominion Power Company's Integrated Resource Plan
PUE-2012-00105	Washington Gas Light Company - For approval to revise its SAVE Rider for calendar year 2013
PUE-2012-00107	BARC Electric Cooperative - Application for Authorization Regarding Furnishing of Services and for Authorization to Loan Money to its Subsidiary Reliable Energy
PUE-2012-00108	Columbia Gas of Virginia - For approval to consolidate and extend FTS Service Agreements with Columbia Gas Transmission, LLC pursuant to Chapter 4 of Title 56 of the Code of Virginia
PUE-2012-00109	Southside Electric Cooperative - Application for a Demand-Side Management Program Including Promotional Allowances.
PUE-2012-00110	Washington Gas Light Company - For approval to adjust its SAVE Rider
PUE-2012-00111	Virginia Natural Gas and AGL Services Company - for approval of an amendment to a services agreement under Chapter 4 of Title 56 of the Code of Virginia
PUE-2012-00112	Kentucky Utilities Company d/b/a Old Dominion Power Company - LG&E and KU Energy LLC, PPL Corporation, PPL Services Corporation, and PPL Energy Supply, LLC - Verified Joint Application to Engage in Affiliate Transactions
PUE-2012-00113	Appalachian Natural Gas Distribution Company and ANGD LLC - For authority to issue securities under Chapters 3 and 4 of Title 56 of the Code of Virginia
PUE-2012-00114	Southwestern Virginia Gas Company - For authority to incur long-term debt and short-term debt
PUE-2012-00115	Washington Gas Light Company - For approval to recover hexane costs and to revise tariffs
PUE-2012-00116	Washington Gas Light Company - For authority to revise service agreements pursuant to VA Code § 56-76
PUE-2012-00117	Viridian Energy PA LLC - For a license to conduct business as a competitive service provider for natural gas
PUE-2012-00118	Virginia Natural Gas - Notice of Intent to File an Application for a Conservation and Ratemaking Efficiency Plan Pursuant to Chapter 25 of Title 56 of the Code of Virginia
PUE-2012-00119	Kentucky Utilities Company d/b/a Old Dominion Power Company - Application under Chapter 3 of Title 56 for Extension for Authority to Use Financial Derivative Instruments and to Engage in Affiliate Transactions under Chapter 4 of Title 56 of Virginia
PUE-2012-00120	Prince George Electric Cooperative - For authority to incur additional long-term debt
PUE-2012-00121	Virginia American Water Company and American Water Capital Corp. - Joint Request to Continue Prior Authorization to extend authority granted in Case No. PUE-2011-00118 for continue participation in a Financial Services Agreement
PUE-2012-00123	Atmos Energy Corporation & Atmos Energy Holdings Inc. - Application for Authority to Incur Short-Term Indebtedness with an Affiliate Pursuant to Chapter 3 and 4 of Title 56 of the Virginia Code
PUE-2012-00124	Aqua Virginia Water Utilities Inc. <i>et al.</i> - Joint Petition for Approval of Transfer of Utility Assets.
PUE-2012-00125	Appalachian Power Company - Application Under Title 56
PUE-2012-00126	Columbia Gas of Virginia Inc. - Application for Authority to Issue Long-Term Debt
PUE-2012-00127	Southside Electric Cooperative - for authority to issue long-term debt
PUE-2012-00128	Virginia Electric and Power Company - For approval & certification of proposed Brunswick Co. Power Station electric generation & related transmission facilities

PUE-2012-00129	Collegiate Clean Energy - Application for a license to conduct business as an aggregator.
PUE-2012-00130	Virginia Electric and Power Company and Dominion Energy - and Dominion Energy, Inc. - Application for approval of a Rotor Purchase and Sale Agreement pursuant to Chapter 4, Title 56 of the Code of Virginia.
PUE-2012-00131	Aqua Virginia Inc. and Reston RELAC LLC - Joint Petition for approval of a transfer of control of Reston Lake Anne Air Conditioning Corporation.
PUE-2012-00132	Appalachian Power Company - For Certificate Authorizing Operation of the Wythe Area Improvements 138 kV Transmission Line Project - To be located in Wythe County and the Town of Wytheville.
PUE-2012-00133	Appalachian Power Company - Application for approval of affiliates arrangements and accompanying exhibits.
PUE-2012-00134	Virginia Electric and Power Company - For approval and certification of electric transmission facilities for the Dooms-Lexington 500 kV Transmission Line Rebuild under Va. Code § 56-46.1 and the Utility Facilities Act.
PUE-2012-00135	Mecklenburg Electric Cooperative - for authority to incur indebtedness.
PUE-2012-00136	Toll Road Investors Partnership II - Application for an increase in tolls pursuant to § 56-542 I of the Code of Virginia.
PUE-2012-00137	Virginia Natural Gas, Inc., AGL Resources Inc. and AGL Services Company - Application for Authority to Issue Short-Term Debt, Long-Term Debt and Common Stock to an Affiliate under Chapter 3 and 4, Title 56 of Code of Virginia and \$250 check for filing fee.
PUE-2012-00138	Washington Gas Light Company - Application to Amend Approved Conservation and Ratemaking Efficiency Plan.
PUE-2012-00139	FirstEnergy Corp.
PUE-2012-00140	Atmos Energy Corporation - Application for authority to implement a universal shelf registration for senior debt securities and common stock and \$250 check for filing fee.
PUE-2012-00141	Appalachian Power Company - Application for approval pursuant to the Utility Transfers Act.
PUE-2012-00142	Virginia Electric and Power Company - Application for Approval to Establish a Renewable Generation Pilot Program.

SEC: DIVISION OF SECURITIES AND RETAIL FRANCHISING

SEC-2012-00002	Wee Little Arts and Melissa Bradshaw - Alleged violation of VA Code sections 13.1-560, <i>et al.</i>
SEC-2012-00003	Anabaptist Financial - For an Order of Exemption pursuant to VA Code § 13.1-514.1 B
SEC-2012-00004	Tsang-Lang Liu - Alleged violation of 21 VAC 5-20-280 B(6)
SEC-2012-00005	Sprouse Fitness, LLC and Victor Sprouse - Alleged violation of VA Code §§ 13.1-560 and 13.1-563(4)(ii)
SEC-2012-00006	E*Trade Securities - Consent Order to refrain from violating Commission Rule 21 VAC 5-20-260 B
SEC-2012-00007	Window World - Alleged violation of VA Code sections 13.1-560 and 13.1-563 (4).
SEC-2012-00008	Catholic United Investment Trust - For an Order of Exemption pursuant to VA Code § 13.1-514.1 B
SEC-2012-00009	Ex Parte: In the matter of adopting a revision to the Rules Governing the Virginia Securities Act
SEC-2012-00010	The Solomon Foundation - For an Order of Exemption pursuant to VA Code § 13.1-514.1 B
SEC-2012-00011	The Nature Conservancy - For an Order of Exemption pursuant to VA Code § 13.1-514.1 B
SEC-2012-00013	National Covenant Properties - For an Order of Exemption pursuant to VA Code § 13.1-514.1 B
SEC-2012-00014	Baptist General Conference Cornerstone Fund d/b/a Converge Cornerstone Fund - For an Order of Exemption pursuant to VA Code § 13.1-514.1 B
SEC-2012-00019	UT Fredericksburg Partners - For registration of securities pursuant to VA Code section 13.1-510
SEC-2012-00020	Columbia Union Revolving Fund - For an Order of Exemption pursuant to VA Code § 13.1-514.1 B
SEC-2012-00021	Tufts University - For an Order of Exemption pursuant to VA Code § 13.1-514.1 B
SEC-2012-00023	Mission Investment Fund of the Evangelical Lutheran Church in America - For an Order of Exemption pursuant to VA Code § 13.1-514.1 B
SEC-2012-00024	EvapoRite Systems and Darrin Haslem - Alleged violation of VA Code §§ 13.1-504 (A) (i), 13.1-504 (B) and 13.1-507
SEC-2012-00026	NBT Bancorp - For an official interpretation pursuant to VA Code section 3.1-525
SEC-2012-00027	Triune - Alleged violation of VA Code §§ 13.1-560 and 13.1-563
SEC-2012-00028	Bankers Life and Casualty Company and BLC Financial Services - Alleged violation of VA Code §§ 13.1-504 A, B and C
SEC-2012-00029	UVEST Financial Inc. - Alleged violation of VA Code § 501 <i>et seq.</i>
SEC-2012-00030	ProEquities Inc. - Alleged violation of VA Code § 501 <i>et seq.</i>
SEC-2012-00032	Fundrise 1351 H Street - For registration of securities pursuant to VA Code § 13.1-510
SEC-2012-00034	Christian Financial Resources, Inc. - For an Order of Exemption pursuant to VA Code § 13.1-514.1 B
SEC-2012-00037	Foursquare Financial Solutions Loan Fund, Inc. - For an Order of Exemption pursuant to VA Code § 13.1-514.1 B
SEC-2012-00038	Ex Parte: In the matter of adopting a revision to the Rules Governing the Virginia Securities Act
SEC-2012-00039	Lutheran Church Extension Fund-Missouri Synod - For an Order of Exemption pursuant to VA Code § 13.1-514.1 B
SEC-2012-00040	In Re: For proposed amendments to the Retail Franchising Act pursuant to VA Code § 13.1-572
SEC-2012-00043	Sprouse Fitness, LLC and Victor Sprouse - Alleged violation of VA Code §§ 13.1-560, 13.1-563(2) and 13.1-563(4)(ii)
SEC-2012-00045	Veritrac Corporation and Dale Toler - Alleged violation of VA Code § 13.1-518
SEC-2012-00047	Friends of Hanover Country Club, LLC - For an Order of Exemption pursuant to VA Code § 13.1-514.1 B
SEC-2012-00050	From the Heart Church Ministries, Inc. - For registration of securities pursuant to § 13.1-510 of the Code of Virginia
SEC-2012-00051	Catholic United Investment Trust - For order of exemption pursuant to VA Code § 13.1-514.1 B
SEC-2013-00001	MicroCredit Enterprises - For order of exemption pursuant to VA Code § 13.1-514.1 B

URS: DIVISION OF UTILITY AND RAILROAD SAFETY

URS-2011-00028	Total Engineering Inc. - Alleged violation of VA Code § 56-265.17 A
URS-2011-00078	Israel Crusenberry - Alleged violation of VA Code § 56-265.17 A
URS-2011-00104	Cable Protection Services - Alleged violation of VA Code § 56-265.19 A
URS-2011-00135	HAASE - Alleged violation of VA Code § 56-265.17 A
URS-2011-00156	Utiliquist - Alleged violation of VA Code §§ 56-265.19 A, <i>et al.</i>
URS-2011-00159	WB&E Construction - Alleged violation of VA Code § 56-265.24 A
URS-2011-00195	M & W Construction Corp. - Alleged violation of VA Code § 56-265.24 A and 20 VAC 5-309-140 3
URS-2011-00198	Utiliquist - Alleged violations of VA Code § 56-265.19 A
URS-2011-00203	The Jordan Group - Alleged violation of VA Code § 56-265.17 A

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URS-2011-00205 Labor...Now - Alleged violation of VA Code § 56-265.17A
 URS-2011-00213 T. L. Quick Enterprises LLC - Alleged violation of VA Code § 56-265.17 A
 URS-2011-00215 J.C.L.
 URS-2011-00225 Eldridge Concrete Construction
 URS-2011-00229 Tidewater Trenching
 URS-2011-00248 De-Tech Services
 URS-2011-00253 Utiliquest
 URS-2011-00259 JM Group Contractors
 URS-2011-00265 Azor Construction LLC - Alleged violation of VA Code § 56-265.17 A
 URS-2011-00267 Classic City Mechanical
 URS-2011-00275 Dwight Snead Landscaping & Paving Co. - Alleged violation of VA Code § 56-265.24 A and 20 VAC 5-309-90 3 e
 URS-2011-00283 Thomas W. Sheldon
 URS-2011-00290 J. H. Martin & Sons Contractors
 URS-2011-00296 Tidewater Trenching
 URS-2011-00301 Abby Construction Co.
 URS-2011-00306 Hal Co. - Alleged violation of VA Code § 56-265.24 A
 URS-2011-00313 Richfield Retirement Community - Alleged violation of VA Code § 56-265.17 A
 URS-2011-00314 Oscar Vasquez
 URS-2011-00316 SJW Commercial Concrete
 URS-2011-00319 De-Tech Services
 URS-2011-00323 Utiliquest
 URS-2011-00326 V&V Construction
 URS-2011-00327 WCC Cable
 URS-2011-00328 Casper Colosimo & Son
 URS-2011-00334 Metropolitan Communication Construction
 URS-2011-00339 Concrete Foundations
 URS-2011-00344 Northern Virginia Plumbing & Mechanical
 URS-2011-00348 Front End Express
 URS-2011-00351 Ronald Whisner
 URS-2011-00353 Total Engineering Inc. - Alleged violation of VA Code § 56-265.17 D
 URS-2011-00358 Utiliquest
 URS-2011-00361 Kiddco Plumbing
 URS-2011-00363 Fiber Technologies
 URS-2011-00365 Appalachian Asphalt Maintenance
 URS-2011-00367 B & T LLC t/a B&T Excavating LLC - Alleged violation of VA Code § 56-265.24 A and 20 VAC 5-309-140 2
 URS-2011-00369 Cornerstone Landscaping
 URS-2011-00373 Lewis Nursery
 URS-2011-00374 Liquid
 URS-2011-00375 Oneida Communications
 URS-2011-00378 Sharitz Builders
 URS-2011-00380 Franklin's Excavating
 URS-2011-00381 Jeffrey Stack
 URS-2011-00383 Stemmler Plumbing Repair
 URS-2011-00386 Santa Elena Tree Service LLC - Alleged violation of VA Code § 56-265.17 A
 URS-2011-00387 A-1 Sewer and Drain
 URS-2011-00391 James River Concrete
 URS-2011-00393 Mike's Mechanical Incorporated - Alleged violation of VA Code § 56-265.17 A
 URS-2011-00394 P&H Utilities Contracting Inc. - Alleged violation of VA Code § 56-265.24 A and 20 VAC 5-309-140 2
 URS-2011-00397 Suburban Grading & Utilities Inc - Alleged violation of VA Code § 56-265-24 C
 URS-2011-00400 Virginia Pipeworks
 URS-2011-00405 Utiliquest
 URS-2011-00407 Virginia Natural Gas
 URS-2011-00408 Washington Gas Light Company - Alleged violation of VA Code §§ 56-265.19 A and 20 VAC 5-309-110 M
 URS-2011-00409 Washington Gas Light Company - Alleged violation of Federal Pipeline Safety Standards
 URS-2011-00410 Columbia Gas of Virginia
 URS-2011-00411 Virginia Natural Gas
 URS-2011-00412 Appalachian Natural Gas Distribution Company - Alleged violations of VA Code § 56-265.19 A
 URS-2011-00413 Edwards Telecommunications
 URS-2011-00415 AB Construction and Remodeling - Alleged violation of VA Code § 56-265.17 A
 URS-2011-00416 WWL
 URS-2011-00417 C. W. Wright Construction Company
 URS-2011-00418 R. Wendell Presgrave
 URS-2011-00419 Pforr Electric
 URS-2011-00420 Phillip C. Clarke Electrical Contractor
 URS-2011-00421 Power Plumbing
 URS-2011-00422 S&N Communications
 URS-2011-00423 Seafloor Construction Services
 URS-2011-00424 Shamrock Construction Corporation - Alleged violation of VA Code § 56-265.24 A and 20 VAC 5-309-140 2
 URS-2011-00425 Village Concrete Construction
 URS-2011-00426 Virginia Electric and Power Company - Alleged violation of VA Code § 56-265.24 A and 20 VAC 5-309-140 2
 URS-2011-00427 4 Behrs Excavating Inc. - Alleged violation of VA Code § 56-265.17 A
 URS-2011-00428 Basnight Land & Lawn

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URS-2011-00429 Cartier's Tree Service - Alleged violation of VA Code § 56-265.17 A
 URS-2011-00430 Design Electric
 URS-2011-00431 Dwight Snead Landscaping & Paving Co. - Alleged violation of VA Code § 56-265.24 A
 URS-2011-00433 L & G Drain Cleaning and Plumbing Repair
 URS-2011-00434 Shirley Contracting Company - Alleged violation of VA Code § 56-265.24 A
 URS-2011-00436 DLB
 URS-2011-00438 Hall's Construction Corp. - Alleged violation of VA Code § 56-265.17 A
 URS-2011-00439 Marshall Construction Co.
 URS-2011-00441 W. H. McCutcheon Plumbing and Contracting
 URS-2011-00442 Anchor Construction Corporation of DC t/a Anchor Construction Corporatoin - Alleged violation of VA Code § 56-265.17 A
 URS-2011-00443 Bob Morgan - Alleged violation of VA Code § 56-265.17 A
 URS-2011-00444 Botanical Decorators
 URS-2011-00445 Campbell & Ferrara Nurseries
 URS-2011-00446 Casper Colosimo & Son
 URS-2011-00447 Deuce Construction Company - Alleged violation of VA Code § 56-265.17 A
 URS-2011-00448 G. L. Howard
 URS-2011-00449 Ronald G. Brown
 URS-2011-00450 Ivan M. Brewer - Alleged violation of VA Code § 56-265.17 D
 URS-2011-00452 Lighting Maintenance Incorporated - Alleged violation of VA Code § 56-265.17 B
 URS-2011-00453 M & F Concrete
 URS-2011-00454 Mike Bennington Excavating - Alleged violation of VA Code § 56-265.17 A
 URS-2011-00455 Nichols Stonemasonry
 URS-2011-00456 Paul O'Meara Construction Corp. - Alleged violation of VA Code § 56-265.24 A and 20 VAC 5-309-140 2
 URS-2011-00457 R. L. Price Construction
 URS-2011-00458 Simons Contracting Company
 URS-2011-00459 Universal Stone
 URS-2011-00460 Village Landscapes & Irrigation
 URS-2011-00461 Columbia Gas of Virginia
 URS-2011-00462 D&F Construction
 URS-2011-00463 NPL Construction Co. - Alleged violation of VA Code § 56-265.24 A
 URS-2011-00464 One Vision Utility Services
 URS-2011-00465 Promark Utility Locators
 URS-2011-00466 Roanoke Gas Company - Alleged violation of VA Code § 56-265.19 A
 URS-2011-00467 S. J. Louis Construction
 URS-2011-00468 Southeast Connections LLC - Alleged violation of VA Code § 56-265.24 A
 URS-2011-00469 Utiliquiest
 URS-2011-00470 Virginia Natural Gas
 URS-2011-00471 Walter C. Via Enterprises
 URS-2011-00472 Washington Gas Light Company - Alleged violations of VA Code § 56-265.19 A
 URS-2011-00473 Miller Pipeline Corporation - Alleged violation of VA Code §§ 56-265.19 A
 URS-2011-00474 Virginia American Water - Alleged violation of VA Code § 56-265.24 A and 20 VAC 5-309-140 2
 URS-2011-00475 Steven Sledge
 URS-2011-00476 S&N Locating Services
 URS-2011-00477 Norfolk Southern Railway Corporation - Alleged violation of VA Code § 56-412.1
 URS-2011-00478 CSX Transportation
 URS-2012-00002 Cable Associates
 URS-2012-00003 OCS of VA
 URS-2012-00005 Dirt Works Landscaping
 URS-2012-00006 K & D Construction
 URS-2012-00007 Knight's Dirt Diggers LLC - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00008 Shaking Enterprises
 URS-2012-00009 Stealth Construction
 URS-2012-00011 Virginia Electric and Power Company - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00013 Shively Electrical Company
 URS-2012-00014 Skanska USA Civil Southeast Inc. - Alleged violation of VA Code § 56-265.17 D
 URS-2012-00015 Terminix International
 URS-2012-00016 Thomas Jones Concrete Company - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00017 Wayjo
 URS-2012-00018 Bryant-Ritter Electrical Corporation - Alleged violation of VA Code § 56-265.24 A and 20 VAC 5-309-140 4
 URS-2012-00021 Clear Advantage Cable Construction
 URS-2012-00022 Columbia Gas of Virginia
 URS-2012-00023 Comcast Cable Communications
 URS-2012-00024 Dominion Paving and Sealing
 URS-2012-00025 Art-Ray Corporation - Alleged violation of VA Code § 56-265.24 A and 20 VAC 5-309-140 2
 URS-2012-00027 B & H Concrete Construction Corporation - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00028 Ed Lawrence Construction Co. - Alleged violation of VA Code § 56-265.24 A and 20 VAC 5-309-140 2
 URS-2012-00030 City Utilities
 URS-2012-00031 Excel Paving Corporation - Alleged violation of VA Code § 56-265.24 A and 20 VAC 5-309-140 2
 URS-2012-00032 Fenwick Hills
 URS-2012-00033 G. H. Wolff
 URS-2012-00034 Infrasource Construction Services
 URS-2012-00035 John H Morgal Plumbing - Alleged violation of VA Code §§ 56-265.17 A

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URS-2012-00037 Landscape Elements
 URS-2012-00038 M & K Concrete and Construction - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00039 Mane-Line Utilities
 URS-2012-00041 MEB General Contractors
 URS-2012-00042 Vico Construction Corporation - Alleged violation of VA Code §§ 56-265.24 A and 20 VAC 5-309-140 2
 URS-2012-00043 A & M Concrete Corp. - Alleged violation of VA Code § 56-265.24 A
 URS-2012-00044 All Plumbing Inc. Service
 URS-2012-00045 Cherry Hill Construction
 URS-2012-00046 Cherry Hill Excavating
 URS-2012-00047 Hall Mechanical & Associates
 URS-2012-00048 M & W Construction Corp. - Alleged violation of VA Code § 56-265.24 A and 20 VAC 5-309-140 3
 URS-2012-00049 Mark Stamer - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00050 Mid-Atlantic Waterproofing of Va Inc. - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00051 Miguel's Home Improvement LLC - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00053 Raging Wire Enterprise Solutions
 URS-2012-00055 Ridge & Long Limited Company t/a Ridge Limited Company - Alleged violation of VA Code § 56-265.24 A and 20 VAC 5-309-140 2

 URS-2012-00056 Extreme Gravity Contractor
 URS-2012-00057 Roanoke Gas Company - Alleged violation of VA Code § 56-265.19 A
 URS-2012-00058 G & I Septic/Demolition - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00059 S. C. Rossi & Company
 URS-2012-00060 Reel Time LLC - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00062 H. C. Eavers & Sons
 URS-2012-00063 Trafford Corporation - Alleged violation of VA Code § 56-265.24 A
 URS-2012-00064 Hammer Contractors - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00065 Virginia Erosion Control LLC - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00066 Hazzard Electrical Corp. - Alleged violation of VA Code §§ 56-265.17 A
 URS-2012-00067 Arthur Construction Co.
 URS-2012-00068 Hubbard Excavating & Hauling
 URS-2012-00069 Atmos Energy Corporation - Alleged violation of VA Code § 56-265.19 A
 URS-2012-00070 JES Construction
 URS-2012-00071 De-Tech Services Inc - Alleged violation of VA Code § 56-265.19 A and 20 VAC 5-309-110M
 URS-2012-00072 Lawn Beautician
 URS-2012-00073 Kevcor Contracting Corporation - Alleged violation of VA Code §§ 56-265.24 A
 URS-2012-00074 Mozart Investment LLC - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00075 Nova Property Services LLC - Alleged violation of VA Code §§ 56-265.24 A
 URS-2012-00076 Newmart Builders - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00077 Partners Excavating Co. - Alleged violation of VA Code § 56-265.24 A
 URS-2012-00079 Precision Pools
 URS-2012-00080 Promark Utility Locators
 URS-2012-00081 Pryor Hauling
 URS-2012-00082 Quality Enterprises USA
 URS-2012-00083 R & R Contractors - Alleged violation of VA Code § 56-265.24 D
 URS-2012-00084 Utiliquiest
 URS-2012-00085 Virginia Natural Gas
 URS-2012-00086 Hurricane Fence Co. - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00087 Greg Etter Incorporated - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00088 Mag Concrete
 URS-2012-00089 Roanoke Gas Company - Alleged violation of VA Code § 56-265.19 A
 URS-2012-00091 Bel Air Underground Services
 URS-2012-00092 C. D. Hall Construction
 URS-2012-00093 De-Tech Services
 URS-2012-00094 N-it
 URS-2012-00095 Gary Arrington - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00096 Bowen
 URS-2012-00097 L & M Construction of Blairs
 URS-2012-00098 Lee Electrical Construction
 URS-2012-00099 Columbia Gas of Virginia
 URS-2012-00100 Ocean Air Heating & Cooling
 URS-2012-00101 Quality Enterprises USA
 URS-2012-00102 Flippo Construction Company
 URS-2012-00103 Kevcor Contracting Corporation - Alleged violation of VA Code § 56-265.24 A and 20 VAC 5-309-140 5
 URS-2012-00104 Virginia Electric and Power Company - Alleged violation of VA Code § 56-265.24 C
 URS-2012-00105 Leo Construction Company - Alleged violation of VA Code § 56-265.24 A and 20 VAC 5-309-140 2
 URS-2012-00107 A & W Contracting Corporation - Alleged violation of VA Code § 56-265.24 A and 20 VAC 5-309-140 2
 URS-2012-00108 Mastec North America
 URS-2012-00109 M. V. Contractors
 URS-2012-00110 Owens & Dove
 URS-2012-00111 R.F. Moreland
 URS-2012-00112 RSE Home Improvement LLC - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00113 NPL Construction Co. - Alleged violation of VA Code § 56-265.24 A and 20 VAC 5-309-140 3
 URS-2012-00114 Rappahannock Electric Cooperative - Alleged violation of VA Code § 56-265.24 A and 20 VAC 5-309-140 3

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URS-2012-00115 A-Team Construction
 URS-2012-00116 Asphalt Pavemaster
 URS-2012-00117 Atkins Excavating
 URS-2012-00118 S C K & Co - Alleged violation of VA Code §§ 56-265.17 A
 URS-2012-00119 S&N Locating Services
 URS-2012-00120 T. A. Sheets Mechanical General Contractor
 URS-2012-00121 Target Group
 URS-2012-00122 The Fishel Company - Alleged violation of VA Code § 56-265.24 A and 20 VAC 5-309-150 6
 URS-2012-00123 Virginia Natural Gas
 URS-2012-00124 Atmos Energy Corporation - Alleged violation of VA Code § 56-265.19 A
 URS-2012-00125 Promark Utility Locators
 URS-2012-00127 Utiliquest
 URS-2012-00128 Fielder's Choice Enterprises
 URS-2012-00129 Hampton Roads Utility Contractors
 URS-2012-00130 Washington Gas Light Company - Alleged violation of Federal Pipeline Safety Standards
 URS-2012-00131 Fru-Con Construction
 URS-2012-00132 Hill Electrical
 URS-2012-00133 J.R. Pierce
 URS-2012-00134 Jeffrey J. Kitchen - Alleged violation of VA Code §§ 56-265.17 A
 URS-2012-00135 Messer Landscape of Virginia
 URS-2012-00136 Northwest Contractors
 URS-2012-00138 R.R. Snipes Construction Co
 URS-2012-00139 Triad Demolition
 URS-2012-00141 Walter C. Via Enterprises
 URS-2012-00142 Washington Gas Light Company - Alleged violation of VA Code § 56-265.19 A
 URS-2012-00143 Atmos Energy Corporation - Alleged violation of VA Code § 56-265.19 A
 URS-2012-00144 De-Tech Services
 URS-2012-00145 S&N Locating Services
 URS-2012-00147 Promark Utility Locators
 URS-2012-00148 Utiliquest
 URS-2012-00150 Wallace Plumbing
 URS-2012-00151 Columbia Gas of Virginia
 URS-2012-00153 All Plumbing and Septic LLC - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00156 D. A. Foster Company - Alleged violation of VA Code § 56-265.24 A and 20 VAC 5-309-140 2
 URS-2012-00157 The Emerson Construction Group
 URS-2012-00158 Rose Backhoe & Construction
 URS-2012-00161 Wayne Gentry Enterprises
 URS-2012-00163 Casper Colosimo & Son
 URS-2012-00164 Coastal Concrete Construction Corporation - Alleged violation of VA Code §§ 56-265.17 A
 URS-2012-00165 Will Etchison
 URS-2012-00166 E & P Electrical Contracting Company
 URS-2012-00167 PetroChem Recovery Services
 URS-2012-00168 Precon Construction Company - Alleged violation of VA Code §§ 56-265.24 A and 20 VAC 5-309140 2
 URS-2012-00169 Suburban Grading & Utilities
 URS-2012-00170 Wayne Harbin Builder
 URS-2012-00171 Azor Construction LLC - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00172 BCN Design Build
 URS-2012-00174 Goldin & Stafford
 URS-2012-00175 Green Valley Enterprises of VA
 URS-2012-00176 Southeast Connections LLC - Alleged violation of VA Code § 56-265.24 A and 20 VAC 5-309-140 3
 URS-2012-00177 Vico Construction Corporation - Alleged violation of VA Code § 56-265.24 A and 20 VAC 5-309-140 4
 URS-2012-00178 Cox Communications
 URS-2012-00180 Bowers Hill Construction Company - Alleged violation of VA Code §§ 56-265.17 A
 URS-2012-00183 Ex Parte: In the matter concerning Rules implementing the State Corporation Commission's authority to enforce the Underground Utility Damage Prevention Act
 URS-2012-00184 Columbia Gas of Virginia
 URS-2012-00186 Beckstrom Electric
 URS-2012-00187 Harden Group
 URS-2012-00188 JR's Heating and Air Conditioning
 URS-2012-00189 NPL Construction Co. - Alleged violation of VA Code § 56-265.24 A and 20 VAC 5-309-140 3
 URS-2012-00190 S&N Communications
 URS-2012-00191 Atmos Energy Corporation - Alleged violation of VA Code § 56-265.19 A
 URS-2012-00193 W-L Hauling
 URS-2012-00194 American Infrastructure-VA
 URS-2012-00195 Credle Concrete
 URS-2012-00196 J P Elliott
 URS-2012-00197 Columbia Gas of Virginia
 URS-2012-00199 Messer Landscape of Virginia
 URS-2012-00200 Washington Gas Light Company - Alleged violations of VA Code § 56-265.19 A and 20 VAC 5-309-110 A
 URS-2012-00201 Promark Utility Locators
 URS-2012-00202 Pipeline Industrial Group
 URS-2012-00203 S&N Locating Services

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 URS-2012-00205 M-3 Electric Company - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00206 Owens & Dove
 URS-2012-00207 Pembroke Construction Company
 URS-2012-00209 Ross & Sons Utility Contractor
 URS-2012-00211 Southland Concrete Corporation - Alleged violation of VA Code §§ 56-265.17 A
 URS-2012-00212 Richard L. Crowder Construction
 URS-2012-00213 Tolley Electrical Corporation - Alleged violation of VA Code § 56-265.24 A and 20 VAC 5-309-140 2
 URS-2012-00214 R & P Contractor - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00215 Underground Solutions
 URS-2012-00216 A & M Concrete Corp. - Alleged violation of VA Code § 56-265.24 A and 20 VAC 5-309-1402
 URS-2012-00217 Velasquez Contractor
 URS-2012-00219 G.L. Bailey Plumbing Company
 URS-2012-00222 D. A. Foster Company - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00223 Virginia Electric and Power Company - Alleged violation of VA Code § 56-265.24 B
 URS-2012-00225 Wright-Way Plumbing
 URS-2012-00226 Floyd Environmental
 URS-2012-00228 Electrical Connections
 URS-2012-00230 John H Morgal Plumbing - Alleged violation of VA Code § 56-265.24 A and 20 VAC 5-309-140 5
 URS-2012-00231 Jones Utilities Construction
 URS-2012-00232 Larry J. Royston II Septic Service - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00233 Computer Cabling and Telephone Services
 URS-2012-00234 Washington Gas Light Company - Alleged violation of 49 C.F.R. §§ 192 *et seq.*
 URS-2012-00235 Columbia Gas of Virginia
 URS-2012-00236 Virginia Natural Gas
 URS-2012-00237 Roanoke Gas Company - Alleged violation of 49 C.F.R. §§ 192.199(e)
 URS-2012-00239 Atmos Energy Corporation - Alleged violation of 49 C.F.R. § 192.181 (c)(2) and 49 C.F.R. § 192.199 (e)
 URS-2012-00240 Blakemore Construction Corporation - Alleged violation of VA Code § 56-265.24 A and 20 VAC 5-309-140 4
 URS-2012-00241 De-Tech Services
 URS-2012-00242 G & T Contracting Virginia
 URS-2012-00243 Hill Electrical
 URS-2012-00244 Southeast Connections LLC - Alleged violation of VA Code § 56-265.19 A
 URS-2012-00245 Peed Plumbing, Inc. - Alleged violation of VA Code § 56-265.24 A and 20 VAC 5-309-140 2
 URS-2012-00246 Perry Engineering Company
 URS-2012-00247 Pipeline Industrial Group Inc - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00248 Poquoson Construction
 URS-2012-00249 Quality Design/Build
 URS-2012-00250 Thomas Builders of Virginia Inc - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00252 McCullough Services Company L.L.C. - Alleged violation of VA Code §§ 56-265.17 A and 56-265.24 A
 URS-2012-00253 Miller & Long Co.
 URS-2012-00254 Abel Monroy Construction - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00255 Donald Chavez - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00256 Joyfull Gardens
 URS-2012-00259 Michael Stone - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00260 Potomac Home Improvement - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00261 McGann
 URS-2012-00262 The Model Home Theory
 URS-2012-00263 Washington Lanehart Electric Co.
 URS-2012-00264 Curtis Contracting
 URS-2012-00265 Allen Harper - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00266 Norfolk Plumbing
 URS-2012-00267 S&N Locating Services
 URS-2012-00268 Promark Utility Locators
 URS-2012-00269 S&N Communications
 URS-2012-00270 Virginia Natural Gas
 URS-2012-00271 Washington Gas Light Company - Alleged violation of VA Code § 56-265.19 A and 20 VAC 5-309-160
 URS-2012-00272 Utiliquet LLC - Alleged violation of VA Code § 56-265.19 A
 URS-2012-00273 Columbia Gas of Virginia Inc - Alleged violation of VA Code § 56-265.19 A
 URS-2012-00274 Branch Highways
 URS-2012-00277 Pivotal Propane of Virginia
 URS-2012-00278 S&N Locating Services
 URS-2012-00279 Columbia Gas of Virginia
 URS-2012-00280 Promark Utility Locators
 URS-2012-00281 Atmos Energy Corporation - Alleged violation of VA Code §§ 56-265.19 A *et al*
 URS-2012-00282 Trafford Corporation - Alleged violation of VA Code §§ 56-265.19 A
 URS-2012-00283 Virginia Natural Gas
 URS-2012-00284 Washington Gas Light Company - Alleged violation of VA Code § 56-265.19 A and 20 VAC 5-309-160
 URS-2012-00285 Utiliquet
 URS-2012-00288 Bissette Construction Corporation - Alleged violation of VA Code §§ 56-265.17 D and 56-265.24 A
 URS-2012-00289 Cascade Contracting
 URS-2012-00290 Chris Hales Plumbing & Drain Co. - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00291 Curtis W. Key Plumbing Contractors

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URS-2012-00292 G.H. Wolff
 URS-2012-00293 Kingdom Air LLC - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00294 L. E. Ballance Electrical Service
 URS-2012-00296 Linco Inc. - Alleged violation of VA Code §§ 56-265.24 A
 URS-2012-00299 Pembroke Construction Company
 URS-2012-00301 Trinity Construction Services
 URS-2012-00302 Walter C. Via Enterprises
 URS-2012-00303 ARH Electric
 URS-2012-00305 M D Construction - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00306 Nansemond River Contractors Corp. - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00307 Spence Marine Construction
 URS-2012-00309 W. A. Chester
 URS-2012-00310 Bowman Excavating
 URS-2012-00311 Cave Spring Excavating
 URS-2012-00312 Coastal Design & Construction
 URS-2012-00313 D&F Construction
 URS-2012-00315 NPL Construction Co. - Alleged violation of VA Code § 56-265.17 C
 URS-2012-00316 SWDF
 URS-2012-00317 Sun Design Remodeling Specialists
 URS-2012-00318 W. C. English
 URS-2012-00319 The Fishel Company - Allegd violation of VA Code § 56.265.24 A and 20 VAC 5-309-140 2
 URS-2012-00322 Perkinson Construction
 URS-2012-00323 Miller Pipeline Corporation - Alleged violation of VA Code §§ 56-265.17 A and 56-265.19 A
 URS-2012-00325 Groomlawn
 URS-2012-00326 G. L. Howard
 URS-2012-00327 First Choice Communication Systems L.L.C. - Alleged violation of VA Code § 56-265.24 A and 20 VAC 5-309-150 8
 URS-2012-00328 Edison & Son Concrete & Repair Inc. - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00329 Corman Construction
 URS-2012-00330 American Infrastructure-VA
 URS-2012-00332 Accumark
 URS-2012-00333 All Star Underground
 URS-2012-00334 Atlantic Clearing & Grading Co - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00335 Columbia Gas of Virginia
 URS-2012-00337 Henkels & McCoy
 URS-2012-00338 John P. Black
 URS-2012-00340 Southeast Connections LLC - Alleged violation of VA Code § 56-265.24 A
 URS-2012-00341 Suburban Asset Management Corp. - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00342 Virginia Electric and Power Company - Alleged violation of VA Code § 56-265.24 A
 URS-2012-00343 W. E. (Billy) Curling Welding Service
 URS-2012-00344 Atlantic Foundations
 URS-2012-00345 Beacon Electrical Services
 URS-2012-00347 DU
 URS-2012-00349 Hicks Plumbing - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00350 Infinite Electric
 URS-2012-00352 Miller Pipeline Corporation - Alleged violation of VA Code § 56-265.24 A
 URS-2012-00353 PHX Contracting Inc. - Alleged violation of VA Code § 56-265.17 D
 URS-2012-00354 Premium Lawn Care Services
 URS-2012-00356 Reel Time LLC - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00358 M & W Construction Corp. - Alleged violation of VA Code § 56-265.24 B
 URS-2012-00361 Next Generation Electronics
 URS-2012-00363 Piedmont Construction Co.
 URS-2012-00364 Precision Fencing LLC - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00365 Southeast Connections LLC - Alleged violation of VA Code § 56-265.24 A
 URS-2012-00366 Suburban Grading & Utilities
 URS-2012-00367 Promark Utility Locators
 URS-2012-00368 Trafford Corporation - Alleged violation of VA Code § 56-265.24 A
 URS-2012-00369 S&N Locating Services
 URS-2012-00370 Dwight Snead Landscaping & Paving Co. - Alleged violation of VA Code §§ 56-265.24 A
 URS-2012-00371 S&N Communications
 URS-2012-00372 Virginia Natural Gas
 URS-2012-00373 Vella & Sons Construction
 URS-2012-00375 W. R. Hall
 URS-2012-00376 Appalachian Power Company - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00377 D&F Construction
 URS-2012-00378 Facchina Construction Company
 URS-2012-00379 R & R Septic
 URS-2012-00380 Washington Gas Light Company - Alleged violation of VA Code §§ 56-265.19 A and 20 VAC 5-309-160
 URS-2012-00381 A. D. Whittaker Construction
 URS-2012-00382 ACS Home Entertainment Gallery
 URS-2012-00383 Branscome Inc. - Alleged violation of VA Code § 56-265.17 D
 URS-2012-00385 Marshall Construction Co.
 URS-2012-00388 Promark Utility Locators

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URS-2012-00390 Bowers Excavating
 URS-2012-00391 Atlas Plumbing LLC - Alleged violation of VA Code § 56-265.24 A
 URS-2012-00392 Landscape Enterprises
 URS-2012-00393 MCI Communications Services
 URS-2012-00394 Gull Corporation - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00399 Green Village Concrete
 URS-2012-00400 Home Paramount Pest Control Companies Inc - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00401 Second Nature Landscaping - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00402 John H Morgal Plumbing - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00404 Lobo Construction Company - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00406 Monarch Electric Inc - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00407 NPL Construction Co - Alleged violation of VA Code § 56-265.24 A and 20 VAC 5-309-140 2
 URS-2012-00410 Syd's Plumbing & Repairs - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00411 Northshore Communications
 URS-2012-00413 Precision Pipe
 URS-2012-00414 Virginia Natural Gas Inc - Alleged violation of VA Code § 56-265.19 A
 URS-2012-00415 Washington Gas Light Company - Alleged violation of VA Code § 56-265.19 A
 URS-2012-00416 A & M Concrete Corp. - Alleged violation of VA Code § 56-265.17 D
 URS-2012-00417 Accumark
 URS-2012-00418 Utiliquist LLC - Alleged violation of VA Code § 56-265.19A
 URS-2012-00419 Columbia Gas of Virginia Inc - Alleged violation of VA Code § 56-265.19 A
 URS-2012-00420 Davis H. Elliot Company
 URS-2012-00421 Fountain Construction
 URS-2012-00422 Fredericksburg Asphalt & Paving
 URS-2012-00423 Easter Design
 URS-2012-00424 Pearson Construction
 URS-2012-00425 Superior Excavating and Construction
 URS-2012-00426 Trafford Corporation - Alleged violation of VA Code § 56-265.19 A
 URS-2012-00427 S&N Locating Services
 URS-2012-00428 Promark Utility Locators
 URS-2012-00429 Ironhorse Const. Inc. - Alleged violation of VA Code §§ 56-265.24 A
 URS-2012-00430 Stake Center Locating
 URS-2012-00432 S&N Locating Services
 URS-2012-00433 Cable Protection Services
 URS-2012-00434 Northern Virginia Electric Cooperative - Alleged violation of VA Code § 56-265.19 A
 URS-2012-00435 Wayjo
 URS-2012-00436 AMW of Tidewater
 URS-2012-00439 NPL Construction Co. - Alleged violation of VA Code §§ 56-265.24 B
 URS-2012-00440 Southern Casting & Masonry - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00441 Virginia Erosion Control LLC - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00442 Venture Turf Management
 URS-2012-00444 Phenix Contracting - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00445 Brooks Lawn Service - Alleged violation of VA Code § 56-265.17 A
 URS-2012-00450 Roanoke Gas Company - Alleged violation of 49 C.F.R. §§ 192.199(e)
 URS-2012-00453 Parr Renovations
 URS-2012-00457 RP Construction
 URS-2012-00459 Innovative Construction Concepts
 URS-2012-00461 Promark Utility Locators
 URS-2012-00462 Atmos Energy Corporation - Alleged violation of VA Code § 56-265.19 A *et al.*
 URS-2012-00465 NuStar Terminals Operations Partnership