

**One Hundred Second Annual Report**

of the

**State Corporation Commission**

of

Virginia

*For the Year Ending December 31, 2004*

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**GENERAL REPORT**

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## Letter of Transmittal

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### COMMONWEALTH OF VIRGINIA

#### *STATE CORPORATION COMMISSION*

RICHMOND, VIRGINIA, *December 31, 2004*

*To the Honorable Mark R. Warner*

*Governor of Virginia*

Sir:

We have the honor to transmit herewith the one hundred second Annual Report of the State Corporation Commission for the year 2004.

Respectfully submitted,

Theodore V. Morrison, Jr., Chairman

Clinton Miller, Commissioner

Mark C. Christie, Commissioner

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# State Corporation Commission

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## COMMISSIONERS

\*Hullihen Williams Moore

Chairman

\*\*Theodore V. Morrison, Jr.

Chairman

Clinton Miller

Commissioner

Mark C. Christie

Commissioner

Joel H. Peck

*Clerk of the Commission*

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\*Term as Chairman expired January 31, 2004  
Retired as Commissioner, effective January 31, 2004

\*\*Elected Chairman effective for term of one year,  
February 1, 2004

## 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
Beverley 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	
Hullihen Williams Moore	February 26, 1992 to January 31, 2004	13
Clinton Miller	February 15, 1996 to	
Mark C. Christie	February 1, 2004 to	

### From 1903 through 2004 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	16
Miller	9	Christie	1		



### **Preface**

The State Corporation Commission is vested with regulatory authority over many business and economic interests in Virginia. These interests are as varied as the SCC's powers, which are delineated by the state constitution and state law. Its authority ranges from setting rates charged by large investor-owned utilities to serving as the central filing agency for corporations in Virginia.

Initially established to oversee the railroad and telephone and telegraph industries in Virginia, the SCC's jurisdiction now includes many businesses which directly impact Virginia consumers. The SCC's authority encompasses utilities, insurance, state-chartered financial institutions, securities, retail franchising, the Virginia Pilots' Association, and railroads. It is the state's central filing office for corporations, limited partnerships, limited liability companies, and Uniform Commercial Code liens.

The SCC's structure is unique. No other state has charged one agency with such a broad array of regulatory responsibility. The SCC is organized as a fourth branch of government with its own legislative, administrative, and judicial powers. SCC decisions can only be appealed to the Virginia Supreme Court.





**COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION**

**Rules of Practice and Procedure**

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**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 the 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; sanctions.*

Every pleading, written motion, or other paper 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 paper, 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 paper, and shall state the partnership's mailing address and telephone number. A non-lawyer 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 a qualified officer or agent. The pleadings need not be under oath unless so required by statute. The Commission may provide, by order, a manner for acceptance of electronic signatures in particular cases.

The signature of an attorney or party constitutes a certification that: (i) the attorney or party has read the pleading, motion, or other paper; (ii) to the best of the attorney's or party's knowledge, information, and belief formed after reasonable inquiry, it 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) it 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 paper will not be accepted for filing by the Clerk of the Commission if 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.

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*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 control, 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 5 VAC 5-20-80 A or 5 VAC 5-20-80 B 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 is the proper initial responsive pleading to a rule to show cause. An answer 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 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 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 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 5 VAC 5-20-100 B 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.

**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 the rules. In the discharge of his or her 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.

B. Objections and certification of issues. An objection to a ruling by the hearing examiner shall be stated with the reasons therefore at the time of the ruling, and the objection 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 formal 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 formal pleading or other related 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. The commission may by order make provision for electronic filing of documents, including facsimile.

When a filing would otherwise be due on a day when the Clerk's office is not open for public business, the filing will be timely if made on the next regular business day when the office is open to the public. When a period of fifteen 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 formal 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 properly addressed and stamped, on or before the date of filing. Service on a party may be made by service on the party's counsel. 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. The commission may, by order, provide for electronic service of documents, including facsimile. Notices, findings of fact, opinions, decisions, orders, or other paper 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 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, responsive pleadings, briefs, and other documents must be filed in an original and 15 copies. 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 ½ by 11 inches in dimension, and must be capable of being reproduced in copies of archival quality. Pleadings shall be bound or attached on the left side and contain adequate margins. Each page following the first page must be numbered. If necessary, a document may be filed in consecutively numbered volumes, each of which may not exceed three inches in thickness. Pleadings 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. 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

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

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 a formal proceeding that information to be filed with or submitted 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 submit the information under seal to the commission staff as may be required. One copy of all such information also shall be submitted 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.

Upon challenge, the filing party shall demonstrate to the satisfaction of the commission that the information should be withheld from 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 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.

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.

*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 of the Commission's office. 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 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. 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 a 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. Documents. In a pending case, 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. Witnesses. In a pending case, at the request of commission staff or any party, the Clerk of the Commission shall issue a subpoena.

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

The commission staff and a party in a formal proceeding before the commission, other than a proceeding under 5 VAC 5-20-100 A and C, 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 requesting party information as is known. Interrogatories or requests for production of documents 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. No interrogatories or requests for production of documents may be served upon a member of the commission staff, except to discover factual information that supports the workpapers submitted by the staff to the Clerk of the Commission pursuant to 5 VAC 5-20-270. All interrogatories and requests for production of documents shall be filed with the Clerk of the Commission.

The response to each interrogatory or document request shall identify by name the person making the response. Objections, if any, to specified questions shall be stated with specificity, citing appropriate legal authority, and served with the list of responses. Responses and objections to interrogatories or requests for production of documents shall be served within 14 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, upon the filing of its testimony, exhibits, or report, will compile and file with the Clerk of the Commission three copies of any workpapers that support the recommendations made in its testimony or report. The Clerk of the Commission shall make the workpapers available for public inspection and copying during regular business hours.

5 VAC 5-20-280. *Discovery in 5 VAC 5-20-90 proceedings.*

The following applies only to proceedings in which a defendant is subject to monetary or injunctive penalties, or revocation, cancellation, or curtailment of a license, certificate of authority, registration, or similar authority previously issued by the commission to the defendant.

A. 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 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 the defendant, or representatives, or agents of the defendant if the defendant is other than an individual, to a commission staff member or law enforcement officer.

A motion by the defendant under this rule shall be filed and served at least 10 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 interests of justice. An order granting relief under 5 VAC 5-20-280 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.

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

B. Depositions. After commencement of an action to which this rules applies, the commission staff or a party may take the testimony of a party or another person or entity, 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 party 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 or her 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.

C. Requests for admissions. The commission staff or a party to the 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 matter.

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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

**LEADING MATTERS DISPOSED OF BY FORMAL ORDERS**  
**BUREAU OF FINANCIAL INSTITUTIONS**

**CASE NO. BAN20021784**  
**MARCH 23, 2004**

APPLICATION OF  
V.B.H. EMPLOYEES CREDIT UNION, INCORPORATED

To merge with Lynchburg General Credit Union

**ORDER APPROVING A MERGER**

V.B.H. Employees Credit Union, Incorporated, a Virginia state-chartered credit union, filed an application with the State Corporation Commission ("Commission") to merge with Lynchburg General Credit Union, a Virginia state-chartered credit union, pursuant to § 6.1-225.27 of the Code of Virginia.

The plan of merger was reviewed by the Bureau of Financial Institutions ("Bureau"). The Commission has considered the application and the report of the Bureau and finds: (1) that the field of membership specified in the bylaws of V.B.H. Employees Credit Union, Incorporated, the surviving credit union, includes the field of membership of Lynchburg General Credit Union; (2) that the plan of merger will promote the best interests of the members of the credit unions; and (3) that the members of the merging credit union and the board of directors of the surviving credit union have approved the plan of merger in accordance with applicable law.

THEREFORE, IT IS ORDERED that the merger of Lynchburg General Credit Union into V.B.H. Employees Credit Union, Incorporated is approved, effective upon the issuance by the Clerk of the Commission of a certificate of merger. The merger shall be accomplished not later than one (1) year from this date, unless the time is extended by the Commission. Following the merger, V.B.H. Employees Credit Union, Incorporated, to be known as Centra Health Credit Union, shall be authorized to operate its main office at 1901 Tate Springs Road, Lynchburg, Virginia 24501 and a service facility at 3300 Rivermont Avenue, Lynchburg, Virginia 24503.

**CASE NO. BAN-2003-00891**  
**FEBRUARY 5, 2004**

APPLICATION OF  
F & L MARKETING ENTERPRISES LLC D/B/A CASH-2-U PAYDAY LOANS

For authority to sell in its payday lending offices prepaid telephone service offered by a third party

**ORDER GRANTING OTHER BUSINESS AUTHORITY**

F & L Marketing Enterprises LLC d/b/a Cash-2-U Payday Loans ("Company"), a licensed payday lender, has applied to the State Corporation Commission ("Commission"), pursuant to § 6.1-463 of the Code of Virginia, for authority to sell in its payday lending offices prepaid telephone service offered by a third party. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the Bureau's report, the Commission finds that the application should be granted subject to the following conditions:

1. The Company shall not make a payday loan to a borrower to enable the borrower to purchase or make payments related to prepaid telephone service.
2. The Company shall not engage in the business of accepting payments on behalf of telephone service providers in a form negotiable by the Company without being a licensed money transmitter under Chapter 12 of Title 6.1 of the Code of Virginia.
3. The Company shall comply with all federal and state laws and regulations applicable to the sale of prepaid telephone service.
4. The company shall maintain books and records for the sale of prepaid telephone service separate and apart from its payday lending business and in a different location within the payday lending offices. The Bureau shall be given access to all such books and records and be furnished with such information and records as it may require in order to assure compliance with these conditions as well as all applicable laws and regulations.
5. The Company shall maintain a copy of this Order at each location where it conducts the business of prepaid telephone service sales.
6. Violation of any condition contained in this Order may result in revocation of the authority hereby conferred.

**CASE NO. BAN20031748  
APRIL 30, 2004**

APPLICATION OF  
RUBY CASH, CORP.

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Ruby Cash, Corp., a Virginia corporation, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 114 W. Broad Street, Falls Church, Virginia 22046. 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 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20031780  
MAY 5, 2004**

APPLICATION OF  
RUBY CASH, CORP.

For authority to conduct business as an agent of a money order seller/money transmitter in its payday lending office(s)

**ORDER GRANTING OTHER BUSINESS AUTHORITY**

Ruby Cash, Corp. ("Company"), a licensed payday lender, has applied to the State Corporation Commission ("Commission"), pursuant to § 6.1-463 of the Code of Virginia, for authority to conduct business as an agent of a money order seller/money transmitter in the Company's payday lending office(s). The Company will also be engaged in the check cashing business, as permitted by statute. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the Bureau's report, the Commission finds that the application should be granted subject to the following conditions:

1. The Company shall not make a payday loan to a borrower to enable the borrower to purchase or pay a fee related to money orders, money transmission, or check cashing services available at the Company's payday lending office(s).
2. The Company shall comply with all federal and state laws and regulations applicable to its money order sales, money transmission, and check cashing businesses.
3. The Company shall be and remain a party to a written agreement to act as an agent for a person licensed to sell money orders and engage in the money transmission business, who is in good standing with the Bureau, under Chapter 12 of Title 6.1 of the Code of Virginia ("money order seller/money transmitter licensee"). The Company shall not engage in money order sales or money transmission services on its own behalf or on behalf of any person other than a money order seller/money transmitter licensee with whom it has a written agency agreement.
4. The Company shall maintain books and records for the money order sales, money transmission, and check cashing businesses separate and apart from its payday lending business and in a different location within the payday lending office(s). The Bureau shall be given access to all such books and records and be furnished with such information and records as it may require in order to assure compliance with these conditions as well as all applicable laws and regulations.
5. The Company shall maintain a copy of this Order at each location where it conducts business as an agent of a money order seller/money transmitter licensee.
6. Violation of any condition contained in this Order may result in revocation of the authority hereby conferred.

**CASE NO. BAN20031898  
MARCH 12, 2004**

APPLICATION OF  
EVERGREEN SERVICES INC.

For authority to conduct business as an agent of a money order seller/money transmitter in its payday lending offices

**ORDER GRANTING OTHER BUSINESS AUTHORITY**

Evergreen Services Inc. ("Company"), a licensed payday lender, has applied to the State Corporation Commission ("Commission"), pursuant to § 6.1-463 of the Code of Virginia, for authority to conduct business as an agent of a money order seller/money transmitter in the Company's payday lending offices. The Company is also engaged in the check cashing business, as permitted by statute. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the Bureau's report, the Commission finds that the application should be granted subject to the following conditions:

1. The Company shall not make a payday loan to a borrower to enable the borrower to purchase or pay a fee related to money orders, money transmission, or check cashing services available at the Company's payday lending offices.
2. The Company shall comply with all federal and state laws and regulations applicable to its money order sales, money transmission, and check cashing businesses.
3. The Company shall be and remain a party to a written agreement to act as an agent for a person licensed to sell money orders and engage in the money transmission business under Chapter 12 of Title 6.1 of the Code of Virginia ("money order seller/money transmitter licensee"). The Company shall not engage in money order sales or money transmission services on its own behalf or on behalf of any person other than a money order seller/money transmitter licensee with whom it has a written agency agreement.
4. The Company shall maintain books and records for its money order sales, money transmission, and check cashing businesses separate and apart from its payday lending business and in a different location within the payday lending offices. The Bureau shall be given access to all such books and records and be furnished with such information and records as it may require in order to assure compliance with these conditions as well as all applicable laws and regulations.
5. The Company shall maintain a copy of this Order at each location where it conducts business as an agent of a money order seller/money transmitter licensee.
6. Violation of any condition contained in this Order may result in revocation of the authority hereby conferred.

**CASE NO. BAN20031967  
FEBRUARY 20, 2004**

APPLICATION OF  
FAST PAYDAY LOANS, INC.

For authority to allow a third party to conduct open-end credit business from the licensee's payday lending offices

**ORDER GRANTING OTHER BUSINESS AUTHORITY**

Fast Payday Loans, Inc. ("Company"), a licensed payday lender, has applied to the State Corporation Commission ("Commission"), pursuant to § 6.1-463 of the Code of Virginia, for authority to allow a third party to conduct open-end credit business from the Company's payday lending offices. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the Bureau's report, the Commission finds that the application should be granted subject to the following conditions:

1. The Company shall not make a payday loan to enable a borrower to pay any fee, finance charge, or other amount the borrower owes to the third party in connection with an open-end credit transaction.
2. The third party shall not permit a person to take a cash advance under an open-end credit account to enable such person to pay any amount owed to the Company as a result of a payday loan transaction.
3. The Company and third party shall not enter into an open-end credit transaction and make a payday loan contemporaneously or in response to a single request for a loan.
4. The third party shall not enter into an open-end credit transaction that is secured by an interest in one- to four-family residential owner-occupied property located in the Commonwealth unless such third party is licensed or exempt from licensing under Chapter 16 of Title 6.1 of the Code of Virginia.
5. The third party shall not extend open-end credit that is secured in a manner that causes it to be subject to the Payday Loan Act.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

6. The third party shall not use or cause to be published any advertisement or other information that contains any false, misleading or deceptive statement or representation concerning its open-end credit business, including the rates, terms or conditions of its loans. The third party shall not make or cause to be made any misrepresentation as to its being a licensed lender, or as to the extent to which it is subject to supervision or regulation.
7. The third party shall not sell insurance or enroll borrowers under group insurance policies.
8. The third party shall comply with all federal and state laws and regulations applicable to the conduct of its open-end credit business.
9. The third party shall maintain books and records for its open-end credit business separate and apart from the Company's payday lending business and in a different location within the payday lending offices. The Bureau shall be given access to all such books and records and be furnished with such information and records as it may require in order to assure compliance with these conditions as well as all applicable laws and regulations.
10. The Company shall maintain a copy of this Order at each location where a third party conducts open-end credit business.
11. Violation of any condition contained in this Order may result in revocation of the authority hereby conferred.

**CASE NO. BAN20032130  
FEBRUARY 5, 2004**

APPLICATION OF  
BAREHUT, INC. D/B/A SPEEDY CASH

For authority to conduct retail sales business in its payday lending office(s)

**ORDER GRANTING OTHER BUSINESS AUTHORITY**

Barehut, Inc. d/b/a Speedy Cash ("Company"), a licensed payday lender, has applied to the State Corporation Commission ("Commission"), pursuant to § 6.1-463 of the Code of Virginia, for authority to conduct retail sales business in the Company's payday lending offices. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the Bureau's report, the Commission finds that the application should be granted subject to the following conditions:

1. The Company shall not make a payday loan to a borrower to enable the borrower to purchase a product at the Company's payday lending offices.
2. The Company shall comply with all federal and state laws and regulations applicable to the conduct of its retail sales business.
3. The Company shall maintain books and records for the retail sales business separate and apart from its payday lending business and in a different location within the Company's payday lending offices. The Bureau shall be given access to all such books and records and be furnished with such information and records as it may require in order to assure compliance with these conditions as well as all applicable laws and regulations.
4. The Company shall maintain a copy of this Order at each location where it conducts its retail sales business.
5. Violation of any condition contained in this Order may result in revocation of the authority hereby conferred.

**CASE NO. BAN20032449  
FEBRUARY 18, 2004**

APPLICATION OF  
USA CHECK CASHERS, INC.

For authority to conduct business as an agent of a money order seller/money transmitter in its payday lending office(s)

**ORDER GRANTING OTHER BUSINESS AUTHORITY**

USA Check Cashers, Inc. ("Company"), a licensed payday lender, has applied to the State Corporation Commission ("Commission"), pursuant to § 6.1-463 of the Code of Virginia, for authority to conduct business as an agent of a money order seller/money transmitter in the Company's payday lending office(s). A third party is also engaged in the check cashing business in the Company's payday lending office(s), as permitted by statute. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the Bureau's report, the Commission finds that the application should be granted subject to the following conditions:

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

1. The Company shall not make a payday loan to a borrower to enable the borrower to purchase or pay a fee related to money orders, money transmission, or check cashing services available at the Company's payday lending office(s).
2. The Company shall comply with all federal and state laws and regulations applicable to its money order sales and money transmission businesses.
3. The Company shall be and remain a party to a written agreement to act as an agent for a person licensed to sell money orders and engage in the money transmission business, who is in good standing with the Bureau, under Chapter 12 of Title 6.1 of the Code of Virginia ("money order seller/money transmitter licensee"). The Company shall not engage in money order sales or money transmission services on its own behalf or on behalf of any person other than a money order seller/money transmitter licensee with whom it has a written agency agreement.
4. The Company and third party shall maintain books and records for their money order sales, money transmission, and check cashing businesses separate and apart from the Company's payday lending business and in a different location within the payday lending office(s). The Bureau shall be given access to all such books and records and be furnished with such information and records as it may require in order to assure compliance with these conditions as well as all applicable laws and regulations.
5. The Company shall maintain a copy of this Order at each location where it conducts business as an agent of a money order seller/money transmitter licensee.
6. Violation of any condition contained in this Order may result in revocation of the authority hereby conferred.

**CASE NO. BAN20032504  
JANUARY 28, 2004**

APPLICATION OF  
TOWNE BANK

For a certificate of authority to do a banking business following a merger with Harbor Bank and for authority to operate the authorized offices of the merging banks

**ORDER GRANTING AUTHORITY**

Towne Bank, a Virginia state-chartered bank, has applied to the State Corporation Commission ("Commission"), pursuant to § 6.1-44 of the Code of Virginia, for a certificate of authority to do a banking business following a merger with Harbor Bank, a Virginia state-chartered bank. Towne Bank proposes to be the surviving bank in the merger and seeks authority to operate all of the currently authorized offices of the merging banks. The application was investigated by the Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that: (1) the provisions of law have been complied with; (2) the capital stock of the resulting bank will be \$32,810,000, and its surplus will be not less than \$123,392,000; (3) the public interest will be served by the banking facilities of the resulting bank in the communities where its offices will be located; (4) the oaths of all directors have been taken and filed in accordance with the provisions of § 6.1-48 of the Code of Virginia; (5) the bank will conduct a legitimate banking business; (6) the moral fitness, financial responsibility, and business qualifications of those named as officers and directors of the bank are such as to command the confidence of the community; and (7) the deposits of the resulting bank will be insured by the Federal Deposit Insurance Corporation.

THEREFORE, a certificate of authority to do a banking business is GRANTED to Towne Bank, effective upon the issuance by the Clerk of the Commission of a certificate of merger in the proposed transaction. The resulting bank, which will have its main office at 5716 High Street, City of Portsmouth, Virginia, is authorized to maintain and operate, in addition to its current offices and facilities, the offices listed in Attachment A that have been operated by Harbor Bank. The authority granted herein shall expire one (1) year from this date unless extended by Commission order prior to the expiration date.

NOTE: A copy of Attachment A is on file and may be examined at the State Corporation Commission, Bureau of Financial Institutions, Tyler Building, 1300 East Main Street, Richmond, Virginia.

**CASE NO. BAN20032561  
MAY 12, 2004**

APPLICATION OF  
RIVER CITY BANK

For a certificate of authority to begin business as a bank at 6127 Mechanicsville Turnpike, Mechanicsville, Hanover County, Virginia

**ORDER GRANTING AUTHORITY**

River City Bank, a Virginia corporation, has applied to the State Corporation Commission ("Commission"), pursuant to Chapter 2 of Title 6.1 of the Code of Virginia, for a certificate of authority to begin business as a bank at 6127 Mechanicsville Turnpike, Mechanicsville, Hanover County, Virginia. The application was investigated by the Bureau of Financial Institutions ("Bureau").

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Having considered the application and the investigation report of the Bureau, the Commission finds that the public interest will be served by additional banking facilities in Hanover County where the applicant proposes to conduct business. The Commission also finds that: (1) all applicable provisions of law have been complied with; (2) financially responsible individuals have subscribed for capital stock and surplus in an amount deemed by the Commission to be sufficient to warrant successful operation; (3) the oaths of all directors have been taken and filed in accordance with § 6.1-48 of the Code of Virginia; (4) the applicant was formed in order to conduct a legitimate banking business; (5) the moral fitness, financial responsibility, and business qualifications of those named as officers and directors of the proposed bank are such as to command the confidence of the community; and (6) the deposits of the bank are to be insured by the Federal Deposit Insurance Corporation.

IT IS THEREFORE ORDERED that a certificate of authority for River City Bank to engage in banking business at the specified location is GRANTED, provided the following conditions are met before the bank opens for business:

- (1) Capital funds totaling \$9,309,980 are paid in to the bank and allocated as follows: \$4,654,990 to capital stock and \$4,654,990 to surplus;
- (2) The bank actually obtains insurance of its accounts by the Federal Deposit Insurance Corporation; and
- (3) The bank receives the approval of the Commissioner of Financial Institutions of its appointment of a chief executive officer and gives the Bureau written notice of the date the bank will open for business. If the bank does not open for business within one (1) year from the date of this Order, the authority granted herein shall expire unless it is extended by the Commission.

**CASE NO. BAN20032780  
FEBRUARY 17, 2004**

APPLICATION OF  
FULTON FINANCIAL CORPORATION

To acquire Resource Bankshares Corporation

**ORDER OF APPROVAL**

Fulton Financial Corporation, an out-of-state bank holding company with headquarters in Lancaster, Pennsylvania, has filed with the State Corporation Commission ("Commission") the application required by Chapter 15 of Title 6.1 of the Code of Virginia to acquire Resource Bankshares Corporation, a Virginia bank holding company. The Bureau of Financial Institutions ("Bureau") investigated the proposed acquisition.

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in § 6.1-383.2 of the Code of Virginia.

THEREFORE, the proposed acquisition of Resource Bankshares Corporation by Fulton Financial Corporation is APPROVED, provided the acquisition takes place within one (1) year from this date and the applicant notifies the Bureau of the effective date of the transaction within ten (10) days thereof.

**CASE NO. BAN20040021  
APRIL 19, 2004**

APPLICATION OF  
PREMIER COMMUNITY BANKSHARES, INC.

To acquire Premier Bank, Inc.

**ORDER OF APPROVAL**

Premier Community Bankshares, Inc. ("Premier Community"), a Virginia bank holding company that controls two Virginia banks, filed with the State Corporation Commission ("Commission") the notice required by § 6.1-406 of the Code of Virginia of its proposed acquisition of Premier Bank, Inc., an organizing West Virginia bank. The Bureau of Financial Institutions ("Bureau") investigated the proposed transaction.

Having considered the notice and the report of the Bureau, the Commission finds that the proposed acquisition will not have a detrimental effect on the safety or soundness of the Virginia bank subsidiaries of Premier Community.

THEREFORE, the proposed acquisition of Premier Bank, Inc. by Premier Community is APPROVED, provided the acquisition takes place within one (1) year from this date and the applicant notifies the Bureau of the effective date of the transaction within ten (10) days thereof.



**CASE NO. BAN20040116  
JULY 30, 2004**

APPLICATION OF  
FINANCIAL CONSULTING SERVICES, LLC D/B/A EZ CASH

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Financial Consulting Services, LLC d/b/a EZ Cash, a Virginia limited liability company, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 3501 Holland Road, Suite 103, Virginia Beach, Virginia 23452. 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 6.1 of the Code of Virginia.

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

**CASE NO. BAN20040135  
FEBRUARY 3, 2004**

APPLICATION OF  
BB&T CORPORATION

To acquire Republic Bancshares, Inc.

**ORDER OF APPROVAL**

BB&T Corporation ("BB&T"), an out-of-state bank holding company that controls a Virginia bank, filed with the State Corporation Commission ("Commission") the notice required by § 6.1-406 of the Code of Virginia of its proposed acquisition of Republic Bancshares, Inc., a Florida bank holding company. The Bureau of Financial Institutions ("Bureau") investigated the proposed transaction.

Having considered the notice and the report of the Bureau, the Commission finds that the proposed acquisition will not have a detrimental effect on the safety or soundness of the Virginia bank subsidiary of BB&T.

THEREFORE, the proposed acquisition of Republic Bancshares, Inc. by BB&T is APPROVED, provided the acquisition takes place within one (1) year from this date and the applicant notifies the Bureau of the effective date of the transaction within ten (10) days thereof.

**CASE NO. BAN20040162  
MAY 4, 2004**

APPLICATION OF  
CREMCO, INC. D/B/A FAST CASH STORE

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

CREMCO, Inc. d/b/a Fast Cash Store, a Virginia corporation, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 702 South Main Street, Marion, Virginia 24354. 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 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20040175  
FEBRUARY 17, 2004**

APPLICATION OF  
FIRST COMMUNITY BANCSHARES, INC.

To acquire PCB Bancorp, Inc.

**ORDER OF APPROVAL**

First Community Bancshares, Inc. ("First Community"), a Virginia bank holding company that controls a Virginia bank, filed with the State Corporation Commission ("Commission") the notice required by § 6.1-406 of the Code of Virginia of its proposed acquisition of PCB Bancorp, Inc., a Tennessee bank holding company. The Bureau of Financial Institutions ("Bureau") investigated the proposed transaction.

Having considered the notice and the report of the Bureau, the Commission finds that the proposed acquisition will not have a detrimental effect on the safety or soundness of the Virginia bank subsidiary of First Community.

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

**CASE NO. BAN20040219  
APRIL 23, 2004**

APPLICATION OF  
PROVIDENT BANKSHARES CORPORATION  
Baltimore, Maryland

To acquire Southern Financial Bancorp, Inc.

**ORDER OF APPROVAL**

Provident Bankshares Corporation, an out-of-state bank holding company with headquarters in Baltimore, Maryland, has filed with the State Corporation Commission ("Commission") the application required by Chapter 15 of Title 6.1 of the Code of Virginia to acquire Southern Financial Bancorp, Inc., a Virginia bank holding company. The Bureau of Financial Institutions ("Bureau") investigated the proposed acquisition.

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in § 6.1-383.2 of the Code of Virginia.

THEREFORE, the proposed acquisition of Southern Financial Bancorp, Inc. by Provident Bankshares Corporation is APPROVED, provided the acquisition takes place within one (1) year from this date and the applicant notifies the Bureau of the effective date of the transaction within ten (10) days thereof.

**CASE NO. BAN20040476  
JUNE 3, 2004**

APPLICATION OF  
CASH NOW, LLC

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Cash Now, LLC, a Virginia limited liability company, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at the following locations: (1) 7218 Williamson Road, Roanoke, Virginia 24019; (2) 719 Commonwealth Avenue, Bristol, Virginia 24201; and (3) 2054 Leatherwood Lane, Bluefield, Virginia 24605. 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 6.1 of the Code of Virginia.

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

**CASE NO. BAN20040504  
APRIL 13, 2004**

APPLICATION OF  
UNION BANKSHARES CORPORATION

To acquire Guaranty Financial Corporation

**ORDER OF APPROVAL**

Union Bankshares Corporation, a Virginia bank holding company, has filed with the State Corporation Commission ("Commission") the application required by § 6.1-383.1 of the Code of Virginia to acquire all of the voting shares of Guaranty Financial Corporation, a Virginia bank holding company. The Bureau of Financial Institutions ("Bureau") investigated the proposed acquisition.

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in § 6.1-383.2 of the Code of Virginia.

THEREFORE, the proposed acquisition of all of the voting shares of Guaranty Financial Corporation by Union Bankshares Corporation is APPROVED, provided the acquisition takes place within one (1) year from this date and the applicant notifies the Bureau of the effective date of the transaction within ten (10) days thereof.

**CASE NO. BAN20040517  
APRIL 19, 2004**

APPLICATION OF  
SOUTHERN COMMUNITY FINANCIAL CORP.

To acquire Southern Community Bank & Trust

**APPROVAL ORDER**

Southern Community Financial Corp. ("Financial"), a Virginia corporation, has filed with the State Corporation Commission ("Commission") the application required by § 6.1-383.1 of the Code of Virginia to acquire all of the voting shares of Southern Community Bank & Trust ("the Bank"), a Virginia state-chartered bank. Financial also requested Commission approval, pursuant to § 6.1-56 of the Code of Virginia, of payment by the Bank to it of \$90,000 in dividends to defray expenses connected with the acquisition. The Bureau of Financial Institutions ("Bureau") investigated the proposed acquisition and request.

Having considered the application, the request, and the report of the Bureau, the Commission finds that the application meets the criteria in § 6.1-383.2 of the Code of Virginia and that the payment of dividends as requested is reasonable.

THEREFORE, the proposed acquisition of all of the voting shares of Southern Community Bank & Trust by Southern Community Financial Corp. and payment of dividends are APPROVED, provided the acquisition takes place within one (1) year from this date and the applicant notifies the Bureau of the effective date of the transaction within ten (10) days thereof.

**CASE NO. BAN20040561  
APRIL 15, 2004**

APPLICATION OF  
TRANSCOMMUNITY BANKSHARES INCORPORATED

To acquire Bank of Louisa, N.A.

**ORDER OF APPROVAL**

TransCommunity Bankshares Incorporated, a Virginia bank holding company, has filed with the State Corporation Commission ("Commission") the application required by § 6.1-383.1 of the Code of Virginia to acquire all of the voting shares of Bank of Louisa, N.A., an organizing national bank whose main office is located in Virginia. The Bureau of Financial Institutions ("Bureau") investigated the proposed acquisition.

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in § 6.1-383.2 of the Code of Virginia.

THEREFORE, the proposed acquisition of all of the voting shares of Bank of Louisa, N.A. by TransCommunity Bankshares Incorporated is APPROVED, provided the acquisition takes place within one (1) year from this date and the applicant notifies the Bureau of the effective date of the transaction within ten (10) days thereof.

**CASE NO. BAN20040614  
APRIL 28, 2004**

APPLICATION OF  
THE SOUTH FINANCIAL GROUP, INC.

To acquire Community National Bank

**ORDER OF APPROVAL**

The South Financial Group, Inc., an out-of-state bank holding company with headquarters in Greenville, South Carolina, has filed with the State Corporation Commission ("Commission") the application required by § 6.1-399 of the Code of Virginia to acquire Community National Bank, a national bank whose main office is located in Pulaski, Virginia. The Bureau of Financial Institutions ("Bureau") investigated the proposed acquisition.

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in § 6.1-383.2 of the Code of Virginia.

THEREFORE, the proposed acquisition of Community National Bank by The South Financial Group, Inc. is APPROVED, effective this date.

**CASE NO. BAN20040832  
MAY 5, 2004**

APPLICATION OF  
VIRGINIA CREDIT UNION, INC.

To merge with Petersburg City Employees Federal Credit Union

**ORDER APPROVING A MERGER**

Virginia Credit Union, Inc., a Virginia state-chartered credit union, has applied to the State Corporation Commission ("Commission"), pursuant to § 6.1-225.27 of the Code of Virginia, to merge with Petersburg City Employees Federal Credit Union, a federally chartered credit union. The application was investigated by the Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that: (1) the field of membership of the credit union which is proposed to result from the merger satisfies the requirements of § 6.1-225.23 B of the Code of Virginia; (2) the plan of merger will promote the best interests of the members of the credit unions; and (3) the members of the Petersburg City Employees Federal Credit Union and the board of directors of Virginia Credit Union, Inc. have approved the plan of merger in accordance with applicable law.

THEREFORE, provided the merging credit unions comply with the applicable provisions of the Virginia Nonstock Corporation Act, the merger of Petersburg City Employees Federal Credit Union into Virginia Credit Union, Inc. is APPROVED, effective upon the issuance by the Clerk of the Commission of a certificate of merger. Following the merger, Virginia Credit Union, Inc., shall be authorized to operate as a service facility, in addition to its current service facilities, what is now the office of Petersburg City Employees Federal Credit Union at 216 North Sycamore Street, Petersburg, Virginia 23803. The authority granted herein shall expire one (1) year from this date unless extended by Commission order prior to the expiration date.

**CASE NO. BAN20040878  
APRIL 22, 2004**

APPLICATION OF  
PROVIDENT BANKSHARES CORPORATION  
Baltimore, Maryland

To acquire Southern Financial Bancorp, Inc.

**ORDER OF APPROVAL**

Provident Bankshares Corporation ("Provident") of Baltimore, Maryland, has filed with the State Corporation Commission ("Commission") the application required by Article 11 of Chapter 3.01 of Title 6.1 of the Code of Virginia to acquire Southern Financial Bancorp, Inc. ("Southern"). Provident is an out-of-state savings institution holding company within the meaning of § 6.1-194.96. Southern is a savings institution holding company, the parent of Essex Savings Bank, FSB, a Virginia savings institution headquartered in Norfolk, Virginia. The Bureau of Financial Institutions ("Bureau") investigated the proposed acquisition.

Having considered the relevant statutes of Virginia and Maryland and the report of the Bureau's investigation herein, the Commission is of the opinion and finds that the statutory prerequisites to approval of the application set forth in subsection A of § 6.1-194.97 are met, namely: (1) the laws of Maryland permit Virginia savings institution holding companies meeting the criteria of Article 11 to acquire savings institutions or savings institution holding companies in that state; (2) the laws of Maryland would permit Southern to acquire Provident; and (3) Essex Savings Bank, FSB has been in existence and continuously operating for more than two years.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Furthermore, the Commission determines, pursuant to § 6.1-194.99, that: (1) the proposed acquisition would not be detrimental to the safety or soundness of the applicant or Southern; (2) the applicant, its officers and directors, are qualified by character, experience, and financial responsibility to control and operate a Virginia savings institution holding company; (3) the proposed acquisition would not be prejudicial to the interests of depositors, creditors, beneficiaries of fiduciary accounts, or shareholders of the applicant or of Essex Savings Bank, FSB; and (4) the acquisition is in the public interest. Therefore, the Commission hereby approves the acquisition of Southern Financial Bancorp, Inc. by Provident Bankshares Corporation, provided that the acquisition takes place within one year from this date, unless this authority is extended by Commission order prior to the expiration date, and the applicant notifies the Bureau of the effective date within ten days thereof.

There being nothing further to be done in this matter, it shall be placed among the ended cases.

**CASE NO. BAN20040923  
JUNE 21, 2004**

APPLICATION BY  
NETWORK FUNDING, L.P.

For a license to engage in business as a mortgage broker

**ORDER GRANTING A LICENSE**

Network Funding, L.P., a licensed mortgage lender, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of mortgage brokering at 28 locations (see attachment). 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 16 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED, effective this date.

NOTE: A copy of the Attachment is on file and may be examined at the State Corporation Commission, Bureau of Financial Institutions, Tyler Building, 1300 East Main Street, Richmond, Virginia.

**CASE NO. BAN20040991  
SEPTEMBER 8, 2004**

APPLICATION OF  
EASY FINANCIAL SERVICES LLC

For a license to engage in business as a payday lender

**ORDER DENYING A LICENSE**

Easy Financial Services LLC, a Virginia limited liability company, applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending pursuant to Chapter 18 of Title 6.1 of the Code of Virginia. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

The Bureau's investigation report reveals that (1) Ms. Kim C. Davis, a member and manager of the applicant, engaged in the business of making payday loans in Virginia from October 2002 until February 2004 without a license, in violation of § 6.1-445 A of the Code of Virginia; (2) Ms. Davis falsely stated in an application to conduct a payday lending business, filed with the Commission on April 18, 2003, that she was not conducting a payday lending business in Virginia; (3) in the course of making payday loans in Virginia, Ms. Davis violated various requirements of the Payday Loan Act; (4) on December 31, 2003, the Commission denied Ms. Davis' application to conduct a payday lending business in Virginia; (5) in responding to a request for information regarding Ms. Davis' former payday lending business, Mr. Paul Davis, the applicant's other member, submitted a document to the Bureau which contained false information regarding the timeframe during which Ms. Davis' business was conducted; and (6) the consumer loan agreement submitted with the subject application repeatedly refers to the applicant as "the Bank," in violation of § 6.1-112 of the Code of Virginia.

Having considered the application and the report of the Bureau, the Commission finds that the applicant and its members lack such character and general fitness as to warrant belief that the applicant, if granted a license, would be operated efficiently and fairly, in the public interest, and in accordance with law.

Accordingly, IT IS ORDERED THAT the license requested in the application is DENIED.

**CASE NO. BAN20041205  
AUGUST 23, 2004**

APPLICATION OF  
FAST TRACK FINANCIAL CORP.

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Fast Track Financial Corp., a Virginia corporation, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 2013 Admiral Drive, Stafford, Virginia 22554. 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 6.1 of the Code of Virginia.

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

**CASE NO. BAN20041258  
AUGUST 19, 2004**

APPLICATION OF  
CASH & GO, INC.

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Cash & Go, Inc., a Virginia corporation, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 6230-A Kings Highway North, Alexandria, Virginia 22303. 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 6.1 of the Code of Virginia.

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

**CASE NO. BAN20041287  
JULY 21, 2004**

APPLICATION OF  
TEXAS INDUSTRIES EMPLOYEES CREDIT UNION

To conduct credit union business in Virginia

**ORDER OF APPROVAL**

Texas Industries Employees Credit Union, a Texas state-chartered credit union, has applied to the State Corporation Commission ("Commission"), pursuant to § 6.1-225.61 of the Code of Virginia, to conduct business as a credit union at 25801 Hoffheimer Way, Petersburg, Virginia 23803. The application was investigated by the 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 § 6.1-225.61 of the Code of Virginia.

THEREFORE, the application of Texas Industries Employees Credit Union to conduct credit union business at 25801 Hoffheimer Way, Petersburg, Virginia 23803 is APPROVED.

**CASE NO. BAN20041334  
AUGUST 2, 2004**

APPLICATION OF  
BEACON CREDIT UNION, INCORPORATED

To merge with Lynchburg Appalachian Employees Credit Union, Incorporated

**ORDER APPROVING A MERGER**

Beacon Credit Union, Incorporated, a Virginia state-chartered credit union, has applied to the State Corporation Commission ("Commission"), pursuant to § 6.1-225.27 of the Code of Virginia, to merge with Lynchburg Appalachian Employees Credit Union, Incorporated, a Virginia state-chartered credit union. The application was investigated by the Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that: (1) the field of membership of the credit union which is proposed to result from the merger satisfies the requirements of § 6.1-225.23 B of the Code of Virginia; (2) the plan of merger will promote the best interests of the members of the credit unions; and (3) the members of Lynchburg Appalachian Employees Credit Union, Incorporated and the board of directors of Beacon Credit Union, Incorporated have approved the plan of merger in accordance with applicable law.

THEREFORE, provided the merging credit unions comply with the applicable provisions of the Virginia Nonstock Corporation Act, the merger of Lynchburg Appalachian Employees Credit Union, Incorporated into Beacon Credit Union, Incorporated is APPROVED, effective upon the issuance by the Clerk of the Commission of a certificate of merger. The authority granted herein shall expire one (1) year from this date unless extended by Commission order prior to the expiration date.

**CASE NO. BAN20041353  
SEPTEMBER 15, 2004**

APPLICATION OF  
RUSS FAST CASH, INC.

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Russ Fast Cash, Inc., a Virginia corporation, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 333 South Witchduck Road, Virginia Beach, Virginia 23462. 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 6.1 of the Code of Virginia.

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

**CASE NO. BAN20041385  
SEPTEMBER 15, 2004**

APPLICATION OF  
RAPID CASH, INC.

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Rapid Cash, Inc., a Virginia corporation, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 605 Main Street, Honaker, Virginia 24260. 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 6.1 of the Code of Virginia.

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

**CASE NO. BAN20041449  
NOVEMBER 5, 2004**

APPLICATION OF  
RAY LEIGH, L.L.C. D/B/A A LOAN 4 LESS

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Ray Leigh, L.L.C. d/b/a A Loan 4 Less, a Virginia limited liability company, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 2217 Newbern Lane, Virginia Beach, Virginia 23451. 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 6.1 of the Code of Virginia.

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

**CASE NO. BAN20041455  
DECEMBER 17, 2004**

APPLICATION OF  
RAY LEIGH, L.L.C. D/B/A A LOAN 4 LESS

For authority to conduct open-end credit business from its payday lending office(s)

**ORDER GRANTING OTHER BUSINESS AUTHORITY**

Ray Leigh, L.L.C. d/b/a A Loan 4 Less ("Company"), a licensed payday lender, has applied to the State Corporation Commission ("Commission"), pursuant to 10 VAC 5-200-100 and § 6.1-463 of the Code of Virginia, for authority to conduct open-end credit business from its payday lending office(s). The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the Bureau's report, the Commission finds that the proposed other business is financial in nature and the application should be granted subject to the following conditions:

1. The Company shall not make a payday loan to enable a borrower to pay any fee, finance charge, or other amount the borrower owes to the Company in connection with an open-end credit transaction.
2. The Company shall not permit a person to take a cash advance under an open-end credit account to enable such person to pay any amount owed to the Company as a result of a payday loan transaction.
3. The Company shall not enter into an open-end credit transaction and make a payday loan contemporaneously or in response to a single request for a loan.
4. The Company shall not enter into an open-end credit transaction that is secured by an interest in one-to-four-family residential owner-occupied property located in the Commonwealth unless the Company obtains a license or is exempt from licensing under Chapter 16 of Title 6.1 of the Code of Virginia.
5. The Company shall not use or cause to be published any advertisement or other information that contains any false, misleading or deceptive statement or representation concerning its open-end credit business, including the rates, terms or conditions of its loans. The Company shall not make or cause to be made any misrepresentation as to its being licensed to conduct open-end credit business, or as to the extent to which it is subject to supervision or regulation.
6. The Company shall not sell insurance or enroll borrowers under group insurance policies.
7. The Company shall comply with all federal and state laws and regulations applicable to the conduct of its open-end credit business.
8. The Company shall maintain books and records for its open-end credit business separate and apart from its payday lending business and in a different location within the payday lending office(s). The Bureau shall be given access to all such books and records and be furnished with such information and records as it may require in order to assure compliance with these conditions as well as all applicable laws and regulations.
9. The Company should maintain a copy of this Order at each location where it conducts open-end credit business.
10. Violation of any condition contained in this Order may result in revocation of the authority hereby conferred.



**CASE NO. BAN20041489  
NOVEMBER 16, 2004**

APPLICATION OF  
UL CASH, INC.

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

UL Cash, Inc., a Delaware corporation, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at Riverview Plaza, 418 Trade Street, Suite C, Danville, Virginia 24541. 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 6.1 of the Code of Virginia.

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

**CASE NO. BAN20041520  
AUGUST 11, 2004**

APPLICATION OF  
Q.C. & G. FINANCIAL, INC. D/B/A ACE AMERICA'S CASH EXPRESS

For authority to conduct business as an agent of a money order seller/money transmitter in its payday lending offices

**ORDER GRANTING OTHER BUSINESS AUTHORITY**

Q.C. & G. Financial, Inc. d/b/a Ace America's Cash Express ("Company"), a licensed payday lender, has applied to the State Corporation Commission ("Commission"), pursuant to 10 VAC 5-200-100 and § 6.1-463 of the Code of Virginia, for authority to conduct business as an agent of a money order seller/money transmitter in the Company's payday lending offices. A third party is also engaged in the check cashing business in the Company's payday lending offices, as permitted by statute. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the Bureau's report, the Commission finds that the proposed other business is financial in nature and the application should be granted subject to the following conditions:

1. The Company shall not make a payday loan to a borrower to enable the borrower to purchase or pay a fee related to money orders, money transmission, or check cashing services available at the Company's payday lending offices.
2. The Company shall comply with all federal and state laws and regulations applicable to its money order sales and money transmission businesses.
3. The Company shall be and remain a party to a written agreement to act as an agent for a person licensed to sell money orders and engage in the money transmission business under Chapter 12 of Title 6.1 of the Code of Virginia ("money order seller/money transmitter licensee"). The Company shall not engage in money order sales or money transmission services on its own behalf or on behalf of any person other than a money order seller/money transmitter licensee with whom it has a written agency agreement.
4. The Company and third party shall maintain books and records for their money order sales, money transmission, and check cashing businesses separate and apart from the Company's payday lending business and in a different location within the payday lending offices. The Bureau shall be given access to all such books and records and be furnished with such information and records as it may require in order to assure compliance with these conditions as well as all applicable laws and regulations.
5. The Company should maintain a copy of this Order at each location where it conducts business as an agent of a money order seller/money transmitter licensee.
6. Violation of any condition contained in this Order may result in revocation of the authority hereby conferred.

**CASE NO. BAN20041524  
SEPTEMBER 8, 2004**

APPLICATION OF  
CASH & GO, INC.

For authority to conduct business as an agent of a money order seller/money transmitter in its payday lending office(s)

**ORDER GRANTING OTHER BUSINESS AUTHORITY**

Cash & Go, Inc. ("Company"), a licensed payday lender, has applied to the State Corporation Commission ("Commission"), pursuant to 10 VAC 5-200-100 and § 6.1-463 of the Code of Virginia, for authority to conduct business as an agent of a money order seller/money transmitter in the Company's payday lending office(s). The Company is also engaged in the check cashing business, as permitted by statute. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the Bureau's report, the Commission finds that the proposed other business is financial in nature and the application should be granted subject to the following conditions:

1. The Company shall not make a payday loan to a borrower to enable the borrower to purchase or pay a fee related to money orders, money transmission, or check cashing services available at the Company's payday lending office(s).
2. The Company shall comply with all federal and state laws and regulations applicable to its money order sales, money transmission, and check cashing businesses.
3. The Company shall be and remain a party to a written agreement to act as an agent for a person licensed to sell money orders and engage in the money transmission business under Chapter 12 of Title 6.1 of the Code of Virginia ("money order seller/money transmitter licensee"). The Company shall not engage in money order sales or money transmission services on its own behalf or on behalf of any person other than a money order seller/money transmitter licensee with whom it has a written agency agreement.
4. The Company shall maintain books and records for the money order sales, money transmission, and check cashing businesses separate and apart from its payday lending business and in a different location within the payday lending office(s). The Bureau shall be given access to all such books and records and be furnished with such information and records as it may require in order to assure compliance with these conditions as well as all applicable laws and regulations.
5. The Company should maintain a copy of this Order at each location where it conducts business as an agent of a money order seller/money transmitter licensee.
6. Violation of any condition contained in this Order may result in revocation of the authority hereby conferred.

**CASE NO. BAN20041563  
NOVEMBER 10, 2004**

APPLICATION OF  
NFC-CHECK CASHING SERVICE, INC. D/B/A NFC-PAYDAY ADVANCE

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

NFC-Check Cashing Service, Inc. d/b/a NFC-Payday Advance, a North Carolina corporation, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 364 Lowes Drive, Danville, Virginia 24540 and 4126 Halifax Road, Unit 8, South Boston, Virginia 24592. 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 6.1 of the Code of Virginia.

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

**CASE NO. BAN20041729  
OCTOBER 29, 2004**

APPLICATION OF  
ADVANCE CASH, INCORPORATED

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Advance Cash, Incorporated, a Virginia corporation, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 6423 Whaleyville Boulevard, Suffolk, Virginia 23438. 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 6.1 of the Code of Virginia.

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

**CASE NO. BAN20041914  
OCTOBER 12, 2004**

APPLICATION OF  
SPEEDY CASH, INC.

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Speedy Cash, Inc., a Florida corporation, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 524 Independence Boulevard, Virginia Beach, Virginia 23462. 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 6.1 of the Code of Virginia.

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

**CASE NO. BAN20042267  
DECEMBER 10, 2004**

APPLICATION OF  
PAYDAY LOANS & CHECK CASHING, LLC

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Payday Loans & Check Cashing, LLC, a Virginia limited liability company, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 25824 Greenville Avenue, Petersburg, Virginia 23803. 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 6.1 of the Code of Virginia.

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

**CASE NO. BAN20042727  
DECEMBER 28, 2004**

APPLICATION OF  
TOWNE BANK

To acquire a controlled subsidiary engaged in the real estate brokerage business

**ORDER APPROVING AN ACQUISITION**

Towne Bank, a Virginia state chartered bank, has applied to the State Corporation Commission ("Commission") for approval of its proposed acquisition, pursuant to §§ 6.1-58.1 and 6.1-58.3 of the Code of Virginia, of GSH Residential Real Estate Corporation as a controlled subsidiary engaged in the real estate brokerage business. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the Bureau's investigation report, the Commission finds that the application meets the requirements of law with one exception; namely, the acquisition would result in Towne Bank acquiring an indirect interest in Tidewater Home Funding, LLC less than sufficient for that company to qualify as a controlled subsidiary of Towne Bank.

THEREFORE, the Commission hereby approves the acquisition of GSH Residential Real Estate Corporation as a controlled real estate brokerage subsidiary of Towne Bank, provided that (1) the acquisition takes place within one (1) year from this date and the applicant notifies the Bureau of the effective date within ten (10) days thereof, and (2) within ninety (90) days after said effective date Towne Bank either divests its interest in Tidewater Home Funding, LLC or otherwise causes that company to become a "controlled subsidiary" of Towne Bank as defined in § 6.1-58.1 of the Code of Virginia.

**CASE NO. BFI-2003-00042  
APRIL 27, 2004**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
ECOWAS FOREX BUREAU, LLC,  
Defendant

**DISMISSAL ORDER**

On January 15, 2004, the State Corporation Commission ("Commission") issued a Rule to Show Cause (the "Rule") against the Defendant requiring it to show cause why its license to engage in business as a money transmitter under Chapter 12 of Title 6.1 of the Code of Virginia should not be revoked. The Rule was issued based upon a representation by the Bureau of Financial Institutions ("Bureau") to the Commission that the Defendant had failed to maintain the surety bond it filed pursuant to § 6.1-372 of the Code of Virginia. The case was referred to a hearing examiner for further proceedings under Rule 5 VAC 5-20-120 of the Commission's Rules of Practice and Procedure.

On April 22, 2004, the Chief Hearing Examiner canceled the hearing scheduled in this case and made her final report to the Commission. The report stated that the Defendant has filed a replacement surety bond in acceptable form with the Bureau and contained a recommendation, concurred in by counsel for the Defendant and the Bureau, that this case be dismissed.

Accordingly, IT IS ORDERED THAT:

- (1) This case is dismissed.
- (2) The papers herein shall be placed in the file for ended causes.

**CASE NO. BFI-2003-00054  
MARCH 29, 2004**

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

Ex Parte: In re: proposed regulation relating to conduct of other business in payday lending offices

**ORDER TO TAKE NOTICE OF REPROPOSED REGULATION**

On November 14, 2003, the State Corporation Commission ("Commission") entered an Order to Take Notice of a proposed regulation relating to the conduct of other businesses in payday lending offices. The Commission's Order and the proposed regulation were published in the Virginia Register on December 15, 2003. The November 14, 2003 Order directed interested parties to comment or request a hearing on the proposed regulation on or before January 9, 2004.

The Commission received comments on the proposed regulation from Community Loans of America, Inc., Larry E. Hughes, Vice-President, Extol Corporation, Inc., dba Quick-Check: Cash Advance Service, and James Frauenberg of BCCi-Check\$mart. No requests for hearing were received.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Based on our interpretation of § 6.1-463 of the Code of Virginia, the Commission believes that the attached regulation, as modified, more accurately reflects the clear intent of the statute. Because our modification makes a material change to the proposed regulation, we will allow interested parties an additional opportunity to comment and/or request a hearing on the revised regulation.

Accordingly, IT IS ORDERED THAT:

(1) The proposed payday lending regulation, entitled "Other business in payday lending offices," as modified, is appended hereto and made a part of the record herein.

(2) Comments or requests for hearing on the revised proposed regulation 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 May 5, 2004. Requests for hearing shall state why a hearing is necessary and why such issues cannot be addressed adequately in written comments. All correspondence shall contain a reference to Case No. BFI-2003-00054. 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.state.va.us/scc/caseinfo/notice.htm>.

(3) The revised proposed regulation shall be posted on the Commission's website at <http://www.state.va.us/scc/caseinfo.htm>.

(4) An attested copy hereof, together with a copy of the revised proposed regulation, shall be sent to the Registrar of Regulations for publication in the Virginia Register.

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. BFI-2003-00054  
JUNE 9, 2004**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION

Ex Parte: In re: proposed regulation relating to conduct of other business in payday lending offices

**ORDER ADOPTING A REGULATION**

On November 14, 2003, the State Corporation Commission ("Commission") entered an Order to Take Notice of a proposed regulation relating to the conduct of other business in payday lending offices. The Order and proposed regulation were published in the Virginia Register on December 15, 2003. The Order directed interested parties to comment or request a hearing on the proposed regulation on or before January 9, 2004. The Commission received written comments, and on March 29, 2004, entered an Order to Take Notice of Reproposed Regulation, which contained a modification to the regulation that was proposed on November 14, 2003. Because our modification made a material change to the proposed regulation, interested parties were afforded an additional opportunity to comment and/or request a hearing on the revised proposed regulation.

Comments on the revised proposed regulation were filed by Anykind Check Cashing, LC d/b/a Check City ("Anykind"), James Frauenberg of BCCi-Check\$mart, and Larry E. Hughes, Vice President, Extol Corporation, Inc. d/b/a Quick-Check: Cash Advance Service. Anykind, by counsel, submitted comments and a request for hearing regarding the ability of businesses, including licensed payday lenders, to make or broker tax refund anticipation loans in light of certain provisions in the Payday Loan Act. However, by letter filed June 2, 2004, Anykind withdrew its request for hearing. BCCi-Check\$mart requested that licensees be permitted to maintain written evidence of Commission approval of each other business conducted at a corporate office rather than at each location where such other business is conducted.

NOW THE COMMISSION, having considered the record, the revised proposed regulation, and all of the written comments filed, concludes that the revised proposed regulation is a proper exercise of our authority under §§ 6.1-458 and 6.1-463 of the Code of Virginia, and should be adopted with one modification as discussed below. We find that the comments submitted by Anykind are not germane to the revised proposed regulation, but relate to specific statutory provisions that this Commission lacks authority to waive or modify. With regard to the comment submitted by BCCi-Check\$mart, we believe that each licensee should be encouraged to maintain written evidence of Commission approval of each other business at every location where such other business is conducted, but should not be required to do so. We hope that every licensee will make a good faith effort to retain a copy of the Commission's order approving other business for the benefit of both licensees and examiners. We therefore change "shall" to "should" in subsection D of the regulation. Finally, we find that the comments submitted by Extol Corporation, Inc. d/b/a Quick-Check: Cash Advance Service do not warrant any changes to the revised proposed regulation.

Accordingly, IT IS ORDERED THAT:

(1) The modified revised proposed regulation, 10 VAC 5-200-100, attached hereto is adopted effective June 15, 2004.

(2) The regulation shall be posted on the Commission's website at <http://www.state.va.us/scc/caseinfo.htm>.

(3) An attested copy hereof, together with a copy of the regulation, shall be sent to the Registrar of Regulations for publication in the Virginia Register.

(4) This case is dismissed from the Commission's docket of active matters.

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. BFI-2003-00060  
FEBRUARY 24, 2004**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION

Ex Parte: In re: Proposed Credit Union Regulation

**ORDER ADOPTING A REGULATION**

By Order entered in this case on November 21, 003, the State Corporation Commission ("Commission") directed that notice be given of its proposal, acting pursuant to §§ 6.1-225-.3:1 and 6.1-225.22 of the Code of Virginia, to promulgate a regulation permitting certain Virginia state credit unions to provide services to "underserved areas" in a manner comparable to federal credit unions. Notice of the proposed regulation was published in the Virginia Register on December 15,2003, the proposed regulation was posted on the Commission's website, and the Bureau of Financial Institutions sent written notice of the proposal to all Virginia state credit unions and others.

Interested persons were afforded an opportunity to request a hearing and file comments in writing or electronically on or before January 9,2004. Comments in favor of the proposed regulation were received from various credit unions and the Virginia Credit Union League and comments against the proposal were received from Keith Leggett and the Virginia Bankers Association. No request for a hearing was received.

The Commission, having considered the record, the proposed regulation, and all comments filed concludes that the proposed regulation is a proper exercise of our authority under §§ 6.1-225.3:1 and 6.1-225.22 of the Code of Virginia, will promote the parity with federal credit unions contemplated by the cited statutes, and should be adopted as proposed.

THEREFORE, IT IS ORDERED THAT:

- (1) Proposed 10 VAC 5-40-40 attached hereto is adopted effective March 1, 2004.
- (2) The regulation shall be published on the Commission website at <http://www.state.va.us/scc/caseinfo.htm>.
- (3) An attested copy hereof, together with a copy of the regulation, shall be sent to the Register of Regulations for publication in the Virginia Register.
- (4) This case is dismissed from the Commission's docket of active cases.

NOTE: A copy of Attachment A entitled "Credit Union Regulations" 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-2003-00064  
JANUARY 8, 2004**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION

v.  
JIM C. HODGE,  
Defendant

**SETTLEMENT ORDER**

ON A FORMER DAY, the Staff reported to the State Corporation Commission ("Commission") that the Defendant acquired more than twenty-five percent of the ownership of Allied Home Mortgage Capital Corporation, a licensed mortgage lender and broker under Chapter 16 of Title 6.1 of the Code of Virginia, without prior Commission approval in violation of § 6.1-416.1 of the Code of Virginia; that the Defendant offered to settle this case, without admitting or denying the Staff's allegations or making any declaration against interest, by payment of the sum of fifteen thousand dollars (\$15,000), tendered said sum to the Commonwealth of Virginia, and waived his right to a hearing in the case; and the Commissioner of Financial Institutions recommended that the Commission accept Defendant's offer of settlement pursuant to authority granted under § 12.1-15 of the Code of Virginia.

Accordingly, IT IS ORDERED THAT:

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

**CASE NO. BFI-2004-00007  
MAY 5, 2004**

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

v.

LOAN CONSOLIDATION AND REFINANCING COMPANY, LLC,  
Defendant

**ORDER REVOKING A LICENSE**

ON A FORMER DAY, the Commissioner of Financial Institutions ("Commissioner") reported to the State Corporation Commission ("Commission") that the Defendant is licensed to engage in business as a mortgage broker under Chapter 16 of Title 6.1 of the Code of Virginia; that the bond filed by the Defendant pursuant to § 6.1-413 of the Code of Virginia was cancelled on February 8, 2004; that the Commissioner, pursuant to delegated authority, gave written notice to the Defendant by certified mail on February 17, 2004, (1) of his intention to recommend revocation of its license unless a new bond was filed by March 18, 2004, and (2) that a written request for hearing was required to be filed in the Office of the Clerk on or before March 10, 2004; and that no new bond or written request for hearing was received or filed.

Accordingly, the Commission finds that the Defendant has failed to maintain its bond in force as required by law, and

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

**CASE NO. BFI-2004-00011  
JUNE 24, 2004**

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

v.

CARTERET MORTGAGE CORPORATION,  
Defendant

**SETTLEMENT ORDER**

ON A FORMER DAY, the Staff reported to the State Corporation Commission ("Commission") that the Defendant is licensed to engage in business as a mortgage lender and broker under Chapter 16 of Title 6.1 of the Code of Virginia; that the Defendant violated various laws and regulations applicable to the conduct of its licensed business; that the Defendant offered to settle this case by payment of the sum of fifty thousand dollars (\$50,000) and abiding by the provisions of this Order, tendered said sum to the Commonwealth of Virginia, and waived its right to a hearing in the case; and the Commissioner of Financial Institutions recommended that the Commission accept Defendant's offer of settlement pursuant to authority granted under § 12.1-15 of the Code of Virginia.

Accordingly, IT IS ORDERED THAT:

- (1) Defendant's offer in settlement of this case is accepted.
- (2) If, before or during the next examination of its records, the Bureau of Financial Institutions ("Bureau") finds that the Defendant (a) has acted or failed to act in a fashion constituting a ground for revocation of its license under § 6.1-425 of the Code of Virginia or (b) has committed such violations of laws or regulations as warrant, in the Bureau's judgment, revocation of its license, the Bureau shall give the Defendant written notification that it believes license revocation is warranted. The Defendant shall have thirty (30) days of the mailing of such notification to make a written submission to the Bureau.
- (3) If after such thirty (30) day period and consideration of the Defendant's submission, if any is made, the Bureau continues to believe license revocation is warranted, the Defendant shall within fourteen (14) days of mailing of written notice to it by the Bureau surrender its license to the Bureau in writing.
- (4) If the Defendant fails to comply with the surrender requirement imposed under the preceding paragraph, the Commission shall enter an order revoking the Defendant's license without further notice or hearing.
- (5) Provided the Defendant complies with the requirements in § 6.1-416 B of the Code of Virginia, the Bureau shall accept for processing eleven (11) Applications for an Additional Office or Relocation of an Existing Office (identified on Exhibit A, which is attached hereto and incorporated herein by reference), eight (8) of which were previously submitted to and denied by the Bureau, including one (1) for the storage facility where the Defendant maintains its records.
- (6) The Bureau may not base a surrender notice under paragraph (3) of this Order or a decision on the applications referred to under paragraph (5) of this Order solely upon specific instances of violations of laws or regulations noted in any report of examination of the Defendant's business prior to the date of this Order. The Bureau also may not base a surrender notice or decision on the applications solely upon the Defendant having originated four (4) loans from branches that relocated prior to the Defendant obtaining Bureau approval under § 6.1-416 of the Code of Virginia. These loans are identified on Exhibit B, which is attached hereto and incorporated herein by reference.
- (7) This case is continued generally on the Commission's docket.

**CASE NO. BFI-2004-00013  
DECEMBER 13, 2004**

PETITION OF  
CALUSA INVESTMENTS, LLC

For approval of mortgage lender and broker license

**FINAL ORDER**

On March 17, 2004, Calusa Investments, LLC ("Calusa"), filed a Petition for Approval of Mortgage Lender and Broker License with the State Corporation Commission ("Commission") pursuant to Va. Code Ann. § 6.1-412 and Rule 5 VAC 5-20-100 B of the Commission's Rules of Practice and Procedure ("Rules"). According to Calusa's Petition, the Commissioner of Financial Institutions denied Calusa's application for a mortgage lender license on April 21, 2003, and subsequently denied Calusa's request for reversal of the license denial on January 14, 2004. The Bureau of Financial Institutions ("Bureau") filed its Response to the Petition on April 6, 2004. In its Response, the Bureau moved the Commission to proceed in accordance with Rule 5 VAC 5-20-80 of the Commission's Rules, and it further moved the Commission to continue this case generally pending further investigation of Calusa's application in light of a class action complaint filed against Community Bank of Northern Virginia, Guaranty National Bank of Tallahassee, and GMAC-RFC in the U. S. District Court for the Western District of Pennsylvania.<sup>1</sup> Calusa filed its Response to the motions on April 20, 2004, and the Bureau filed its Reply on April 30, 2004.

On May 12, 2004, the Commission entered an Order Establishing Proceeding in which it denied the Bureau's motion for a continuance and deferred ruling on the Bureau's motion to proceed in accordance with Rule 5 VAC 5-20-80 A. In that Order, the Commission directed the filing of testimony and exhibits by Calusa and the Bureau and scheduled a hearing for July 20, 2004.

On June 3, 2004, Calusa prefiled the testimony of DeVan L. Shumway, Mary Helms, and David B. Shumway.

On June 25, 2004, Calusa filed a Motion in Limine in which it requested, among other things, that the Commission limit this proceeding to an examination of the reasons for denial of Calusa's application that were stated by the Bureau in a letter dated April 21, 2003. The Bureau filed its Response to the Motion in Limine on July 6, 2004, wherein it included a Revised License Denial dated June 30, 2004. Calusa filed its Reply on July 12, 2004.

On June 30, 2004, the Bureau filed a Motion for Protective Order, and on July 1, 2004, the Commission granted that motion and entered a Protective Order governing the treatment of confidential information in this case.

On July 1, 2004, the Bureau prefiled the testimony of John H. Lastrapes, Michael Kevin Morin, Susan E. Hancock, and E. J. Face, Jr., Commissioner of Financial Institutions. Commissioner Face's testimony also included the June 30, 2004, Revised License Denial.

On July 7, 2004, Calusa filed a second Motion in Limine to exclude the testimony and exhibits of Michael Kevin Morin filed by the Bureau on July 1, 2004, for failure to conform to the common law and statutory rules of evidence applied in courts of record of the Commonwealth of Virginia. The Bureau filed its Response to the Motion on July 13, 2004, and Calusa filed its Reply on July 15, 2004.

On July 13, 2004, Calusa filed the rebuttal testimony of David B. Shumway, Mary Helms, DeVan L. Shumway, Lisa Perdue, Joseph Grinder, F. Thomas Eck, IV, and Leonard N. Chanin.

On July 20, 2004, the Commission convened the evidentiary hearing. At the hearing, the Commission ruled from the bench on all outstanding motions. The Commission ruled that this proceeding falls under 5 VAC 5-20-80 of the Commission's Rules, rather than Rule 100, and denied both of Calusa's Motions in Limine. However, with regard to the second motion to strike Bureau witness Morin's testimony, the Commission ruled that counsel for Calusa may object to specific portions of the testimony when there is a request to admit it to the record. At the July 20, 2004, hearing, the Commission also determined that it would not order Commissioner Face to withdraw his Revised License Denial, which was issued June 30, 2004. After these rulings, counsel for Calusa moved for a continuance, and the motion was granted. On July 21, 2004, the Commission entered an Order rescheduling the hearing for September 14, 2004.

On July 22, 2004, Calusa filed a Motion for Leave to File Supplemental and Additional Testimony. In the motion, Calusa requested that both it and the Bureau be allowed to file any supplemental and/or additional testimony on or before September 1, 2004. That motion was granted by Order dated July 23, 2004.

On July 27, 2004, Calusa filed a Motion for Commission to Issue Subpoena *Duces Tecum* in which it requested a commission to the Superior Court of Cobb County in Georgia for the production of documents by Optima Technologies, Inc., a Georgia corporation. On July 28, 2004, the Bureau filed a response to the motion, as well as a Motion to Quash Subpoenas *Duces Tecum*, Other Relief and For Sanctions. By Order dated August 12, 2004, the Commission granted Calusa's motion and denied the Bureau's motion.

On July 29, 2004, Calusa filed a Motion for Examination of Documents in which it sought to examine certain information from application files maintained by the Bureau to which the Bureau had denied Calusa access. The Bureau filed its Response to the Motion on August 5, 2004, and Calusa filed its Reply on August 10, 2004. In its Reply, Calusa requested that the Commission permit oral argument on its Motion as well as its Motion for a Commission to Issue Subpoena *Duces Tecum*. By Order dated August 12, 2004, the Commission granted Calusa's request for oral argument only on its Motion to Examine Documents. The Commission held oral argument on the motion on August 17, 2004. After the argument, the Commission ordered the Bureau to provide certain information to Calusa. The Commission also directed the Bureau to provide to Calusa any documents in its case file that are not subject to attorney-client or any other privilege.

<sup>1</sup> In re: Community Bank of Northern Virginia and Guaranty National Bank of Tallahassee Second Mortgage Loan Litigation, No. 03-425 (W.D. Pa.). (First Amended Complaint and Intervention filed on October 14, 2003).



## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

On August 30, 2004, the Bureau prefiled the supplemental testimony of E. J. Face, Jr. On September 1, 2004, Calusa prefiled the supplemental and additional testimony of David B. Shumway, Lisa Perdue, Gregory Yost, and Jim Bell, Jr.

On September 10, 2004, Calusa filed a Motion for Protective Order allowing the disclosure of certain communications by and between the Bureau and Community Bank of Northern Virginia. The Commission entered an Order on October 1, 2004, granting the motion and directing the Bureau to produce certain documents to Calusa pursuant to a Protective Order.

On September 13, 2004, the Commission entered an Order rescheduling the hearing to October 19, 2004, because the Bureau notified the Commission that one of its witnesses would be unable to attend the hearing due to severe weather conditions anticipated in Florida.

On September 17, 2004, Calusa filed another Motion for Commission to Issue Subpoena *Duces Tecum* because the name of the corporation from which the subpoena was initially sought was misspelled in the prefiled testimony of Bureau witness Morin. On September 20, 2004, the Commission entered an Order granting the motion and directing the Clerk to issue a revised commission.

The hearing was convened on October 19, 20, and 21, 2004. Jonathan B. Orne, Esquire, and Todd E. Rose, Esquire, represented the Bureau of Financial Institutions, and Robert D. Perrow, Esquire, and D. Kyle Deak, Esquire, appeared on behalf of Calusa. At the hearing, Calusa presented the testimony of David B. Shumway, DeVan L. Shumway, Mary L. Helms, Leonard N. Chanin, Gregory Yost, Joseph Grinder, Jim Bell, Jr., and Lisa Perdue. The Bureau presented the testimony of John H. Lastrapes, Michael Kevin Morin, Susan E. Hancock, and E. J. Face, Jr.

Both Calusa and the Bureau filed post-hearing briefs on November 30, 2004, and presented oral argument on December 7, 2004.

NOW THE COMMISSION, having considered all of the pleadings, applicable laws and regulations, the admissible evidence, and arguments of counsel, finds that Calusa should be granted a license to operate as a mortgage lender and broker in the Commonwealth of Virginia subject to the condition stated below.

We note that much of the evidence presented by the Bureau in this case, including the class action complaint, a letter from the plaintiffs' lawyer in that case, and a significant portion of Bureau Witness Morin's testimony, was stricken from the record as inadmissible. While we ruled earlier that this was a proceeding under 5 VAC 5-20-80, in order to afford basic due process to all parties who come before this Commission, we must still only receive evidence "having substantial probative effect."<sup>2</sup> We find that the Bureau provided an insufficient basis to support a license denial.

Furthermore, in the Bureau's Revised License Denial, one of the grounds for denial was an allegation that companies in which the Calusa principals were involved operated as mortgage brokers without licenses during the period 1998-2002, in violation of Virginia law. Yet what the evidence showed was that there was a lack of clarity in the way the Bureau interpreted Virginia Code § 6.1-411, which exempts "subsidiaries and affiliates" of certain lenders from the requirement to obtain a license. A regulation clearly defining both terms has never been promulgated, and by this Order we direct the Bureau to propose such a regulation.

During the hearing, there was a great deal of discussion concerning the use of the term "pre-approved" in marketing materials sent to potential borrowers. Section 6.1-424 of the Code of Virginia prohibits a mortgage lender or broker from using or publishing any advertisement that contains any false, misleading, or deceptive statement or representation. We regard the use of the term "pre-approved," without a clear and prominent explanation of its meaning, as potentially misleading and deceptive to consumers. We will, therefore, require that any Calusa marketing materials that use the term "pre-approved" or similar terms prominently display the conditions and/or qualifications of such pre-approval in a manner that is reasonably understandable by a potential borrower of ordinary intelligence.

The use of the term "pre-approved" is not prohibited *per se* by Virginia or federal law, and its use in a potentially misleading manner is evidently not a problem unique to Calusa. Thus, it would be arbitrary to deny a license to Calusa for using a term that is apparently widely used in the industry nationally. What we prefer to do is take action to protect all Virginia consumers, not just potential customers of Calusa.

Therefore, by this Order, we direct the Bureau to draft a proposed regulation governing, among other things, the use of the term "pre-approved" and other similar and potentially misleading terms used by licensees in their marketing efforts in Virginia.

Accordingly, IT IS ORDERED THAT:

(1) Calusa Investments, LLC, is hereby granted a license to engage in business as a mortgage lender and broker pursuant to § 6.1-415 of the Code of Virginia, provided that the licensee begins business within one (1) year from the date of this Order and the licensee gives written notice to the Bureau of Financial Institutions stating the date business was begun within (10) days thereafter.

(2) As discussed herein, any Calusa marketing materials that use the term "pre-approved" or similar language shall prominently display the conditions and/or qualifications of such pre-approval in a manner that is reasonably understandable by a potential borrower of ordinary intelligence. When the Commission promulgates a future regulation governing the use of the term "pre-approved," Calusa shall operate in compliance with such regulation.

(3) Within 45 days from the date of this Order, the Bureau of Financial Institutions shall propose regulations pursuant to § 6.1-421 of the Code of Virginia that address, at a minimum: (1) the use of the term "pre-approved" or similar terms in advertising and marketing materials used by mortgage lenders and brokers; (2) the definitions of "subsidiary" and "affiliate" under the Mortgage Lender and Broker Act; and (3) reporting requirements regarding the surrender of a license in another state by a Virginia-licensed mortgage lender or broker.

(4) There being nothing further to be done herein, this case is dismissed from the Commission's docket of active cases.

<sup>2</sup> See Rule 5 VAC 5-20-190. We do not believe that the rank, uncorroborated hearsay allegations that were stricken upon objection constitute "probative" evidence.

**CASE NO. BFI-2004-00015  
MAY 12, 2004**

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

v.

RANSFORD K. FUMEY & ABDULAI CONTEH T/A LANDMARK FINANCIAL & ACCOUNTING ASSOCIATES,  
Defendant

**ORDER REVOKING A LICENSE**

ON A FORMER DAY, the Commissioner of Financial Institutions ("Commissioner") reported to the State Corporation Commission ("Commission") that the Defendant is licensed to engage in business as a mortgage broker under Chapter 16 of Title 6.1 of the Code of Virginia; that the bond filed by the Defendant pursuant to § 6.1-413 of the Code of Virginia was cancelled on September 25, 2003, and no new bond has been filed; that examinations conducted by the Bureau of Financial Institutions revealed that Defendant violated various laws and regulations applicable to the conduct of its mortgage broker business; that the Commissioner, pursuant to delegated authority, gave written notice to the Defendant by certified mail on April 6, 2004, (1) of his intention to recommend revocation of its license, and (2) that a written request for hearing was required to be filed in the Office of the Clerk on or before May 6, 2004; and that no written request for hearing was received or filed.

Accordingly, the Commission finds that the Defendant has failed to maintain its bond in force as required by law, and has violated various laws and regulations applicable to the conduct of its business, and

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

**CASE NO. BFI-2004-00016  
APRIL 13, 2004**

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

v.

CHALLENGE FINANCIAL INVESTORS CORP. d/b/a CHALLENGE MORTGAGE,  
Defendant

**SETTLEMENT ORDER**

ON A FORMER DAY the Staff reported to the State Corporation Commission ("Commission") that the Defendant is licensed to engage in business under Chapter 16 of Title 6.1 of the Code of Virginia; that it was found, during examination of its records, the Defendant violated various laws and regulations applicable to the conduct of its licensed business; that upon being informed the Bureau of Financial Institutions ("Bureau") intended to recommend the imposition of a fine, the Defendant, after being advised by counsel, offered to settle this case by payment of a fine in the sum of twenty-five thousand dollars (\$25,000) and abiding by the provisions of this order; that Defendant tendered said sum to the Commonwealth of Virginia and waived its right to a hearing in the case; and the Commissioner of Financial Institutions recommended that the Commission accept Defendant's offer of settlement pursuant to authority granted under § 12.1-15 of the Code of Virginia.

Accordingly, IT IS ORDERED THAT:

- (1) Defendant's offer in settlement of this case is accepted.
- (2) If, before or during the next examination of its records, the Bureau finds that the Defendant (a) has acted or failed to act in a fashion constituting a ground for revocation of its license under § 6.1-425 of the Code of Virginia or (b) has committed such violations of laws or regulations as warrant, in the Bureau's judgment, revocation of its license, the Bureau shall give the Defendant written notification that it believes license revocation is warranted. The Defendant shall have thirty (30) days of the mailing of such notification to make a written submission to the Bureau.
- (3) If after such thirty (30) day period and consideration of the Defendant's submission, if any is made, the Bureau continues to believe license revocation is warranted, the Defendant shall within fourteen (14) days of mailing of written notice to it by the Bureau surrender its license to the Bureau in writing.
- (4) If the Defendant fails to comply with the surrender requirement imposed under the preceding paragraph, the Commission shall enter an Order revoking the Defendant's license without further notice or hearing.
- (5) The Bureau may not base a surrender notice under paragraph (3) of this Order solely upon specific instances of violations of laws or regulations noted in any report of examination of the Defendant's business prior to the date of this Order.
- (6) This case is continued generally on the Commission's docket.

**CASE NO. BFI-2004-00020  
MAY 28, 2004**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION

v.

A MONEY MATTER MORTGAGE INC.,  
Defendant

**ORDER REVOKING A LICENSE**

ON A FORMER DAY, the Commissioner of Financial Institutions ("Commissioner") reported to the State Corporation Commission ("Commission") that the Defendant is licensed to engage in business as a mortgage broker under Chapter 16 of Title 6.1 of the Code of Virginia; that the Defendant did not file its annual report due March 1, 2004, in accordance with § 6.1-418 of the Code of Virginia; that the Commissioner, pursuant to delegated authority, gave written notice to the Defendant by certified mail on April 20, 2004, (1) of his intention to recommend revocation of its license unless an annual report was received by May 20, 2004, and (2) that a written request for hearing was required to be filed in the Office of the Clerk on or before May 11, 2004; and that no annual report or written request for hearing was received or filed.

Accordingly, the Commission finds that the Defendant has failed to file an annual report as required by law, and

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

**CASE NO. BFI-2004-00020  
JULY 14, 2004**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION

v.

A MONEY MATTER MORTGAGE, INC.,  
Defendant

**VACATING ORDER**

On May 28, 2004, the State Corporation Commission ("Commission") entered an Order revoking the mortgage broker license issued to A Money Matter Mortgage, Inc. ("Defendant"), under Chapter 16 of Title 6.1 of the Code of Virginia. Thereafter, the Staff reported to the Commission that the Defendant mistakenly mailed its annual report to the Office of the Clerk rather than to the Bureau of Financial Institutions, and that the Defendant's license should not have been revoked.

Accordingly, IT IS ORDERED THAT:

- (1) The May 28, 2004, Order Revoking a License is hereby vacated effective on that date.
- (2) This case is dismissed, and the papers herein shall be filed among the ended causes.

**CASE NO. BFI-2004-00024  
MAY 28, 2004**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION

v.

AMERICAN MORTGAGE BANC, INC.,  
Defendant

**ORDER REVOKING A LICENSE**

ON A FORMER DAY, the Commissioner of Financial Institutions ("Commissioner") reported to the State Corporation Commission ("Commission") that the Defendant is licensed to engage in business as a mortgage broker under Chapter 16 of Title 6.1 of the Code of Virginia; that the Defendant did not file its annual report due March 1, 2004, in accordance with § 6.1-418 of the Code of Virginia; that the Commissioner, pursuant to delegated authority, gave written notice to the Defendant by certified mail on April 20, 2004, (1) of his intention to recommend revocation of its license unless an annual report was received by May 20, 2004, and (2) that a written request for hearing was required to be filed in the Office of the Clerk on or before May 11, 2004; and that no annual report or written request for hearing was received or filed.

Accordingly, the Commission finds that the Defendant has failed to file an annual report as required by law, and

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

**CASE NO. BFI-2004-00029  
MAY 28, 2004**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION

v.  
BNB & ASSOCIATES, L.L.C.,  
Defendant

**ORDER REVOKING A LICENSE**

ON A FORMER DAY, the Commissioner of Financial Institutions ("Commissioner") reported to the State Corporation Commission ("Commission") that the Defendant is licensed to engage in business as a mortgage broker under Chapter 16 of Title 6.1 of the Code of Virginia; that the Defendant did not file its annual report due March 1, 2004, in accordance with § 6.1-418 of the Code of Virginia; that the Commissioner, pursuant to delegated authority, gave written notice to the Defendant by certified mail on April 20, 2004, (1) of his intention to recommend revocation of its license unless an annual report was received by May 20, 2004, and (2) that a written request for hearing was required to be filed in the Office of the Clerk on or before May 11, 2004; and that no annual report or written request for hearing was received or filed.

Accordingly, the Commission finds that the Defendant has failed to file an annual report as required by law, and

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

**CASE NO. BFI-2004-00029  
JUNE 18, 2004**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION

v.  
BNB & ASSOCIATES, L.L.C.,  
Defendant

**VACATING ORDER**

On May 28, 2004, the State Corporation Commission ("Commission") entered an order in this case revoking the license previously granted to the Defendant to engage in business as a mortgage broker under Chapter 16 of Title 6.1 of the Code of Virginia. On June 15, 2004, the Defendant filed a Petition for Reconsideration ("Petition") to modify or vacate the Commission's Order Revoking a License. The Commission is informed by Staff that the Defendant no longer wishes to do business in the Commonwealth of Virginia and has surrendered its mortgage broker license. Upon consideration of the Petition and the Defendant's surrender of its license,

IT IS ORDERED THAT :

- (1) The May 28, 2004, Order Revoking a License is hereby vacated effective on that date.
- (2) This case is dismissed, and the papers herein shall be filed among the ended causes.

**CASE NO. BFI-2004-00037  
MAY 28, 2004**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION

v.  
FIRST CHESAPEAKE MORTGAGE CORPORATION OF FREDERICKSBURG  
(USED IN VIRGINIA BY: FIRST CHESAPEAKE CORPORATION),  
Defendant

**ORDER REVOKING A LICENSE**

ON A FORMER DAY, the Commissioner of Financial Institutions ("Commissioner") reported to the State Corporation Commission ("Commission") that the Defendant is licensed to engage in business as a mortgage broker under Chapter 16 of Title 6.1 of the Code of Virginia; that the Defendant did not file its annual report due March 1, 2004, in accordance with § 6.1-418 of the Code of Virginia; that the Commissioner, pursuant to delegated authority, gave written notice to the Defendant by certified mail on April 20, 2004, (1) of his intention to recommend revocation of its license unless an annual report was received by May 20, 2004, and (2) that a written request for hearing was required to be filed in the Office of the Clerk on or before May 11, 2004; and that no annual report or written request for hearing was received or filed.

Accordingly, the Commission finds that the Defendant has failed to file an annual report as required by law, and

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

**CASE NO. BFI-2004-00037  
JULY 8, 2004**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION

v.

FIRST CHESAPEAKE MORTGAGE CORPORATION OF FREDERICKSBURG  
(USED IN VIRGINIA BY: FIRST CHESAPEAKE MORTGAGE CORPORATION),  
Defendant

**AMENDING ORDER**

On May 28, 2004, the State Corporation Commission ("Commission") entered an Order in this case revoking the license granted to First Chesapeake Mortgage Corporation of Fredericksburg (Used in Virginia by: First Chesapeake Mortgage Corporation) ("Defendant") to engage in business as a mortgage broker under Chapter 16 of Title 6.1 of the Code of Virginia. Thereafter, the Bureau of Financial Institutions reported to the Commission that the May 28, 2004, Order incorrectly referred to the Defendant in the case caption and the attestation clause as "First Chesapeake Mortgage Corporation of Fredericksburg (Used in Virginia by: First Chesapeake Corporation)."

Accordingly, IT IS ORDERED THAT:

(1) The references to the Defendant in the case caption and attestation clause in the Order Revoking a License entered on May 28, 2004, are hereby corrected, nunc pro tunc to that date, to read "First Chesapeake Mortgage Corporation of Fredericksburg (Used in Virginia by: First Chesapeake Mortgage Corporation)."

(2) All other provisions of the Order Revoking a License entered on May 28, 2004, shall remain in full force and effect.

**CASE NO. BFI-2004-00038  
MAY 28, 2004**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION

v.

FIRST COAST CAPITAL MORTGAGE, INC. D/B/A FIRST CAPITAL MORTGAGE,  
Defendant

**ORDER REVOKING A LICENSE**

ON A FORMER DAY, the Commissioner of Financial Institutions ("Commissioner") reported to the State Corporation Commission ("Commission") that the Defendant is licensed to engage in business as a mortgage broker under Chapter 16 of Title 6.1 of the Code of Virginia; that the Defendant did not file its annual report due March 1, 2004, in accordance with § 6.1-418 of the Code of Virginia; that the Commissioner, pursuant to delegated authority, gave written notice to the Defendant by certified mail on April 20, 2004, (1) of his intention to recommend revocation of its license unless an annual report was received by May 20, 2004, and (2) that a written request for hearing was required to be filed in the Office of the Clerk on or before May 11, 2004; and that no annual report or written request for hearing was received or filed.

Accordingly, the Commission finds that the Defendant has failed to file an annual report as required by law, and

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

**CASE NO. BFI-2004-00039  
MAY 28, 2004**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION

v.

FIRST ONE LENDING CORPORATION,  
Defendant

**ORDER REVOKING A LICENSE**

ON A FORMER DAY, the Commissioner of Financial Institutions ("Commissioner") reported to the State Corporation Commission ("Commission") that the Defendant is licensed to engage in business as a mortgage lender under Chapter 16 of Title 6.1 of the Code of Virginia; that the Defendant did not file its annual report due March 1, 2004, in accordance with § 6.1-418 of the Code of Virginia; that the Commissioner, pursuant to delegated authority, gave written notice to the Defendant by certified mail on April 20, 2004, (1) of his intention to recommend revocation of its license unless an annual report was received by May 20, 2004, and (2) that a written request for hearing was required to be filed in the Office of the Clerk on or before May 11, 2004; and that no annual report or written request for hearing was received or filed.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Accordingly, the Commission finds that the Defendant has failed to file an annual report as required by law, and

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

**CASE NO. BFI-2004-00039  
JULY 14, 2004**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
FIRST ONE LENDING CORPORATION,  
Defendant

**VACATING ORDER**

On May 28, 2004, the State Corporation Commission ("Commission") entered an Order revoking the mortgage lender license issued to First One Lending Corporation ("Defendant") under Chapter 16 of Title 6.1 of the Code of Virginia. Thereafter, the Staff reported to the Commission that the Defendant surrendered its license to the Bureau of Financial Institutions ("Bureau") by letter dated August 5, 2003, but the surrender had not been reflected in the Bureau's records due to circumstances beyond the Defendant's control.

Accordingly, IT IS ORDERED THAT:

- (1) The May 28, 2004, Order Revoking a License is hereby vacated effective on that date.
- (2) This case is dismissed, and the papers herein shall be filed among the ended causes.

**CASE NO. BFI-2004-00042  
MAY 28, 2004**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
FLICK MORTGAGE INVESTORS, INC.,  
Defendant

**ORDER REVOKING A LICENSE**

ON A FORMER DAY, the Commissioner of Financial Institutions ("Commissioner") reported to the State Corporation Commission ("Commission") that the Defendant is licensed to engage in business as a mortgage lender under Chapter 16 of Title 6.1 of the Code of Virginia; that the Defendant did not file its annual report due March 1, 2004, in accordance with § 6.1-418 of the Code of Virginia; that the Commissioner, pursuant to delegated authority, gave written notice to the Defendant by certified mail on April 20, 2004, (1) of his intention to recommend revocation of its license unless an annual report was received by May 20, 2004, and (2) that a written request for hearing was required to be filed in the Office of the Clerk on or before May 11, 2004; and that no annual report or written request for hearing was received or filed.

Accordingly, the Commission finds that the Defendant has failed to file an annual report as required by law, and

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

**CASE NO. BFI-2004-00042  
JUNE 18, 2004**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
FLICK MORTGAGE INVESTORS, INC.  
Defendant

**ORDER ON RECONSIDERATION**

On May 28, 2004, the State Corporation Commission ("Commission") entered an Order revoking the license granted the Defendant to engage in business as a mortgage lender for its failure to file its annual report by March 1, as required by § 6.1-418 of the Code of Virginia. On June 14, 2004, the Defendant filed a motion seeking reconsideration of that Order on the ground that it failed to timely file the annual report or receive notice of impending revocation of its license because it relocated its office in June 2003 without prior Commission approval. The required application for approval of the relocation was filed with the Bureau of Financial Institutions ("Bureau") on the same date. Upon consideration of the motion,

## IT IS ORDERED THAT:

1. Revocation of the Defendant's mortgage lender license is suspended effective May 28, 2004, pending action by the Bureau under delegated authority on the application for approval of the office relocation.

2. This case is continued generally pending such action by the Bureau.

**CASE NO. BFI-2004-00042  
AUGUST 9, 2004**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
FLICK MORTGAGE INVESTORS, INC.,  
Defendant

**SETTLEMENT AND VACATING ORDER**

On May 28, 2004, the State Corporation Commission ("Commission") entered an Order revoking the license granted to Flick Mortgage Investors, Inc. ("Defendant") to engage in business as a mortgage lender for its failure to file its annual report by March 1, 2004, as required by § 6.1-418 of the Code of Virginia. On June 16, 2004, the Defendant filed a motion seeking reconsideration of that Order on the ground that it failed to timely file the annual report or receive notice of impending revocation of its license because it relocated its office in June 2003 without prior Commission approval, in violation of § 6.1-416 B of the Code of Virginia. The Defendant filed its annual report and application for approval of the relocation with the Bureau of Financial Institutions ("Bureau") on the same date. On June 18, 2004, the Commission entered an Order suspending the revocation of the Defendant's mortgage lender license effective May 28, 2004, pending action by the Bureau under delegated authority on the application for approval of the office relocation.

The Defendant has offered to settle this case by payment of a fine in the sum of one thousand dollars (\$1,000) for failing to comply with the requirements of §§ 6.1-416 B and 6.1-418 of the Code of Virginia, tendered said sum to the Commonwealth of Virginia, and waived its right to a hearing in the case. In consideration of the Defendant's payment of a fine, the Commissioner of Financial Institutions has approved the relocation application and recommended that the Commission accept Defendant's offer of settlement pursuant to authority granted under § 12.1-15 of the Code of Virginia.

Accordingly, IT IS ORDERED THAT:

- (1) Defendant's offer in settlement of this case is accepted.
- (2) The May 28, 2004, Order Revoking a License is hereby vacated effective on that date.
- (3) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. BFI-2004-00044  
MAY 28, 2004**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
GODWIN MORTGAGE GROUP, INC.,  
Defendant

**ORDER REVOKING A LICENSE**

ON A FORMER DAY, the Commissioner of Financial Institutions ("Commissioner") reported to the State Corporation Commission ("Commission") that the Defendant is licensed to engage in business as a mortgage broker under Chapter 16 of Title 6.1 of the Code of Virginia; that the Defendant did not file its annual report due March 1, 2004, in accordance with § 6.1-418 of the Code of Virginia; that the Commissioner, pursuant to delegated authority, gave written notice to the Defendant by certified mail on April 20, 2004, (1) of his intention to recommend revocation of its license unless an annual report was received by May 20, 2004, and (2) that a written request for hearing was required to be filed in the Office of the Clerk on or before May 11, 2004; and that no annual report or written request for hearing was received or filed.

Accordingly, the Commission finds that the Defendant has failed to file an annual report as required by law, and

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

**CASE NO. BFI-2004-00046  
MAY 28, 2004**

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

v.  
HENRI JEAN-BAPTISTE D/B/A EXPRESS MORTGAGE & CO.,  
Defendant

**ORDER REVOKING A LICENSE**

ON A FORMER DAY, the Commissioner of Financial Institutions ("Commissioner") reported to the State Corporation Commission ("Commission") that the Defendant is licensed to engage in business as a mortgage broker under Chapter 16 of Title 6.1 of the Code of Virginia; that the Defendant did not file his annual report due March 1, 2004, in accordance with § 6.1-418 of the Code of Virginia; that the Commissioner, pursuant to delegated authority, gave written notice to the Defendant by certified mail on April 20, 2004, (1) of his intention to recommend revocation of the Defendant's license unless an annual report was received by May 20, 2004, and (2) that a written request for hearing was required to be filed in the Office of the Clerk on or before May 11, 2004; and that no annual report or written request for hearing was received or filed.

Accordingly, the Commission finds that the Defendant has failed to file an annual report as required by law, and

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

**CASE NO. BFI-2004-00052  
MAY 28, 2004**

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

v.  
MANDARIN MORTGAGE CORP.,  
Defendant

**ORDER REVOKING A LICENSE**

ON A FORMER DAY, the Commissioner of Financial Institutions ("Commissioner") reported to the State Corporation Commission ("Commission") that the Defendant is licensed to engage in business as a mortgage broker under Chapter 16 of Title 6.1 of the Code of Virginia; that the Defendant did not file its annual report due March 1, 2004, in accordance with § 6.1-418 of the Code of Virginia; that the Commissioner, pursuant to delegated authority, gave written notice to the Defendant by certified mail on April 20, 2004, (1) of his intention to recommend revocation of its license unless an annual report was received by May 20, 2004, and (2) that a written request for hearing was required to be filed in the Office of the Clerk on or before May 11, 2004; and that no annual report or written request for hearing was received or filed.

Accordingly, the Commission finds that the Defendant has failed to file an annual report as required by law, and

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

**CASE NO. BFI-2004-00060  
MAY 28, 2004**

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

v.  
PENN MORTGAGE BANK CORP.,  
Defendant

**ORDER REVOKING A LICENSE**

ON A FORMER DAY, the Commissioner of Financial Institutions ("Commissioner") reported to the State Corporation Commission ("Commission") that the Defendant is licensed to engage in business as a mortgage broker under Chapter 16 of Title 6.1 of the Code of Virginia; that the Defendant did not file its annual report due March 1, 2004, in accordance with § 6.1-418 of the Code of Virginia; that the Commissioner, pursuant to delegated authority, gave written notice to the Defendant by certified mail on April 20, 2004, (1) of his intention to recommend revocation of its license unless an annual report was received by May 20, 2004, and (2) that a written request for hearing was required to be filed in the Office of the Clerk on or before May 11, 2004; and that no annual report or written request for hearing was received or filed.

Accordingly, the Commission finds that the Defendant has failed to file an annual report as required by law, and

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



**CASE NO. BFI-2004-00071  
MAY 28, 2004**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION

v.

THE WHITE OAK MORTGAGE GROUP, LLC,  
Defendant

**ORDER REVOKING A LICENSE**

ON A FORMER DAY, the Commissioner of Financial Institutions ("Commissioner") reported to the State Corporation Commission ("Commission") that the Defendant is licensed to engage in business as a mortgage lender and mortgage broker under Chapter 16 of Title 6.1 of the Code of Virginia; that the Defendant did not file its annual report due March 1, 2004, in accordance with § 6.1-418 of the Code of Virginia; that the Commissioner, pursuant to delegated authority, gave written notice to the Defendant by certified mail on April 20, 2004, (1) of his intention to recommend revocation of its license unless an annual report was received by May 20, 2004, and (2) that a written request for hearing was required to be filed in the Office of the Clerk on or before May 11, 2004; and that no annual report or written request for hearing was received or filed.

Accordingly, the Commission finds that the Defendant has failed to file an annual report as required by law, and

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-2004-00077  
SEPTEMBER 15, 2004**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION

v.

PERFORMANCE FUNDING, LLC,  
Defendant

**ORDER REVOKING A LICENSE**

ON A FORMER DAY, the Commissioner of Financial Institutions ("Commissioner") reported to the State Corporation Commission ("Commission") that Performance Funding, LLC ("Defendant"), is licensed to engage in business as a mortgage broker under Chapter 16 of Title 6.1 of the Code of Virginia; that the bond filed by the Defendant pursuant to § 6.1-413 of the Code of Virginia was cancelled on June 4, 2004; that the Commissioner, pursuant to delegated authority, gave written notice to the Defendant by certified mail on August 4, 2004, (1) of his intention to recommend revocation of its license unless a new bond was filed by September 4, 2004, and (2) that a written request for hearing was required to be filed in the Office of the Clerk on or before August 25, 2004; and that no new bond or written request for hearing was received or filed.

Accordingly, the Commission finds that the Defendant has failed to maintain its bond in force as required by law, and

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

**CASE NO. BFI-2004-00083  
OCTOBER 7, 2004**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION

v.

DANA CAPITAL GROUP, INC.,  
Defendant

**SETTLEMENT ORDER**

ON A FORMER DAY, the Staff reported to the State Corporation Commission ("Commission") that Dana Capital Group, Inc. ("Defendant") is licensed to engage in business as a mortgage lender and broker under Chapter 16 of Title 6.1 of the Code of Virginia; that the Defendant violated various laws and regulations applicable to the conduct of its licensed business; that the Defendant offered to settle this case by payment of 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 the case; and the Commissioner of Financial Institutions recommended that the Commission accept Defendant's offer of settlement pursuant to authority granted under § 12.1-15 of the Code of Virginia.

Accordingly, IT IS ORDERED THAT:

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

- (2) This case is dismissed.
- (3) The papers herein shall be placed in the file for ended causes.

**CASE NO. BFI-2004-00087  
MAY 27, 2004**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION

Ex Parte: In Re:

FIRST INDUSTRIAL LOAN ASSOCIATION

**ORDER CANCELING A CERTIFICATE**

ON A FORMER DAY, the Staff reported to the State Corporation Commission ("Commission") that First Industrial Loan Association ("Company"), a Virginia corporation chartered May 4, 1915, was granted a certificate of authority to engage in the industrial loan business that same year; that the Company has been inactive for several years; that the Company stated that it had no assets as of December 31, 2002, in its last report filed pursuant to § 6.1-237.2 of the Code of Virginia; that the Company's corporate existence was automatically terminated on September 30, 2003, with it owing annual fees and penalties totaling one thousand eight hundred seventy dollars (\$1,870); that the Company's president, by letter dated April 28, 2004, surrendered its certificate of authority to engage in the industrial loan business to the Bureau of Financial Institutions ("Bureau"); and the Commissioner of Financial Institutions recommended to the Commission that the surrender be accepted. Upon consideration thereof,

IT IS ORDERED THAT:

- (1) The surrender of the certificate authorizing First Industrial Loan Association to engage in the industrial loan business is accepted.
- (2) Such certificate is canceled and shall be of no further force or effect.
- (3) The contents of this Order shall be reflected on the Bureau's records.
- (4) This case is dismissed and the papers herein shall be placed among the ended cases.

**CASE NO. BFI-2004-00108  
SEPTEMBER 1, 2004**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION

Ex Parte: In re: proposed regulation relating to exemption from loan-to-value limitation for interest-only equity lines

**ORDER TO TAKE NOTICE**

WHEREAS, § 6.1-63 A of the Virginia Banking Act ("Act"), § 6.1-3 et seq. of the Code of Virginia, generally prohibits a state-chartered bank from making a loan secured by real estate when such loan together with all prior liens and encumbrances on such real estate exceeds fifty percent of the appraised value of the real estate securing such loan;

WHEREAS, § 6.1-63 G of the Act authorizes the State Corporation Commission ("Commission") to adopt a regulation that eliminates loans or specific categories of loans from the requirements of § 6.1-63 of the Act;

WHEREAS, national banks are permitted to offer certain interest-only equity lines secured by residential property to consumers without being subject to a loan-to-value limitation similar to that set forth in § 6.1-63 A of the Act; and

WHEREAS, the Commission is informed that one or more state-chartered banks wish to offer similar interest-only equity line products pursuant to an exemption from § 6.1-63 A of the Act;

IT IS THEREFORE ORDERED THAT:

- (1) The proposed regulation, entitled "Exemption from loan-to-value limitation for interest-only equity lines," is appended hereto and made a part of the record herein.

(2) Comments or requests for hearing on the proposed regulation 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 October 15, 2004. Requests for hearing shall state why a hearing is necessary and why such issues cannot be adequately addressed in written comments. All correspondence shall contain a reference to Case No. BFI-2004-00108. 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.state.va.us/scc/caseinfo.htm>.

(3) The proposed regulation shall be posted on the Commission's website at <http://www.state.va.us/scc/caseinfo.htm>.

NOTE: A copy of the Attachment entitled "Exemption from loan-to-value limitation for interest-only equity lines" 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-2004-00109  
OCTOBER 8, 2004**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION  
v.  
MAIN STREET MORTGAGE, LLC,  
Defendant

**ORDER REVOKING A LICENSE**

ON A FORMER DAY, the Commissioner of Financial Institutions ("Commissioner") reported to the State Corporation Commission ("Commission") that Main Street Mortgage, LLC ("Defendant") is licensed to engage in business as a mortgage broker under Chapter 16 of Title 6.1 of the Code of Virginia; that the bond filed by the Defendant pursuant to § 6.1-413 of the Code of Virginia was cancelled on August 20, 2004; that the Commissioner, pursuant to delegated authority, gave written notice to the Defendant by certified mail on August 30, 2004, (1) of his intention to recommend revocation of its license unless a new bond was filed by September 30, 2004, and (2) that a written request for hearing was required to be filed in the Office of the Clerk on or before September 20, 2004; and that no new bond or written request for hearing was received or filed.

Accordingly, the Commission finds that the Defendant has failed to maintain its bond in force as required by law, and

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

**CASE NO. BFI-2004-00110  
SEPTEMBER 1, 2004**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION

Ex Parte: In re: proposed nonprofit credit counseling regulations and repeal of "Nonprofit Debt Counseling Agencies" regulations

**ORDER TO TAKE NOTICE**

WHEREAS, Chapter 790 of the 2004 Acts of Assembly enacted the Nonprofit Credit Counseling Act (the "Act"), § 6.1-363.2 et seq. of the Code of Virginia, effective July 1, 2004;

WHEREAS, § 6.1-363.15 of the Act authorizes the State Corporation Commission (the "Commission") to adopt such regulations as it deems appropriate to effect the purposes of the Act;

WHEREAS, the Bureau of Financial Institutions (the "Bureau") has proposed regulations that will define various terms, establish surety bond standards, and require certain reports from licensed nonprofit credit counseling agencies;

WHEREAS, Chapter 790 of the 2004 Acts of Assembly also repealed Chapter 10.1 (§ 6.1-363.1) of Title 6.1 of the Code of Virginia; and

WHEREAS, based on the repeal of Chapter 10.1 of Title 6.1 of the Code of Virginia and the contemporaneous enactment of Chapter 10.2 of Title 6.1 of the Code of Virginia, the Bureau recommends that the Commission repeal its "Nonprofit Debt Counseling Agencies" regulations, Chapter 100 (10 VAC 5-100-10 et seq.) of Title 10 of the Virginia Administrative Code, which were previously adopted pursuant to former Chapter 10.1 of Title 6.1 of the Code of Virginia;

IT IS THEREFORE ORDERED THAT:

(1) Notice is hereby given of the proposed repeal of the "Nonprofit Debt Counseling Agencies" regulations, Chapter 100 (10 VAC 5-100-10 et seq.) of Title 10 of the Virginia Administrative Code;

(2) The proposed nonprofit credit counseling regulations are appended hereto and made a part of the record herein.

(3) Comments or requests for hearing on the proposed regulations or the repeal of the "Nonprofit Debt Counseling Agencies" 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 October 15, 2004. Requests for hearing shall state why a hearing is necessary and why such issues cannot be adequately addressed in written comments. All correspondence shall contain a reference to Case No. BFI-2004-00110. 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.state.va.us/scc/caseinfo.htm>.

(4) The proposed regulations shall be posted on the Commission's website at <http://www.state.va.us/scc/caseinfo.htm>.

NOTE: A copy of the Attachment entitled "Nonprofit Credit Counseling" 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-2004-00110  
NOVEMBER 8, 2004**

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

Ex Parte: In re: proposed nonprofit credit counseling regulations and repeal of "Nonprofit Debt Counseling Agencies" regulations

**ORDER ADOPTING A REGULATION**

By Order entered in this case on September 1, 2004, the State Corporation Commission ("Commission") directed that notice be given of its proposal, acting pursuant to § 6.1-363.15 of the Nonprofit Credit Counseling Act, Chapter 10.2 of Title 6.1 of the Code of Virginia ("Chapter 10.2"), to promulgate regulations that would define various terms, establish surety bond standards, and require certain reports from licensed nonprofit credit counseling agencies. The Commission also proposed that Chapter 100 (10 VAC 5-100-10 *et seq.*) of Title 10 of the Virginia Administrative Code ("Chapter 100") be repealed. Notice of the proposed regulations and repeal of Chapter 100 was published in the Virginia Register on September 20, 2004, posted on the Commission's website, and sent by the Commissioner of Financial Institutions to all nonprofit credit counseling agencies licensed under former Chapter 10.1 of Title 6.1 of the Code of Virginia ("Chapter 10.1"). Interested parties were afforded the opportunity to file written comments or request a hearing on or before October 15, 2004. No comments or requests for hearing were filed.

NOW THE COMMISSION, having considered the record, the proposed regulation, and Staff recommendations, concludes that the proposed regulations should be adopted as proposed. The Commission further concludes that Chapter 100 should be repealed, but with a delayed effective date so that Chapter 100 will continue to apply to nonprofit credit counseling agencies while they are operating under licenses issued under Chapter 10.1. Accordingly, the Commission concludes that the effective date of the repeal should coincide with the latest date by which all licenses issued under Chapter 10.1 will automatically terminate pursuant to § 6.1-363.3 C of the Code of Virginia.

THEREFORE, IT IS ORDERED THAT:

- (1) The proposed regulations, 10 VAC 5-110-10 *et seq.*, attached hereto are adopted effective November 15, 2004.
- (2) Chapter 100 (10 VAC 5-100-10 *et seq.*) of Title 10 of the Virginia Administrative Code is repealed effective June 30, 2005.
- (3) The regulations shall be posted on the Commission's website at <http://www.state.va.us/scc/caseinfo.htm>.
- (4) AN ATTESTED COPY hereof, together with a copy of the regulations, shall be sent to the Registrar of Regulations for publication in the Virginia Register.
- (5) This case is dismissed from the Commission's docket of active cases.

NOTE: A copy of Attachment A entitled "Nonprofit Credit Counseling" 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-2004-00111  
SEPTEMBER 14, 2004**

IN THE MATTER OF  
SHENANDOAH COUNTY CREDIT UNION  
Merger into  
DUPONT COMMUNITY CREDIT UNION

**ORDER APPROVING THE MERGER**

The Staff of the Bureau of Financial Institutions ("Bureau") has reported and represented to the State Corporation Commission ("Commission"):

(1) Shenandoah County Credit Union ("SCCU"), a Virginia state chartered credit union, has less than \$1.1 million in assets and approximately 530 members. The June 2004 financial statement of SCCU discloses it to be nearly insolvent with a net worth of \$14,405, which is 1.32% of total assets.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

(2) SCCU has been experiencing ongoing financial difficulties, including significant liquidity and loan underwriting problems, loan losses, undercapitalization, and members withdrawing funds from their accounts as a result of SCCU's inability to pay market dividend rates. These trends have reached a point where SCCU is no longer viable as a separate entity.

(3) An emergency exists, and it is in the best interests of the members of SCCU to have SCCU immediately merged into DuPont Community Credit Union ("DCCU"), a Virginia state chartered credit union. Although SCCU is not yet insolvent, its imminent insolvency warrants the immediate supervisory action which the Bureau seeks.

(4) In order for SCCU to be merged into DCCU under § 6.1-225.10 of the Code of Virginia, the board of directors of both corporations must approve a plan of merger. The board of directors of both credit unions have approved a plan of merger that provides, among other things, that the remaining members of SCCU will become members of DCCU.

(5) DCCU's member's accounts are insured by the National Credit Union Share Insurance Fund.

Having considered the report and the above representations of the Bureau, the Commission finds that SCCU's insolvency is imminent, an emergency exists, the board of directors of both credit unions have approved the merger, and the merger is in the best interests of the members of SCCU.

Accordingly, IT IS ORDERED THAT:

(1) The merger of SCCU into DCCU is hereby approved pursuant to § 6.1-225.10 of the Code of Virginia.

(2) Pursuant to § 6.1-225.10 of the Code of Virginia, this Order of Approval shall take the place of the usual approval of the merger by the members of both credit unions. SCCU shall promptly provide its members of record with notice of SCCU's imminent insolvency and its merger into DCCU for the purpose of affording such members an opportunity to challenge the finding that SCCU is nearly insolvent. SCCU shall also preserve and make available to its members its relevant books and records for a period of thirty (30) days after such notice is sent.

**CASE NO. BFI-2004-00124  
NOVEMBER 2, 2004**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION

v.

CAPITOL FINANCIAL SERVICES, INC. D/B/A CAPITOL HOME MORTGAGE,  
Defendant

**ORDER REVOKING A LICENSE**

ON A FORMER DAY, the Commissioner of Financial Institutions ("Commissioner") reported to the State Corporation Commission ("Commission") that Capitol Financial Services, Inc. d/b/a Capitol Home Mortgage ("Defendant") is licensed to engage in business as a mortgage lender and mortgage broker under Chapter 16 of Title 6.1 of the Code of Virginia; that the bond filed by the Defendant pursuant to § 6.1-413 of the Code of Virginia was cancelled on September 2, 2004; that the Commissioner, pursuant to delegated authority, gave written notice to the Defendant by certified mail on September 16, 2004, (1) of his intention to recommend revocation of its license unless a new bond was filed by October 16, 2004, and (2) that a written request for hearing was required to be filed in the Office of the Clerk on or before October 7, 2004; and that no new bond or written request for hearing was received or filed.

Accordingly, the Commission finds that the Defendant has failed to maintain its bond in force as required by law, and

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-2004-00125  
NOVEMBER 2, 2004**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION

v.

BANCNET, L.L.C.,  
Defendant

**ORDER REVOKING A LICENSE**

ON A FORMER DAY, the Commissioner of Financial Institutions ("Commissioner") reported to the State Corporation Commission ("Commission") that BancNet, L.L.C. ("Defendant") is licensed to engage in business as a mortgage broker under Chapter 16 of Title 6.1 of the Code of Virginia; that the bond filed by the Defendant pursuant to § 6.1-413 of the Code of Virginia was cancelled on September 21, 2004; that the Commissioner, pursuant to delegated authority, gave written notice to the Defendant by certified mail on September 23, 2004, (1) of his intention to recommend revocation of its license unless a new bond was filed by October 23, 2004, and (2) that a written request for hearing was required to be filed in the Office of the Clerk on or before October 14, 2004; and that no new bond or written request for hearing was received or filed.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Accordingly, the Commission finds that the Defendant has failed to maintain its bond in force as required by law, and  
IT IS ORDERED that the license granted to the Defendant to engage in business as a mortgage broker is hereby revoked.

**CASE NO. BFI-2004-00129  
DECEMBER 17, 2004**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
MORTGAGE SPECIALIST, INC.,  
Defendant

**ORDER REVOKING A LICENSE**

ON A FORMER DAY, the Commissioner of Financial Institutions ("Commissioner") reported to the State Corporation Commission ("Commission") that Mortgage Specialist, Inc. ("Defendant") is licensed to engage in business as a mortgage broker under Chapter 16 of Title 6.1 of the Code of Virginia; that the bond filed by the Defendant pursuant to § 6.1-413 of the Code of Virginia was cancelled on October 19, 2004; that the Commissioner, pursuant to delegated authority, gave written notice to the Defendant by certified mail on October 21, 2004, (1) of his intention to recommend revocation of its license unless a new bond was filed by November 21, 2004, and (2) that a written request for hearing was required to be filed in the Office of the Clerk on or before November 11, 2004; and that no new bond or written request for hearing was received or filed.

Accordingly, the Commission finds that the Defendant has failed to maintain its bond in force as required by law, and  
IT IS ORDERED that the license granted to the Defendant to engage in business as a mortgage broker is hereby revoked.

**CASE NO. BFI-2004-00130  
DECEMBER 17, 2004**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
POWERPLUS MORTGAGE, INC.,  
Defendant

**ORDER REVOKING A LICENSE**

ON A FORMER DAY, the Commissioner of Financial Institutions ("Commissioner") reported to the State Corporation Commission ("Commission") that PowerPlus Mortgage, Inc. ("Defendant") is licensed to engage in business as a mortgage broker under Chapter 16 of Title 6.1 of the Code of Virginia; that the bond filed by the Defendant pursuant to § 6.1-413 of the Code of Virginia was cancelled on October 20, 2004; that the Commissioner, pursuant to delegated authority, gave written notice to the Defendant by certified mail on October 21, 2004, (1) of his intention to recommend revocation of its license unless a new bond was filed by November 21, 2004, and (2) that a written request for hearing was required to be filed in the Office of the Clerk on or before November 11, 2004; and that no new bond or written request for hearing was received or filed.

Accordingly, the Commission finds that the Defendant has failed to maintain its bond in force as required by law, and  
IT IS ORDERED that the license granted to the Defendant to engage in business as a mortgage broker is hereby revoked.

**CLERK'S OFFICE****CASE NO. CLK-2004-00002  
FEBRUARY 3, 2004**

IN THE MATTER OF THE RECALL OF RETIRED COMMISSIONER  
HULLIHEN WILLIAMS MOORE FOR COMMISSION DUTIES

WHEREAS, Chapter 832 of the Acts of 1990 (Code § 12.1-11.1) contains the following provisions:

A. The Commission may call upon and authorize any member who is retired under the Judicial Retirement System (§ 51.1-300 et seq.) to perform, for a period not to exceed ninety days at any one time, such duties for the Commission that the Commission deems in the public interest for the expeditious disposition of its business.

B. It shall be the obligation of any retired member who is recalled to temporary service under this section and who has not attained age seventy to accept the recall and perform the duties assigned. It shall be within the discretion of any member who has attained age seventy to accept such recall.

C. Any member recalled to duty under this Section shall have all the powers, duties, and privileges attendant on the position he is recalled to serve.

AND WHEREAS, Chapter 832 of the Acts of 1990 (Code § 14.1-39.1) contains the following provisions:

Any justice, judge, member of the State Corporation Commission, or member of the Industrial Commission who is retired under the Judicial Retirement System (§ 51.1-300 et seq.) and who is temporarily recalled to service shall be reimbursed for actual expenses incurred during such service and shall be paid a per diem of \$150 for each day he actually sits, exclusive of travel time.

AND WHEREAS, the Commission deems it in the public interest for the expeditious disposition of its business that the Commission, from time to time, call upon retired Commissioner Hullihen Williams Moore to perform for periods not to exceed ninety days at any one time such duties as may be in the public interest, it is

ORDERED:

1. The Commission shall call upon retired Commissioner Hullihen Williams Moore to perform said duties from time to time.
2. The Comptroller of the Commission shall certify to the State Comptroller the amount of reimbursement to which retired Commissioner Moore is entitled.
3. This order shall be recorded in the Judicial Order Book, and an attested copy thereof shall be delivered to retired Commissioner Moore, to the Comptroller of the Commission, and to the Commission's Director of Human Resources.

**CASE NO. CLK-2004-00005  
JUNE 1, 2004**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION

Ex Parte: In re: MDC, LLC

**ORDER VACATING A CERTIFICATE**

On April 20, 2004, the State Corporation Commission ("Commission") issued a certificate of amendment effectuating certain amendments to the articles of organization of MDC, LLC, a Virginia limited liability company, based upon articles of amendment filed with the Clerk of the Commission by counsel for MDC Three, LLC, another Virginia limited liability company. Thereafter, counsel for MDC Three, LLC filed a petition with the Clerk stating that the aforesaid articles of amendment were intended to effectuate amendments to the articles of organization of MDC Three, LLC rather than MDC, LLC, and seeking vacation of the aforesaid certificate of amendment. Upon consideration of the petition and papers filed herein,

IT IS ORDERED THAT:

- (1) The April 20, 2004, certificate of amendment is vacated effective on that date.
- (2) The amendments to the articles of organization of MDC, LLC which were made effective by said certificate of amendment are nullified.

(3) The Clerk of the Commission shall make such entries in the records in his office as may be necessary to reflect the relief afforded in this Order.

(4) This case is dismissed, and the papers herein shall be filed among the ended causes.

**CASE NO. CLK-2004-00006  
JUNE 1, 2004**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION

Ex Parte: In re: OWENS & MINOR, INC.

**CORRECTING ORDER**

On April 30, 2004, Owens & Minor, Inc. ("Company"), a Virginia corporation, filed articles of amendment and restatement pursuant to § 13.1-711 of the Code of Virginia in the office of the Clerk of the State Corporation Commission ("Commission"). All of the letters in the name of the Company in the articles appeared in uppercase as the result of a typographical error. On the same date, after finding the articles complied with the requirements of law, the Commission issued a certificate of amendment reflecting a change in the Company's name.

Thereafter, counsel for the Company notified the Clerk in writing that no change had been effected in the Company's name and that the appearance of the Company's name in the filed articles was the result of a typographical error. The notification was accompanied by a one page document showing the Company's name typed properly, which counsel for the Company asked be substituted in the Commission's records for that part of the filed articles containing the typographical error. Upon consideration whereof, in order to avoid public confusion about the Company's true name and preserve the accuracy of the Commission's records relating to the Company,

IT IS ORDERED THAT:

- (1) The aforesaid April 30, 2004 certificate of amendment is vacated.
- (2) A revised certificate of amendment shall be issued effective April 30, 2004, showing the Company's correct name.
- (3) The Clerk of the Commission shall substitute the one page document that accompanied the notice from the Company's counsel for the page of the filed articles of amendment and restatement containing the typographical error.
- (4) The Clerk of the Commission shall make such entries in the records in his office as may be necessary to reflect the relief afforded in this Order.
- (5) This case is dismissed and the papers herein shall be filed among the ended causes.

**CASE NO. CLK-2004-00008  
JULY 15, 2004**

PETITION OF  
WOLF GATE CLOTHIERS, LLC

For retroactive issuance of a certificate

**ORDER ISSUING A CERTIFICATE**

ON A FORMER DAY, the Staff reported to the State Corporation Commission ("Commission") that on July 28, 2003, articles of organization of a Virginia limited liability company to be named Wolf Gate Clothiers, LLC, were delivered to the Clerk's Office for filing pursuant to § 13.1-1010 of the Code of Virginia, together with an application to reserve that name under § 13.1-1013 of the Code of Virginia and required fees. Due to a systemic error in the Clerk's Office the name reservation was accepted but the articles of organization were erroneously rejected and returned. The de facto limited liability company and its sole member, by counsel, filed a letter and petition in the Clerk's Office on June 1, 2004, stating that due to fortuitous circumstances they supposed the limited liability company had been properly organized and had governed their affairs accordingly. The petition alleged in addition that the de facto limited liability company and its sole member would be prejudiced greatly if the erroneous rejection of the articles of organization was not corrected. Upon consideration of the Petition and papers filed herein,

IT IS ORDERED THAT:

- (1) A certificate of organization for Wolf Gate Clothiers, LLC, is hereby issued retroactive to July 28, 2003, pursuant to § 13.1-1004 of the Code of Virginia.
- (2) The Clerk of the Commission shall make such entries in the records in his office as may be necessary to reflect the relief afforded in this Order.
- (3) This case is dismissed, and the papers herein shall be filed among the ended causes.



**CASE NO. CLK-2004-00009  
SEPTEMBER 13, 2004**

OLIN CORPORATION,  
Petitioner,  
v.  
JIMMIE (JIMMY) W. JOINER A/K/A EDWARD P. NEMETH  
Defendant

**FINAL ORDER**

On June 11, 2004, Olin Corporation ("Olin"), by counsel, filed a Petition with the State Corporation Commission ("Commission") requesting, among other things, that Articles of Amendment purportedly executed on behalf of Olin by "Jimmie (Jimmy) W. Joiner, President/CEO/D" ("Joiner") be revoked and declared void *ab initio* by order of the Commission. The Petition states that Joiner is not now nor has he ever been an officer of Olin or otherwise authorized to execute on behalf of Olin any filings with the Commission. The Petition includes an Affidavit of George H. Pain, Olin's Vice President, General Counsel and Secretary, which attests to Joiner's lack of authority to execute the filing, and also states that Joiner's filing contains a number of false statements including those contained in paragraph numbers 1, 2, 3 and the statement that the "amendments" were adopted on April 20, 2004 by unanimous consent of shareholders.

On June 25, 2004, the Commission entered a Preliminary Order docketing the Petition and directing Joiner to file an Answer. The Commission also directed the Office of the Clerk of the Commission ("Clerk") to respond to the Petition and address, in particular, the specific requests for relief therein.

On July 12, 2004, the Clerk filed a response to the Petition in which it stated, among other things, that its compliance with the requested relief in the Petition would unduly burden the staff of the Clerk by requiring the staff to inspect every corporate and UCC filing received by it to ascertain whether it relates to the Petitioner. The Clerk further stated that the duty of the Commission with regard to the filing of business entity and UCC filings, which is performed by the Clerk, is purely ministerial. The Clerk, however, did not dispute Olin's position on Joiner's lack of authority to execute the filings on Olin's behalf.

On July 14, 2004, Joiner filed an Answer to the Petition. In his Answer, Joiner asserts that he is the equitable owner of Olin's stock because he has a lien against the Petitioner for his false imprisonment in the amount of \$6,750,000,000.00, and has thereby acquired Olin's stock by foreclosure.

On August 4, 2004, Olin filed a Motion for Summary Judgment ("Motion") in which it argues that it is entitled to summary judgment because the pleadings now before the Commission clearly demonstrate that Joiner does not now have, nor has he ever had, the authority to execute filings on Olin's behalf. Because no "genuine dispute" as to this "material fact" remains, Olin contends that it is entitled to summary judgment and the Amended Articles of Incorporation purportedly filed by Joiner should be declared void *ab initio*. Olin asserts that Joiner is not entitled to an equitable lien against Olin's property in any amount because he has not provided evidence of either a valid contract between Olin and himself or a court of equity award of a lien in any amount, as required by law. Olin argues that given this absence of any evidence to support Joiner's claim, there is no "legitimate question of material fact" as to Joiner's lack of authority to execute the filing. Olin requests that the Commission grant summary judgment in its favor and find that the filing was false and unauthorized and enter an appropriate order revoking and voiding *ab initio* the Certificate of Amendment issued with respect to the filing. In addition, Olin requests the Commission to issue an appropriate order declaring void *ab initio* any Certificate of Amendment or other certificate that may be issued by the Clerk's Office in the future with respect to any future corporate filings made or executed by Joiner in the name of or purporting to be on behalf of Olin.

On August 16, 2004, the Clerk filed a Response to Olin's Motion for Summary Judgment stating that it believes Olin is entitled to summary judgment since Joiner lacked authority to file the Articles of Amendment on behalf of Olin. The Clerk also states that, with regard to Olin's request that all future filings by Joiner purporting to be on behalf of Olin be declared void *ab initio*, it is not feasible for it to police all future filings made in his office, but suggests that it be directed to remove from his office all entries and documents related to such filings upon written request by Olin, accompanied by evidence deemed acceptable to the Clerk that Joiner caused such filing to be made without authority.

On September 1, 2004, Joiner filed a Reply to Olin's Motion.<sup>1</sup> In his Reply, Joiner states that there is indeed a factual dispute between the parties since Joiner claims that he does have the right to make certain filings on behalf of Olin, and Olin claims he does not. Joiner further contends that this factual matter is for a court of law, and the Commission has no jurisdiction over the matters presented in Olin's Petition. In support of his position, Joiner cites specific sections of the Uniform Commercial Code which ostensibly give him lawful authority to acquire the stock of Olin. Joiner contends that the federal courts have exclusive jurisdiction over this dispute, and therefore the Commission should withdraw from any further consideration of this matter.

NOW THE COMMISSION, having considered Olin's Petition and Motion for Summary Judgment, Joiner's and the Clerk's responses thereto, and all applicable law, finds that Olin's Motion for Summary Judgment should be granted.

Joiner has failed to present any evidence of ownership of Olin's stock or of his status as an officer of Olin, and therefore lacks authority to execute any filings with the Commission on Olin's behalf. We will declare void *ab initio* the Articles of Amendment filed by Joiner.

Indeed, the Commission has authority to grant the relief requested in this case. Article IX, §§ 2 and 5 of the Constitution of Virginia generally vest the Commission with the responsibility of administering the laws adopted for the regulation and control of corporations doing business in the Commonwealth. In order to meet its responsibilities, the General Assembly granted the Commission the following powers:

In the administration and enforcement of all laws within its jurisdiction, the Commission shall have the power to promulgate rules and regulations, to impose and collect such fines or other penalties as are provided by law, to enter appropriate orders, and to issue temporary and permanent injunctions. The Commission is empowered to suspend or revoke any Commission-issued license, certificate, registration,

<sup>1</sup> Rule 110 of the Commission's Rules of Practice and Procedure required Joiner's Reply to be filed on or before August 24, 2004.

permit, or any other Commission-issued authority of any person who fails to satisfy any fine or penalty imposed by an order of the Commission.<sup>2</sup>

In addition, the General Assembly, by statute, has established several subordinate employees of the Commission including the Clerk of the Commission.<sup>3</sup> Among the duties enumerated, the Clerk of the Commission shall:

Subject to the supervision and control of the Commission, have custody of and preserve all of the records, documents, papers, and files of the Commission, or which may be filed before it in any complaint, proceeding, contest, or controversy, and such records, documents, papers, and files shall be open to public examination in the office of the clerk to the same extent as the records and files of the courts of this Commonwealth.<sup>4</sup>

While the Commission is not required by rule or statute to investigate the accuracy of Articles of Amendment filed in its Clerk's office, in this situation, where inaccurate information has been proven and where the general public has or is likely to be misled by the inaccurate information, the Commission possesses the general power to order the expungement of erroneous records from its Clerk's office.<sup>5</sup>

We will also direct the Clerk's office to remove from the records in his Office all entries and documents related to Joiner's filings pertaining to Olin upon written request by Olin that such entries and documents be so removed, accompanied by evidence deemed acceptable by the Clerk that Joiner caused such filing to be made without authority.

Accordingly, IT IS ORDERED THAT:

(1) Olin's Motion for Summary Judgment is hereby granted.

(2) The Articles of Amendment filed by Joiner and the Certificate of Amendment issued by the Commission on May 6, 2004, are hereby declared void *ab initio*.

(3) The Clerk's Office shall immediately expunge from its records the Articles of Amendment filed by Joiner and the Certificate of Amendment issued by the Commission on May 6, 2004.

(4) In the future, the Clerk shall remove from the records in his Office all entries and documents related to Joiner's filings pertaining to Olin upon written request by Olin that such entries and documents be so removed, accompanied by evidence deemed acceptable by the Clerk that Joiner caused such filing to be made without authority.

(5) This case is dismissed from the Commission's docket of active cases.

<sup>2</sup> Va. Code § 12.1-13.

<sup>3</sup> Va. Code § 12.1-18.

<sup>4</sup> Va. Code § 12.1-19(2).

<sup>5</sup> See *National Memorial to the Progress of the Colored Race in America v. Howard W. Smith et al.*, Case No. CLK-1998-00399, 1999 SCC Ann. Rpt. 41 (July 16, 1999).

**CASE NO. CLK-2004-00011  
DECEMBER 20, 2004**

GLEN WILLIAMS, BRENDA DAMERON, THOMAS L. ECKERT, JEFFREY SCOTT HAMILTON, JOHN CORCORAN, MONICA DILLON, JOHN THADIEU HARRIS, III, ELIZABETH STOKES, JOHN BROWNLEE, MARK PETROVICH, PATRICIA CONNER, ROBERT BRUCE KING, KAREN WILLIAMS, CLYDE HAMILTON, JERRY JONES, TROY MILLER, DAVID HAAS,  
Petitioners,  
v.  
LORENZO GRODE MARTIN  
and  
REGINALD ANTHONY FALICE,  
Defendants

**FINAL ORDER**

On September 9, 2004, the above-named Petitioners,<sup>1</sup> by counsel, the United States Attorney for the Western District of Virginia, filed a Petition with the State Corporation Commission ("Commission") requesting, among other things, that the Commission find that four Uniform Commercial Code ("UCC") financing statements filed by Lorenzo Grode Martin ("Martin") and Reginald Anthony Falice ("Falice") (collectively, the "Defendants") with the Clerk of the Commission are false and unauthorized and should be declared void *ab initio*.

According to the Petition, the Defendants are federal prisoners at the United States Penitentiary in Lee County, Virginia. Petitioners assert that the UCC financing statements are false and bogus, and two of them were filed after Senior U.S. District Judge Glen Williams entered a preliminary

<sup>1</sup> Each of the Petitioners is either a judge, attorney, guardian ad litem, clerk, deputy clerk, court reporter, or current or former Bureau of Prisons employee.

injunction in the United States District Court for the Western District of Virginia on January 6, 2004, barring the Defendants from filing any lien or financing statement with the Commission without prior approval of the Court.

On September 16, 2004, the Commission entered a Preliminary Order docketing the Petition and providing the Defendants an opportunity to file an Answer. The Commission also directed the Office of the Clerk of the Commission ("Clerk") to respond to the Petition and address, in particular, the specific requests for relief therein.

On October 4, 2004, the Clerk filed a response to the Petition in which it stated that, among other things, notwithstanding the validity of the characterizations made in the Petition, the financing statements accepted for filing by the Clerk complied with the requirements of law, and the requisite fees were paid. In addition, the Clerk argues that the relief sought would unduly burden the staff of the Clerk and impede the Clerk's workflow by requiring the staff to inspect every document received for filing by the Clerk for the additional purpose of ascertaining whether any portion of it names or refers to one or both of the Defendants. Finally, the Clerk states that the duty of the Commission with regard to the filing of UCC, business entity, and federal tax lien documents, which is performed by the Clerk, is purely ministerial. Therefore, if a document that has been submitted to the Commission for filing complies with the requirements of law and is accompanied by payment of the required fee, the Clerk must file the document. Accordingly, the Clerk states that the Petitioners' requests for relief should be denied.

On October 26, 2004, Falice filed a letter with the Clerk stating that he agreed with the Clerk's Response to the Petition, "except for encouragement to terminate (A) good-faith filing, whereas breach of contract permits filing of UCC1 financing statement." (emphasis in original).

On October 29, 2004, Falice filed a Response. Therein, Falice states that "[e]ntities via their [n]atural, [real] sentient existence, calling themselves 'Petitioners' are government agents who by several expressed/and, or/implied consensual contracts have consented to be sued (i.e. lien-ed) for breach of fiduciary duty (ies)."<sup>2</sup> Falice concludes by requesting that the Petition should be "forever stricken from docket, for submit-tal lacking in good faith and substance necessary to form valid 'commercial transaction.'" (emphasis added). Martin did not file a response to the Petition.

On November 15, 2004, the Petitioners filed a Motion for Summary Judgment ("Motion") in which they state that the Defendants are both serving life sentences in custody of the Federal Bureau of Prisons, and none of the Petitioners has ever been indebted to Falice or Martin in any way for any debt for any amount. Accordingly, there is no genuine issue of material fact that would bar summary judgment in favor of the Petitioners. According to the Motion, on January 6, 2004, Senior U.S. District Judge Glen Williams entered a preliminary injunction barring Falice and Martin "without prior approval of this court, from preparing, filing, or aiding and assisting any other person or persons to prepare or file any financing statement or any other type of lien with the Virginia State Corporation Commission or any other public agency." After entry of the injunction, and without prior approval of the Court, Falice filed additional UCC financing statements with the Commission. The Petitioners argue that the Defendants have provided absolutely no rational basis in fact or law for their financing statements which are the subjects of the Petition. Petitioners argue that to not grant the relief sought by the Petitioners with regard to these bogus and fraudulent financing statements would not only corrupt the public records of the Commission resulting in lack of public confidence in the accuracy of those records, it would, more importantly, result in a serious, unjust and completely fraudulent blight on the credit ratings of the innocent Petitioners. The Petitioners accordingly request that the Commission grant their Motion and provide the relief requested in the Petition. No party filed a response to the Motion.

NOW THE COMMISSION, having considered the Petition and the Motion, Falice's and the Clerk's responses to the Petition, and all applicable law, finds that the Petitioners' Motion for Summary Judgment should be granted and that the relief requested in the Petition should be granted, except as modified herein.

The Defendants have failed to present any evidence or colorable argument supporting the validity of the four UCC financing statements they filed against the Petitioners. There is simply no indication that the Petitioners were ever indebted to the Defendants for any reason at any time. We will accordingly declare void *ab initio* the UCC financing statements that are the subject of the Petition and will direct their expungement from the records of the Clerk.

We will also direct the Clerk's office to remove from the records in his Office all entries and documents related to the Defendants' filings pertaining to and of the Petitioners upon written request by the United States that such entries and documents be so removed, accompanied by evidence deemed acceptable by the Clerk that Falice or Martin caused such filing to be made in violation of the injunction entered by Judge Williams in the United States District Court for the Western District of Virginia or were otherwise filed without foundation in fact or law.

Accordingly, IT IS ORDERED THAT:

- (1) Petitioners' Motion for summary judgment is hereby granted.
- (2) The UCC financing statements numbered 031008 7278-7, 031008 7277-5, 040211 7203-2, and 040719 7479-1 that were filed or caused to be filed by the Defendants are hereby declared void *ab initio*.
- (3) The Clerk's Office shall immediately expunge from its records the UCC financing statements numbered 031008 7278-7, 031008 7277-5, 040211 7203-2, and 040719 7479-1 that were filed or caused to be filed by the Defendants.
- (4) In the future, the Clerk shall remove from the records in his Office all entries and documents related to the Defendants' filings pertaining to and of the Petitioners upon written request by the United States that such entries and documents be so removed, accompanied by evidence deemed acceptable by the Clerk that Falice or Martin caused such filing to be made in violation of the injunction entered by Judge Williams in the United States District Court for the Western District of Virginia or such entries and documents were otherwise filed without authority in fact or law.
- (5) This case is dismissed from the Commission's docket of active cases.

<sup>2</sup> Falice does not provide any evidence to support his assertions regarding the existence of expressed or implied consensual contracts.

**BUREAU OF INSURANCE**

**CASE NO. INS-1986-00147  
APRIL 6, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

THE PROTECTIVE NATIONAL INSURANCE COMPANY OF OMAHA,  
Defendant

**ORDER TO TAKE NOTICE**

Pursuant to § 38.2-1040 of the Code of Virginia, the Commission may suspend or 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 is insolvent, or is in a condition that any further transaction of business in this Commonwealth is hazardous to its policyholders, creditors, and public in this Commonwealth.

The Protective National Insurance Company of Omaha, a foreign corporation domiciled in the State of Nebraska ("Defendant"), originally was licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia on June 14, 1982.

By order entered herein September 15, 1986, Defendant's license to transact the business of insurance in the Commonwealth of Virginia was suspended due to financial regulatory concerns.

On February 12, 2004, by an Order of Liquidation, Declaration of Insolvency and Injunction, the District Court of Lancaster County, Nebraska found Defendant to be insolvent and appointed L. Tim Wagner, Nebraska Director of Insurance, as Liquidator of Defendant, authorizing the Liquidator to do all acts necessary or appropriate to accomplish the liquidation of Defendant.

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

IT IS THEREFORE ORDERED that Defendant TAKE NOTICE that the Commission shall enter an order subsequent to April 20, 2004, revoking the license of Defendant to transact the business of insurance in the Commonwealth of Virginia unless on or before April 20, 2004, Defendant files with the Clerk of the Commission, 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 Defendant's license.

**CASE NO. INS-1986-00147  
APRIL 23, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

THE PROTECTIVE NATIONAL INSURANCE COMPANY OF OMAHA,  
Defendant

**ORDER REVOKING LICENSE**

In an order entered herein April 6, 2004, Defendant was ordered to take notice that the Commission would enter an order subsequent to April 20, 2004, revoking the license of Defendant to transact the business of insurance in the Commonwealth of Virginia unless on or before April 20, 2004, Defendant filed with the Clerk of the Commission a request for a hearing before the Commission to contest the proposed revocation of Defendant's license.

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

THEREFORE, IT IS ORDERED THAT:

(1) Pursuant to § 38.2-1040 of the Code of Virginia, the license of Defendant to transact the business of insurance in the Commonwealth of Virginia be, and it is hereby, REVOKED;

(2) Defendant shall issue no new contracts or policies of insurance in the Commonwealth of Virginia;

(3) The appointments of Defendant's agents to act on behalf of Defendant in the Commonwealth of Virginia be, and they are hereby, REVOKED;

(4) The Bureau of Insurance shall cause an attested copy of this Order to be sent to each of Defendant's agents appointed to act on behalf of Defendant in the Commonwealth of Virginia as notice of the revocation of such agent's appointment; and

(5) The Bureau of Insurance shall cause notice of the revocation of Defendant's license to be published in the manner set forth in § 38.2-1043 of the Code of Virginia.

**CASE NO. INS-1988-00540  
MAY 26, 2004**

COMMONWEALTH OF VIRGINIA

At the relation of the  
STATE CORPORATION COMMISSION

v.

IMPERIAL CASUALTY AND INDEMNITY COMPANY,  
Defendant

**FINAL ORDER**

Imperial Casualty and Indemnity Company, a foreign corporation originally domiciled in the State of Nebraska ("Defendant"), initially was licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia on October 6, 1961.

Section 38.2-1040 of the Code of Virginia provides, *inter alia*, that the Commission may suspend or 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 is insolvent or is in a condition that any further transaction of business in this Commonwealth is hazardous to its policyholders, creditors, and public in this Commonwealth.

By Order Suspending License entered herein January 31, 1989, Defendant's license to transact the business of insurance in the Commonwealth of Virginia was suspended due to the Nebraska Department of Insurance, Defendant's domiciliary regulator, having determined that Defendant was insolvent and its continuing to transact the business of insurance was hazardous to the public or its policyholders. The Nebraska Department's order, dated August 16, 1988, also directed Defendant to cease and desist from the writing and renewal of insurance business.

In December 2003, Defendant was acquired by Providence Property & Casualty Insurance Company, an Oklahoma-domiciled insurer, and redomesticated from Nebraska to Oklahoma; therefore, the Nebraska Department is no longer supervising Defendant, and the Nebraska Department's order upon which the Commission based its Order Suspending License is no longer valid.

In addition, the 2003 Annual Statement of Defendant dated as of December 31, 2003, and filed with the Bureau of Insurance reports capital of \$2,000,000 and surplus of \$8,352,674, rendering Defendant in compliance with Virginia's minimum capital and surplus requirements of \$1,000,000 and \$3,000,000 respectively, as set forth in § 38.2-1028 of the Code of Virginia.

The Bureau of Insurance has recommended that the Order Suspending License entered by the Commission be vacated, Defendant's license be restored, and this case be closed.

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.

THEREFORE, IT IS ORDERED THAT:

- (1) The Order Suspending License entered by the Commission should be, and it is hereby, VACATED;
- (2) Defendant's license to transact the business of insurance in the Commonwealth of Virginia should be, and it is hereby, RESTORED;
- (3) This case be, and it is hereby, DISMISSED; and
- (4) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2000-00068  
OCTOBER 29, 2004**

COMMONWEALTH OF VIRGINIA

At the relation of the  
STATE CORPORATION COMMISSION

v.

RISCORP NATIONAL INSURANCE COMPANY,  
Defendant

**ORDER TO TAKE NOTICE**

Pursuant to § 38.2-1040 of the Code of Virginia (the "Code"), the Commission may suspend or 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 violated any law of this Commonwealth.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Riscorp National Insurance Company ("Riscorp"), a Missouri-domiciled insurance company, initially was licensed in the Commonwealth of Virginia on October 8, 1969.

On February 29, 2000, Riscorp's Virginia Certificate of Authority was revoked for failure to pay its annual registration fee.

By Order entered herein on August 1, 2000, the Commission suspended Riscorp's license to transact the business of insurance in the Commonwealth of Virginia due to Riscorp's failure to cure an impairment in its surplus.

As of the date of this Order, Riscorp has not filed its 2003 annual statement or its 2004 quarterly statements, which are required pursuant to § 38.2-1300 and § 38.2-1301 of the Code of Virginia.

As of the date of this Order, Defendant has failed to respond to the Bureau of Insurance.

IT IS THEREFORE ORDERED THAT Defendant TAKE NOTICE that the Commission shall enter an order subsequent to November 12, 2004, revoking the license of Defendant to transact the business of insurance in the Commonwealth of Virginia unless on or before November 12, 2004, Defendant files with the Clerk of the Commission, 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 Defendant's license.

**CASE NO. INS-2000-00068  
NOVEMBER 16, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.  
RISCORP NATIONAL INSURANCE COMPANY,  
Defendant

**ORDER REVOKING LICENSE**

In an order entered herein October 29, 2004, Defendant was ordered to take notice that the Commission would enter an order subsequent to November 12, 2004, revoking the license of Defendant to transact the business of insurance in the Commonwealth of Virginia unless on or before November 12, 2004, Defendant filed with the Clerk of the Commission a request for a hearing before the Commission to contest the proposed revocation of Defendant's license.

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

IT IS THEREFORE ORDERED THAT:

(1) Pursuant to § 38.2-1040 of the Code of Virginia, the license of Defendant to transact the business of insurance in the Commonwealth of Virginia be, and it is hereby, REVOKED;

(2) Defendant shall issue no new contracts or policies of insurance in the Commonwealth of Virginia;

(3) The appointments of Defendant's agents to act on behalf of Defendant in the Commonwealth of Virginia be, and they are hereby, REVOKED;

(4) The Bureau of Insurance shall cause an attested copy of this Order to be sent to each of Defendant's agents appointed to act on behalf of Defendant in the Commonwealth of Virginia as notice of the revocation of such agent's appointment; and

(5) The Bureau of Insurance shall cause notice of the revocation of Defendant's license to be published in the manner set forth in § 38.2-1043 of the Code of Virginia.

**CASE NO. INS-2002-00022  
MARCH 31, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.  
NEWARK INSURANCE COMPANY,  
Defendant

**FINAL ORDER**

Newark Insurance Company, a foreign corporation domiciled in the State of New Jersey ("Defendant"), initially was licensed to transact the business of insurance in the Commonwealth of Virginia on April 5, 1912.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

By order entered herein February 25, 2002, Defendant's license to transact the business of insurance in the Commonwealth of Virginia was suspended.

By letter request of Mildred H. Brown of Defendant's Regulatory Compliance Department, dated March 17, 2004, and filed with the Commission on March 29, 2004, the Commission was advised that Defendant is not writing any business, has no in force policies, and has no policyholders in the Commonwealth of Virginia; therefore, Defendant wishes to withdraw its license to transact the business of insurance in the Commonwealth of Virginia.

The withdrawal of Defendant's license has been processed by the Bureau of Insurance, effective March 25, 2004.

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

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.

THEREFORE, IT IS ORDERED THAT:

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

**CASE NO. INS-2002-01309  
MARCH 26, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
BEE FREE BAIL BONDS, LLC,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, violated §§ 38.2-1812.2, 38.2-1813, and 38.2-1822 of the Code of Virginia by failing to obtain a signed consent form from an applicant or policyholder who has been charged a fee in addition to the premium, by failing to hold all premiums, return premiums, or other funds received by Defendant in a fiduciary capacity, by failing to maintain an accurate record and itemization of funds deposited into a separate fiduciary account, 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 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 of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been notified of its right to a hearing before the Commission in this matter by certified letters dated January 23, 2004, and February 18, 2004, respectively, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

Defendant, having been advised in the aforesaid 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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 Defendant has violated §§ 38.2-1812.2, 38.2-1813, and 38.2-1822 of the Code of Virginia by failing to obtain a signed consent form from an applicant or policyholder who has been charged a fee in addition to the premium, by failing to hold all premiums, return premiums, or other funds received by Defendant in a fiduciary capacity, by failing to maintain an accurate record and itemization of funds deposited into a separate fiduciary account, 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 acting as an agent of an insurer without first obtaining a license in the manner and form prescribed by the Commission.

THEREFORE, IT IS ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;

- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2002-01318  
JUNE 1, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of Adopting Rules Governing Claims-Made Liability Insurance Policies

**ORDER ADOPTING RULES**

By order entered herein January 6, 2003, all interested persons were ordered to take notice that the Commission would consider the entry of an order subsequent to February 27, 2003, adopting rules proposed by the Bureau of Insurance entitled Rules Governing Claims-Made Liability Insurance Policies, to be designated as Chapter 335 of Title 14 of the Virginia Administrative Code, unless on or before February 27, 2003, any person objecting to the adoption of the proposed rules filed a request for a hearing with the Clerk of the Commission.

The Order to Take Notice also required all interested persons to file their comments in support of or in opposition to the proposed rules on or before February 27, 2003.

The National Association of Professional Surplus Lines Offices, Ltd., filed comments with the Clerk on February 19, 2003. The National Association of Independent Insurers and the American Insurance Association filed comments and requests for a hearing with the Clerk on February 27, 2003; however, both associations subsequently withdrew their hearing requests. The law firm of Wilson, Elser, Moskowitz, Edelman & Dicker LLP filed comments with the Clerk on March 3, 2003. Chubb & Son filed comments with the Clerk on March 4, 2003.

The filed comments were extensive and, when viewed as a whole, recommended comprehensive revisions to the proposed rules. Among the primary objections raised by the interested persons were the following: (i) insurers must offer an unlimited extension of time to report claims (ii) insurers may not charge more than 200% of the expiring policy's premium for the extended reporting period unless filed in accordance with the delayed effect provisions set forth in § 38.2-1912 of the Code of Virginia (iii) for most claims-made liability insurance policies, insurers must offer an extended reporting period that includes unimpaired limits of liability equal to the limits of the policy being extended; and (iv) the offer of an extended reporting period by an insurer providing excess or umbrella liability coverage may not be contingent upon the continuation of the underlying policy or the purchase of an extended reporting period for the underlying policy. The overall concern expressed by a majority of the interested persons was that such requirements would adversely affect the affordability and availability of claims-made liability insurance policies delivered or issued for delivery in Virginia.

The Bureau reviewed the filed comments and, in response, made the following revisions to the proposed rules: (i) insurers must offer an unlimited extension of time to report claims for medical professional liability insurance policies only; for all other claims-made liability insurance policies, a two-year extended reporting period must be offered (ii) insurers may charge more than 200% of the expiring policy's premium for the extended reporting period without being subject to § 38.2-1912; and (iii) insurers are not required to offer an extended reporting period on excess or umbrella liability policies if the underlying policy is not continued or the extended reporting period on the underlying policy is not purchased.

In addition to the revisions made in response to the filed comments, the Bureau also made the following substantive revisions to the proposed rules: (i) insurers must provide a notice advising insureds that claims-made coverage has been purchased and that there are certain circumstances when an extended reporting period must be offered; and (ii) to the extent that policy limits apply separately to each named insured, each named insured is separately entitled to purchase an extended reporting period.

Furthermore, as set forth in its Statement of Position filed with the Clerk on June 1, 2004, the Bureau recommends that the provision requiring insurers to offer unimpaired limits of liability should remain in the rules. The Bureau also provides an explanation for why it recommends that the proposed rules be revised to require the offer of an unlimited extended reporting period for medical professional liability insurance policies and the offer of a two-year extended reporting period for all other claims-made liability insurance policies.

THE COMMISSION, having considered the proposed rules, the filed comments, and the Bureau's response and recommendations, is of the opinion that the attached rules, which reflect the Bureau's recommendations, should be adopted.

THEREFORE, IT IS ORDERED THAT:

(1) The Rules Governing Claims-Made Liability Insurance Policies, which are attached hereto and made a part hereof, should be, and they are hereby, ADOPTED to be effective January 1, 2005;

(2) AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Mary M. Bannister, who forthwith shall give further notice of the adoption of the rules by mailing a copy of this Order, together with a copy of the rules, to



all insurers licensed by the Commission to write liability insurance, other than automobile liability insurance, in the Commonwealth of Virginia, 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, including a copy of the attached rules, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations and shall make this Order and the attached rules available on the Commission's website, <http://www.state.va.us/sec/caseinfo.htm>.

(4) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (2) above.

NOTE: A copy of Attachment A entitled "Rules Governing Claims-Made Liability Insurance Policies" 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-2003-00010  
FEBRUARY 19, 2004**

COMMONWEALTH OF VIRGINIA

At the relation of the  
STATE CORPORATION COMMISSION

v.

ACCEPTANCE INSURANCE COMPANY,  
Defendant

**FINAL ORDER**

Acceptance Insurance Company, a foreign corporation domiciled in the State of Nebraska ("Defendant"), initially was licensed to transact the business of insurance in the Commonwealth of Virginia on September 15, 1992.

By order entered herein February 14, 2003, Defendant's license to transact the business of insurance in the Commonwealth of Virginia was suspended.

By letter and affidavit of Defendant's President dated February 6, 2004, and filed with the Commission on February 18, 2004, the Commission was advised that Defendant wishes to withdraw its license to transact the business of insurance in the Commonwealth of Virginia.

The withdrawal of Defendant's license has been processed by the Bureau of Insurance, effective February 18, 2004.

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.

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.

THEREFORE, IT IS ORDERED THAT:

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

**CASE NO. INS-2003-00045  
APRIL 6, 2004**

COMMONWEALTH OF VIRGINIA

At the relation of the  
STATE CORPORATION COMMISSION

v.

MONITOR LIFE INSURANCE COMPANY OF NEW YORK,  
Defendant

**FINAL ORDER**

Monitor Life Insurance Company of New York, a foreign corporation domiciled in the State of New York ("Defendant"), initially was licensed to transact the business of insurance in the Commonwealth of Virginia on October 21, 1986.

Section 38.2-1028 of the Code of Virginia requires that insurers licensed to transact the business of insurance in the Commonwealth of Virginia are required to maintain minimum capital of \$1,000,000 and minimum surplus of \$3,000,000.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

By Order entered herein June 19, 2003, Defendant's license to transact the business of insurance in the Commonwealth of Virginia was suspended based on Defendant's voluntary consent to such suspension due to Defendant's failure to comply with such minimum surplus requirement.

The 2003 Annual Statement of Defendant dated as of December 31, 2003, and filed with the Bureau of Insurance (the "Bureau") reflects that Defendant is in compliance with Virginia's minimum capital and surplus requirements as set forth in § 38.2-1028.

In addition, Defendant has submitted to the Bureau a statutory balance sheet dated as of February 29, 2004, which also reflects that Defendant is in compliance with such minimum capital and surplus requirements.

The Bureau has recommended that the Order Suspending License entered by the Commission be vacated, Defendant's license be restored, and this case be closed.

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.

THEREFORE, IT IS ORDERED THAT:

- (1) The Order Suspending License entered by the Commission should be, and it is hereby, VACATED;
- (2) Defendant's license to transact the business of insurance in the Commonwealth of Virginia should be, and it is hereby, RESTORED;
- (3) This case be, and it is hereby, DISMISSED; and
- (4) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2003-00114  
FEBRUARY 11, 2004**

COMMONWEALTH OF VIRGINIA  
 At the relation of the  
 STATE CORPORATION COMMISSION  
 v.  
 CONNECTICUT GENERAL LIFE INSURANCE COMPANY  
 Defendant

**SETTLEMENT ORDER**

Based on an investigation and subsequent allegations by the Bureau of Insurance, it appears that Defendant, duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-510 A, 38.2-3405 B, and 38.2-3407.1 of the Code of Virginia by failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies with such frequency as to indicate a general business practice, by including in an insurance contract, subscription contract or health services plan a provision requiring a beneficiary of the contract or plan to pay back to Defendant benefits paid to the beneficiary pursuant to the terms of the contract or plan from the proceeds of a recovery by the beneficiary from another source, and by failing to pay the legal rate of interest on a judgment against Defendant from the date of presentation to Defendant of proof of loss to the date judgment was entered.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of fifteen thousand dollars (\$15,000) and waived its right to a hearing.

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

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

IT IS THEREFORE ORDERED THAT:

- (1) The offer of 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-2003-00156  
FEBRUARY 6, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

CONNECTICUT GENERAL LIFE INSURANCE COMPANY,  
Defendant

**SETTLEMENT ORDER**

Based on a market conduct examination performed by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-510 A 15, 38.2-3407.1, 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 9, and 38.2-5802 C of the Code of Virginia.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of twenty-one thousand dollars (\$21,000) and waived its right to a hearing.

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

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

IT IS THEREFORE ORDERED THAT:

- (1) The offer of 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-2003-00157  
JANUARY 20, 2004**

APPLICATION OF  
NATIONAL COUNCIL ON COMPENSATION INSURANCE, INC.

For revision of voluntary loss costs and assigned risk workers' compensation insurance rates

**FINAL ORDER**

The State Corporation Commission ("Commission") heard the application filed in this matter on November 12, 2003. At the hearing appeared the National Council on Compensation Insurance, Inc. ("NCCI"), the Division of Consumer Counsel of the Office of the Attorney General of Virginia ("OAG"), the Bureau of Insurance of the State Corporation Commission ("BOI"), and the Washington Construction Employers Association and Iron Workers Employers Association ("Respondents"), by their respective counsel.

The Commission has considered the record in its entirety, including the application, the comments of the public witnesses, the pre-filed testimony admitted at the hearing, the evidence presented at the hearing and the post-hearing briefs filed with the Commission.

Accordingly, IT IS ORDERED THAT:

- (1) The administrative and other expense provision of 6.03% proposed by NCCI, be, and it is hereby, disapproved; and in lieu thereof, a provision of 5.23% shall be utilized, based on a three year average of expenses and premiums;
- (2) The loss adjustment expense provision of 12.9% proposed by NCCI be, and it is hereby, disapproved; and in lieu thereof, a provision of 12.0% shall be utilized, based on a two year average of such expenses, and based in part on the recommendations of OAG witness Lo;
- (3) The large loss limitation provision of \$678,000 per claims and \$1,356,000 per occurrence utilized by NCCI in this application be, and it is hereby, disapproved; and in lieu thereof, a loss limitation of \$368,00 per claim and \$736,00 per occurrence shall be utilized, as recommended by BOI witness Lefkowitz;
- (4) The use of the Commissioners' Standard Ordinary ("CSO") mortality table utilized by NCCI in calculating the severity component of the proposed coal mine occupational disease voluntary loss costs and assigned risk rates be, and it is hereby, disapproved; and, in lieu thereof, NCCI shall utilize the most recently available male (smoker/nonsmoker) combined general population mortality table and derive a male smoker general population

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mortality table based on certain information contained in the 2001 CSO life tables, pursuant to the agreement entered into, and recommended to the Commission by, NCCI, BOI and OAG;

(5) The study group, consisting of representatives of NCCI, BOI and OAG, and any other interested party, may consider the issues of misclassifications of employees and the resulting under-reporting of payroll, as raised at the hearing and in the post-hearing by Respondents, and NCCI is encouraged to share with the group any similar experiences it may have had in other jurisdictions;

(6) The study group may wish to study alternative methods to the "industrial method," as recommended by OAG witness Lo, for making voluntary loss costs and assigned risk rates for the coal classes. Any recommendations for a methodology change whether recommended by the study group or any other party may be offered to the Commission in connection with any workers' compensation voluntary loss costs/assigned risk rate hearing, or independently thereof;

(7) NCCI and any other persons participating in future voluntary loss costs and assigned risk rate applications 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 rates and/or assigned risk rate or rating values are based, shall be required to disclose the 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;

(8) In accordance with the adjustments ordered herein, NCCI shall revise its proposed voluntary loss costs and assigned risk rates as follows: (i) a decrease of 6.7% in industrial class voluntary loss costs; (ii) a decrease of 12.4% in "F" class voluntary loss costs; (iii) an increase of 7.0% in underground coal mines voluntary loss costs; (iv) an increase of 7.0% in surface coal mines voluntary loss costs; (v) a decrease of 3.8% in industrial class assigned risk rates; (vi) a decrease of 12.3% in "F" class assigned risk rates; (vii) an increase of 5.2% in underground coal mines assigned risk rates; and (viii) an increase of 10% in surface coal mines assigned risk rates. Such revisions shall be further adjusted in accordance with the revised large loss limitations ordered herein;

(9) Except as otherwise ordered herein, the proposed revisions to voluntary loss costs, assigned risk rates, minimum premiums, rating values, rules regulations and procedures for writing workers' compensation voluntary loss costs and assigned risk rates that have been filed by NCCI in this proceeding on behalf of its members and subscribers shall be, and they are hereby, APPROVED for use with respect to new and renewal business on and after April 1, 2004; and

(10) NCCI, BOI, OAG and Respondents in this proceeding, shall make their best efforts to recommend jointly to the Commission on or before June 1, 2004, a proposed schedule for any year 2004 voluntary loss costs/assigned risk rate revision proceeding before the Commission. Such proposed schedule shall address: (i) the "pre-filing" of any discovery requests by BOI, OAG, and any other parties; (ii) the date on which NCCI proposes to file with the Commission any voluntary loss costs/assigned risk rate revision applications and its direct testimony; (iii) the date on which NCCI proposes to pre-file such discovery requests; (iv) the dates for the pre-filing of the direct testimony of BOI, OAG, and any respondents and the rebuttal testimony of NCCI; and (v) the date of any proposed hearing before the Commission.

CASE NO. INS-2003-00160
MARCH 25, 2004

COMMONWEALTH OF VIRGINIA
At the relation of the
STATE CORPORATION COMMISSION
v.
CIGNA HEALTHCARE MID-ATLANTIC, INC.,
Defendant

SETTLEMENT ORDER

Based on a market conduct examination performed by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of a health maintenance organization in the Commonwealth of Virginia, in certain instances, violated subsection 1 of § 38.2-502, subsection 8 of § 38.2-606, and §§ 38.2-316 A, 38.2-316 B, 38.2-316 C, 38.2-503, 38.2-510 A 4, 38.2-510 A 5, 38.2-510 A 6, 38.2-510 A 14, 38.2-510 A 15, 38.2-1318 C, 38.2-1812 A, 38.2-1822 A, 38.2-1833 A 1, 38.2-1834 C, 38.2-3407.4, 38.2-3407.14, 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 5, 38.2-3407.15 B 6, 38.2-3407.15 B 7, 38.2-3407.15 B 9, 38.2-3431 C, 38.2-4306 A 1, 38.2-4306 A 2, 38.2-4306 B 1, 38.2-4306.1, 38.2-4312 A, 38.2-4313, 38.2-5804 A, and 38.2-5805 C 8 of the Code of Virginia, as well as 14 VAC 5-90-60 A 1, 14 VAC 5-210-70 H 1, 14 VAC 5-210-100, 14 VAC 5-210-110 A, 14 VAC 5-210-110 A, 14 VAC 5-210-110 B, 14 VAC 5-234-40 B, and 14 VAC 5-234-40 C.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of one hundred twenty-five thousand dollars (\$125,000), waived its right to a hearing, agreed to the entry by the Commission of a cease and desist order, and agreed to repay, within ninety (90) days from the date of the entry of this Order, excess premium amounts and underpaid interest amounts pursuant to the terms of Defendant's letter to the Bureau dated December 29, 2003.

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

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

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

## IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendant cease and desist from any conduct which constitutes a violation of subsection 1 of § 38.2-502 or §§ 38.2-316 A, 38.2-316 B, 38.2-510 A 5, 38.2-510 A 14, 38.2-1812 A, 38.2-1822 A, 38.2-1833 A 1, 38.2-4306 B 1, 38.2-4306.1, or 38.2-4313 of the Code of Virginia, or 14 VAC 5-210-110 A or 14 VAC 5-210-110 B;
- (3) Defendant repay excess premium amounts and underpaid interest amounts as set forth herein within ninety (90) days from the date of the entry of this Order; and
- (4) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2003-00185  
MARCH 16, 2004**

COMMONWEALTH OF VIRGINIA

At the relation of the  
STATE CORPORATION COMMISSION

v.

NATIONAL HEALTH INSURANCE COMPANY,  
Defendant**ORDER TO TAKE NOTICE**

Pursuant to § 38.2-1040 of the Code of Virginia, the Commission may suspend or 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 is insolvent, or is in a condition that any further transaction of business in this Commonwealth is hazardous to its policyholders, creditors, and public in this Commonwealth.

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

By order entered herein September 8, 2003, Defendant was ordered to eliminate the impairment in its surplus and restore the same to at least \$3,000,000 and advise the Commission of the accomplishment thereof by affidavit of Defendant's president or other authorized officer on or before December 4, 2003.

As of the date of this Order, Defendant has failed to file an affidavit with the Commission which states that it has eliminated the impairment in its surplus.

In addition, Defendant's 2003 Annual Financial Statement, dated as of December 31, 2003, and filed with the Bureau of Insurance on March 4, 2004, reflects an impairment in surplus of negative \$10,719,536 (the negative \$7,919,536 in surplus reported on page 3 of the 2003 Annual Statement minus the \$3,000,000 Virginia surplus requirement).

IT IS THEREFORE ORDERED THAT Defendant TAKE NOTICE that the Commission shall enter an order subsequent to March 25, 2004, suspending the license of Defendant to transact the business of insurance in the Commonwealth of Virginia unless on or before March 25, 2004, Defendant files with the Clerk of the 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 Defendant's license.

**CASE NO. INS-2003-00185  
MARCH 31, 2004**

COMMONWEALTH OF VIRGINIA

At the relation of the  
STATE CORPORATION COMMISSION

v.

NATIONAL HEALTH INSURANCE COMPANY,  
Defendant**ORDER SUSPENDING LICENSE**

In an order entered herein March 16, 2004, Defendant was ordered to take notice that the Commission would enter an order subsequent to March 25, 2004, suspending the license of Defendant to transact the business of insurance in the Commonwealth of Virginia unless on or before March 25, 2004, Defendant filed with the Clerk of the Commission a request for a hearing before the Commission to contest the proposed suspension of Defendant's license.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

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

THEREFORE, IT IS ORDERED THAT:

- (1) Pursuant to § 38.2-1040 of the Code of Virginia, the license of Defendant to transact the business of insurance in the Commonwealth of Virginia be, and it is hereby, SUSPENDED;
- (2) 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 Defendant's agents to act on behalf of Defendant in the Commonwealth of Virginia be, and they are hereby, SUSPENDED;
- (4) Defendant's agents shall transact no new insurance business on behalf of 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 Defendant's agents appointed to act on behalf of Defendant in the Commonwealth of Virginia as notice of the suspension of such agent's appointment; and
- (6) The Bureau of Insurance shall cause notice of the suspension of Defendant's license to be published in the manner set forth in § 38.2-1043 of the Code of Virginia.

**CASE NO. INS-2003-00187  
AUGUST 5, 2004**

PETITION OF  
HENRY M. LEWIS  
and  
JOENEICY A. LEWIS

For review of HOW Insurance Company, Home Warranty Corporation and Home Owners Warranty Corporation Deputy Receiver's Determination of Appeal

**ORDER**

On October 14, 1994, the Circuit Court of the City of Richmond, Virginia, entered an Order appointing the State Corporation Commission ("Commission") the Receiver of the HOW Insurance Company ("HOWIC"), Home Warranty Corporation ("HWC"), and Home Owners Warranty Corporation ("HOW") (collectively "HOW Companies" or "HOW"). The receivership order granted the Commission the authority to proceed with the rehabilitation or liquidation of the HOW Companies and established a receivership appeal procedure ("RAP") to govern appeals and challenges to decisions rendered by the Receiver or the Receiver's duly authorized representatives.

On August 29, 2003, Henry and Joeneicy Lewis ("Petitioners" or "Lewises") filed a Petition for Review ("Petition") with the Clerk of the Commission contesting a Determination of Appeal issued in Claim No. 3303063 on August 15, 2003, whereby the Deputy Receiver denied Petitioners' claim for Major Structural Defect coverage under their homeowners warranty insurance policy on their residence located at 6605 Forsythia Street, Springfield, Virginia 22150. Specifically, the Lewises filed a claim with HOW for cracking of the interior wood stair stringers.

By Order dated September 16, 2003, the Commission docketed the case, assigned the matter to a Hearing Examiner, and directed the Deputy Receiver to file an Answer or other responsive pleading on or before October 24, 2003.

On October 24, 2003, the Deputy Receiver, by counsel, filed an Answer to Petition for Review ("Answer"). In its Answer, the Deputy Receiver contends, among other things, that Petitioners failed to establish all the elements necessary for finding a Major Structural Defect in the construction of the interior stairs of their home. The Deputy Receiver concluded that Petitioners failed to establish the following elements: (i) actual physical damage to any of the eight designated load-bearing portions of the home ("Covered Element"); (ii) such damage having been caused by failure of the Covered Element; and (iii) such failure having affected the load-bearing function of the Covered Element to the extent that the home became unsafe, unsanitary, or otherwise unlivable.

Pursuant to a Hearing Examiner's Ruling of January 27, 2004, the Examiner established a procedural schedule and set a telephonic hearing for March 31, 2004, to receive evidence on the Petition.

On March 31, 2004, the hearing was convened as scheduled. Henry M. Lewis appeared *pro se*. Joseph N. West, Esquire, appeared as counsel to the Deputy Receiver.

In support of their claim, the Lewises offered into evidence photographs depicting damage to the area adjacent to the stairs and a written estimate for repairs in the amount of \$425. The photographs show three separate cracks in the wood along the wall where the stair treads meet the wall.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

In rebuttal to the evidence offered by Petitioners, David Thompson ("Thompson"), a witness for the Deputy Receiver, contends, among other things, that the pictures show only "a cosmetic type of cracking," and the load-bearing portions of the stairs are below the stairs. Witness Thompson's opinions as to the load-bearing portions of the stairs were not based on an actual review of Petitioners' home or any plans for the home.<sup>1</sup>

After reviewing the filings submitted by the parties, the testimony presented at the hearing, and the applicable law, the Hearing Examiner issued his Report on June 17, 2004. Therein, the Examiner made the following findings and recommendations:

(1) Petitioners' claim was filed with the Company in the tenth year of coverage, and the only coverage available to them was for a Major Structural Defect;

(2) A Major Structural Defect is defined as: Actual physical damage to [any of] the following designated load-bearing portions of the home caused by the failure of such load-bearing portions which affects their load-bearing functions to the extent that the home becomes unsafe, unsanitary or otherwise unlivable:<sup>2</sup> (i) Foundations systems and footings; (ii) Beams; (iii) Girders; (iv) Lintels; (v) Columns; (vi) Walls and partitions; (vii) Floor systems; and (viii) Roof framing systems;<sup>3</sup>

(3) Petitioners supported their claim for Major Structural Defect coverage with photographs of the damage and a written estimate of the costs of repairs;

(4) Aside from the cracks depicted in the pictures, the photographs show no additional sign of damage;

(5) There were no signs of failure in regards to the stairs; and

(6) The Lewises failed to provide any evidence of a Major Structural Defect.

Petitioners filed Comments to the Report on July 2, 2004.

Upon consideration of the record herein, the Report of the Hearing Examiner, and the Comments to the Report, the Commission is of the opinion, and so finds, that the findings and recommendations of the Hearing Examiner should be adopted.

Accordingly, IT IS ORDERED THAT:

(1) The Petition of Henry and Joeneicy Lewis for review of the Deputy Receiver's Determination of Appeal be, and the same is hereby, DENIED;

(2) The Determination of Appeal in Claim No. 3303063 issued by the Deputy Receiver on August 15, 2003, be, and the same is hereby, AFFIRMED; and

(3) The case is dismissed, and the papers herein are passed to the file for ended causes.

<sup>1</sup> Petitioners submitted no such plans to HOW or to the Commission in support of their claim. Thompson explained that because of limited resources, the Deputy Receiver will hire an engineer to examine a claim only when there appears to be a possibility of a Major Structural Defect. Based on the evidence submitted by Petitioners to the Company, the Deputy Receiver concluded there was no sign of a Major Structural Defect.

<sup>2</sup> The Special Deputy Receiver has found the terms "unsafe, unsanitary or otherwise unlivable" to be ambiguous, and so the Deputy Receiver has eliminated them as criteria in processing claims.

<sup>3</sup> Home Owners Warranty Corporation Insurance/Warranty Documents, Exhibit 12 at 22.

**CASE NO. INS-2003-00232  
JANUARY 14, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

MICHELLE D. TAYLOR,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, violated §§ 38.2-1804, 38.2-1812.2, and 38.2-1822 E of the Code of Virginia by signing or allowing an insured to sign an incomplete or blank form pertaining to insurance, 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, and by conducting the business of insurance under an assumed or fictitious name without notifying the Bureau of Insurance.

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 to suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Defendant has been notified of her right to a hearing before the Commission in this matter by certified letters dated July 9, 2003, October 7, 2003, and December 8, 2003, respectively, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 Defendant has violated §§ 38.2-1804, 38.2-1812.2, and 38.2-1822 E of the Code of Virginia by signing or allowing an insured to sign an incomplete or blank form pertaining to insurance, 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, and by conducting the business of insurance under an assumed or fictitious name without notifying the Bureau of Insurance.

## IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2003-00242  
JANUARY 22, 2004**

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

**SETTLEMENT ORDER**

Based on a market conduct examination performed by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, 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, and 38.2-3407.15 B 9 of the Code of Virginia.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of eighteen thousand dollars (\$18,000), 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 Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

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

## IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendant cease and desist from any conduct which constitutes a violation of §§ 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, or 38.2-3407.15 B 9 of the Code of Virginia; and
- (3) The papers herein be placed in the file for ended causes.



**CASE NO. INS-2003-00244  
JANUARY 23, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

THE PRUDENTIAL INSURANCE COMPANY OF AMERICA,  
Defendant

**SETTLEMENT ORDER**

Based on an investigation and subsequent allegations by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated § 38.2-610 of the Code of Virginia by failing to give 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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of seven thousand five hundred dollars (\$7,500) and waived its right to a hearing.

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

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

IT IS THEREFORE ORDERED THAT:

- (1) The offer of 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-2003-00247  
JANUARY 5, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

PEOPLES BENEFIT LIFE INSURANCE COMPANY,  
Defendant

**SETTLEMENT ORDER**

Based on a target market conduct examination performed by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated Subsection 1 of § 38.2-502 and § 38.2-503 of the Code of Virginia, as well as 14 VAC 5-40-40 A 7, 14 VAC 5-40-40 A 10, 14 VAC 5-40-40 D 3, 14 VAC 5-40-40 E 2, and 14 VAC 5-40-40 H 1.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of five thousand dollars (\$5,000) and waived its right to a hearing.

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

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

IT IS THEREFORE ORDERED THAT:

- (1) The offer of 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-2003-00248  
JUNE 4, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.  
THE GUARDIAN LIFE INSURANCE COMPANY OF AMERICA,  
Defendant

**SETTLEMENT ORDER**

Based on a target market conduct examination performed by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, has violated §§ 38.2-510 A 15, 38.2-1318 C, 38.2-3407.1, 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, and 38.2-5802 C of the Code of Virginia.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of twenty-seven thousand dollars (\$27,000), waived its right to a hearing, agreed to pay interest on claims paid on or after January 1, 1999 in amounts over ten thousand dollars (\$10,000) within ninety (90) days from the date of entry of this Order, and agreed to pay 100% interest of the total interest on claims paid on or after January 1, 1999 in amounts under ten thousand dollars (\$10,000) to the Virginia Unclaimed Property Division within ninety (90) days from the date of entry of this Order.

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

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

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Within ninety (90) days from the date of entry of this Order, Defendant pay interest on claims paid on or after January 1, 1999 in amounts over ten thousand dollars (\$10,000); and
- (3) Within ninety (90) days from the date of entry of this Order, Defendant pay 100% interest of the total interest for claims paid on or after January 1, 1999, in amounts under ten thousand dollars (\$10,000) to the Virginia Unclaimed Property Division.

**CASE NO. INS-2003-00250  
JANUARY 8, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.  
TERESA DIANE BULLOCK,  
Defendant

**SETTLEMENT ORDER**

Based on an investigation and subsequent allegations by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, violated §§ 38.2-512, 38.2-1804, 38.2-1812.2, 38.2-1813, and 38.2-1822 of the Code of Virginia.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of her right to a hearing in this matter, whereupon Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of five thousand dollars (\$5,000), waived her 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 Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

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

## IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendant cease and desist from any conduct which constitutes a violation of §§ 38.2-512, 38.2-1804, 38.2-1812.2, 38.2-1813, 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-2003-00253  
FEBRUARY 19, 2004**

COMMONWEALTH OF VIRGINIA

At the relation of the  
STATE CORPORATION COMMISSION

v.

BOSTON MUTUAL LIFE INSURANCE COMPANY,  
Defendant**SETTLEMENT ORDER**

Based on an investigation and subsequent allegations by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated § 38.2-3419.1 of the Code of Virginia and 14 VAC 5-190-10, as well as the Cease and Desist Order entered by the Commission in Case No. INS-2002-00074, by failing to file timely with the Commission its annual MB-1 Report of Cost and Utilization Data Relating to Mandated Benefits and Mandated Providers.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein 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 Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

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

## IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendant cease and desist from any conduct which constitutes a violation of § 38.2-3419.1 of the Code of Virginia or 14 VAC 5-190-10;  
and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2003-00256  
MARCH 12, 2004**

COMMONWEALTH OF VIRGINIA

At the relation of the  
STATE CORPORATION COMMISSION

v.

CENTURY INDEMNITY COMPANY,  
Defendant**ORDER TO TAKE NOTICE**

Pursuant to § 38.2-1040 of the Code of Virginia, the Commission may suspend or 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 is insolvent, or is in a condition that any further transaction of business in this Commonwealth is hazardous to its policyholders, creditors, and public in this Commonwealth.

Century Indemnity Company, a foreign corporation domiciled in the Commonwealth of Pennsylvania ("Defendant"), is licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia.

By order entered herein December 11, 2003, Defendant was ordered to eliminate the impairment in its surplus and restore the same to at least \$3,000,000 and advise the Commission of the accomplishment thereof by affidavit of Defendant's president or other authorized officer on or before March 4, 2004.

As of the date of this Order, Defendant has failed to eliminate the impairment in its surplus.

IT IS THEREFORE ORDERED THAT Defendant TAKE NOTICE that the Commission shall enter an order subsequent to March 25, 2004, suspending the license of Defendant to transact the business of insurance in the Commonwealth of Virginia unless on or before March 25, 2004, Defendant files with the Clerk of the 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 Defendant's license.

**CASE NO. INS-2003-00256  
MARCH 31, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
CENTURY INDEMNITY COMPANY,  
Defendant

**ORDER SUSPENDING LICENSE**

In an order entered herein March 12, 2004, Defendant was ordered to take notice that the Commission would enter an order subsequent to March 25, 2004, suspending the license of Defendant to transact the business of insurance in the Commonwealth of Virginia unless on or before March 25, 2004, Defendant filed with the Clerk of the Commission a request for a hearing before the Commission to contest the proposed suspension of Defendant's license.

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

THEREFORE, IT IS ORDERED THAT:

- (1) Pursuant to § 38.2-1040 of the Code of Virginia, the license of Defendant to transact the business of insurance in the Commonwealth of Virginia be, and it is hereby, **SUSPENDED**;
- (2) 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 Defendant's agents to act on behalf of Defendant in the Commonwealth of Virginia be, and they are hereby, **SUSPENDED**;
- (4) Defendant's agents shall transact no new insurance business on behalf of 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 Defendant's agents appointed to act on behalf of Defendant in the Commonwealth of Virginia as notice of the suspension of such agent's appointment; and
- (6) The Bureau of Insurance shall cause notice of the suspension of Defendant's license to be published in the manner set forth in § 38.2-1043 of the Code of Virginia.

**CASE NO. INS-2003-00257  
JANUARY 14, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
BREWER LAND TITLE LTD., LLC,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, violated § 6.1-2.21 of the Code of Virginia, as well as the Cease and Desist Order entered by the Commission in Case No. INS-2002-00236, by failing to provide the Commission with a copy of Defendant's analysis or audit report of its escrow account.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Commission is authorized by § 6.1-2.27 of the Code of Virginia to impose certain monetary penalties and to suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations of Chapter 1.3 (§ 6.1-2.19 *et seq.*) of Title 6.1 of the Code of Virginia.

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 to suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been notified of its right to a hearing before the Commission in this matter by certified letters dated November 24, 2003, and December 15, 2003, respectively, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 Defendant has violated § 6.1-2.21 of the Code of Virginia by failing to provide the Commission with a copy of Defendant's analysis or audit report of its escrow account.

IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2003-00263  
APRIL 2, 2004**

APPLICATION OF  
ANTHEM, INC.  
and  
WELLPOINT HEALTH NETWORKS INC.

For approval of acquisition of control of or merger with a domestic insurer or health maintenance organization

**FINAL ORDER**

On December 17, 2003, Anthem, Inc. ("Anthem"), and WellPoint Health Networks Inc. ("WellPoint") (collectively, the "Applicants") filed with the State Corporation Commission ("Commission") an Application for Approval of Acquisition of Control of or Merger with a Domestic Insurer or Health Maintenance Organization on Form A ("Application"), pursuant to § 38.2-1323 of the Code of Virginia and 14 VAC 5-260-10 *et seq.* of the Virginia Administrative Code. Anthem and WellPoint filed certain information under seal on December 17, 2003, and subsequently, in support of the Application.

On February 26, 2004, EPIC Pharmacies, Inc. ("EPIC"), filed a Notice of Participation as Respondent, Comments, and Request for Prehearing Procedures of EPIC Pharmacies, Inc. ("Notice"). Therein, EPIC makes certain allegations and requests the establishment of pre-hearing procedures, including the handling of confidential information.

On March 1, 2004, the Bureau of Insurance ("Bureau") filed a letter with the Commission in which the Bureau indicated that it deemed the Application complete as of March 1, 2004.

On March 2, 2004, we issued a Preliminary Order in which we directed the Bureau, Anthem, and any other interested party to file a Response to the Notice on or before March 10, 2004, and for EPIC to file any Reply to the Responses on or before March 15, 2004. We also noted that, pursuant to § 38.2-1327 of the Code of Virginia, any hearing held to consider the Application must commence on or before April 10, 2004.

On March 3, 2004, Anthem and WellPoint filed with the Clerk of the Commission an Acquisition Statement Reporting Competitive Impact Data ("Form E").<sup>1</sup> On March 9, 2004, the Bureau filed a letter, together with attachments, from Douglas C. Stolte, Deputy Commissioner of the Bureau,

<sup>1</sup> The Form E had been submitted confidentially to the Bureau on or about January 9, 2004.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

concerning the Bureau's recommendation of approval of the Application.<sup>2</sup> In the letter, the Bureau recommends that the Commission approve the Application.

On March 10, 2004, the Bureau filed a Response and Motion of the Bureau of Insurance ("Motion"). Therein, the Bureau renews its recommendation that the Commission approve the Application and moves for an Order to that effect.

Also on March 10, 2004, Anthem filed Anthem's Response to EPIC Pharmacies' Notice of Participation, Comments and Request for Prehearing Procedures ("Anthem Response"). Therein, Anthem challenges the standing of EPIC to contest the Application and requests that the Commission approve the Application without a hearing. Anthem also challenges other factual and legal assertions made by EPIC in its Notice.

On March 10, 2004, the Division of Consumer Counsel, Office of the Attorney General ("Consumer Counsel") filed a Notice of Participation. Therein, Consumer Counsel does not request a hearing or respond to the Notice filed by EPIC.<sup>3</sup>

On March 15, 2004, EPIC filed the Reply of EPIC Pharmacies, Inc. to Answers of Anthem, Inc. and WellPoint Health Networks Inc., and the State Corporation Commission's Bureau of Insurance ("EPIC Reply"). EPIC claimed that it is "continuing to examine the information that is now a part of the record, including the Applicants' Form E information that was filed on March 3, 2004 and the Bureau's report submitted on March 9, 2004, and has identified what it believes to be certain flaws in the analysis that forms the basis for the Bureau's recommendation (and motion) that is now a part of the record in this proceeding."<sup>4</sup> EPIC also seeks additional time to respond to the Bureau's Motion.

The Commission issued a Scheduling Order on March 16, 2004, in which it requested additional responses to the Bureau's Motion. EPIC responded on March 22, 2004, and Anthem and the Bureau replied on March 25, 2004.

In its response, EPIC requests that the Commission deny the Application at this time and set the Application for hearing. EPIC maintains that it has identified certain "flaws" in the Bureau's Report on the competitive impact of the merger and that exploration of these flaws through cross-examination of Anthem, WellPoint, and Bureau witnesses is the best way to handle EPIC's concerns. EPIC further asserts that "the [Bureau] has met its burden of showing a (sic) *prima facie* evidence of a violation of the competitive standard, but the Applicants have not established the absence of the requisite anticompetitive effect with substantial evidence. Accordingly, the Commission should not approve Anthem's proposed acquisition of WellPoint without a hearing."<sup>5</sup>

Anthem, in its Reply,<sup>6</sup> continues to question EPIC's standing in this proceeding. Anthem asserts that EPIC's motivation for challenging the Application is a contractual dispute between Anthem and EPIC that the Commission has no authority to resolve in this proceeding. Anthem further contends that EPIC's alleged "flaws" found in the Bureau Report are unsupported and lack any substance or technical credibility. Anthem renews its request that the Commission accept the Bureau's recommendation and approve the Application.<sup>7</sup>

The Bureau also takes issue with EPIC's alleged "flaws" in the Bureau Report.<sup>8</sup> The Bureau explains at length why updated data, as requested by EPIC, is not available at this time. The Bureau also challenges other factual and legal assertions made by EPIC regarding the Bureau Report. The Bureau concludes by claiming that the issues raised by the EPIC Response are insufficient to deny the Bureau's Motion and requests that the Commission approve the Application without further proceedings.<sup>9</sup>

NOW THE COMMISSION, having considered the Application and information submitted in support thereof by the Applicants, the Bureau Report and recommendation of the Bureau associated therewith, and all the pleadings filed by the parties in this case, finds as follows. We approve the Application and decline to schedule this matter for hearing.

Sections 38.2-1326 and 38.2-1327 of the Code of Virginia ("the Code") govern whether a hearing must be held in this case. Section 38.2-1326 of the Code provides that

*[t]he Commission shall approve the application required by § 38.2-1323 unless, after giving notice and opportunity to be heard, it determines that: (1) After the change of control, the insurer would not be able to satisfy the requirements for the issuance of a license to write the classes of insurance for which it is presently licensed; (2) The acquisition of control would lessen competition substantially or tend to create a monopoly in insurance in this Commonwealth; (3) The financial condition of any acquiring person might jeopardize the*

<sup>2</sup> The filing by the Bureau also included a Report on the Virginia Competitive Impact of the Proposed Merger of WellPoint Health Networks Inc. with and into Anthem, Inc. ("Bureau Report"), that was prepared by David C. Parcell of Technical Associates, Inc., at the request of the Bureau.

<sup>3</sup> Consumer Counsel stated that it wished to preserve its right to participate in this proceeding as further developments may warrant.

<sup>4</sup> EPIC Reply at 2-3.

<sup>5</sup> Response of EPIC Pharmacies, Inc. in Opposition to Motions/Requests of Anthem, Inc. and WellPoint Health Networks Inc., and the State Corporation Commission's Bureau of Insurance, for Approval of Merger, and Request of EPIC Pharmacies, Inc. for Hearing ("EPIC Response"), at 4, 7.

<sup>6</sup> Anthem's Reply to EPIC Pharmacies' Response ("Anthem Reply"), filed on March 25, 2004.

<sup>7</sup> Anthem Reply at 2-4, 8.

<sup>8</sup> Reply of the Bureau of Insurance to the Response of EPIC Pharmacies, Inc., in Opposition to Motions/Requests of Anthem, Inc., and WellPoint Health Networks Inc. and the State Corporation Commission's Bureau of Insurance, for Approval of Merger, and Request of EPIC Pharmacies, Inc. for Hearing ("Bureau Reply"), filed on March 25, 2004.

<sup>9</sup> Bureau Reply at 4-6, 13.

financial stability of the insurer, or prejudice the interest of its policyholders; (4) Any plans or proposals of the acquiring party to liquidate the insurer, sell its assets or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the insurer and not in the public interest; (5) The competence, experience, and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders of the insurer and of the public to permit the acquisition of control; or (6) After the change of control, the insurer's surplus to policyholders would not be reasonable in relation to its outstanding liabilities or adequate to its financial needs.

(emphasis added).

Section 38.2-1327 of the Code provides that

[a]ny hearing held pursuant to § 38.2-1326 shall begin within forty days of the date the application is filed with the Commission. In approving any application filed pursuant to § 38.2-1323, the Commission may include in its order any conditions, stipulations, or provisions which the Commission determines to be necessary to protect the interests of the policyholders of the insurer and the public.

As demonstrated by the emphasized predicate language in § 38.2-1326 of the Code, the Commission is *required* to approve the Application unless it makes one or more of the six findings in that section. The notice and opportunity to be heard addressed in that section is properly directed at an applicant in a given case since the applicant is the entity that would be challenging the Commission's proposed finding that the merger will result in one of the six problems listed in § 38.2-1326 of the Code. Hence, if the Commission does not plan to disapprove the Application, an opportunity to be heard is not required by this section. Section 38.2-1327 of the Code also indicates that no hearing is required as its opening sentence references "any hearing held pursuant to § 38.2-1326. . ." This further demonstrates that the General Assembly did not mandate that a hearing must be held before the Commission may approve an acquisition or change of control of a domestic insurer, with or without conditions.

The Commission nonetheless has the discretion to schedule this case for hearing.<sup>10</sup> Based on the law applicable to our determination of this Application, as well as the pleadings that have been filed, we believe that no hearing is necessary for us to resolve the issues in this case. In the Trigon case, the Commission was considering Anthem's application to acquire Trigon, the major domestic health insurer in the Commonwealth with over 38% of the health insurance market in Virginia. By contrast, WellPoint has barely more than 1% of the health insurance market in Virginia and slightly more than 10% of the Medicaid HMO market; and neither Anthem nor WellPoint are domesticated in Virginia. Additionally, in the Trigon case, when the Commission scheduled the matter for hearing, the Bureau had not prepared an economist report or recommended that the Commission approve the merger. No entity in the present case has requested that the Commission disapprove the merger or that it impose any conditions thereon. EPIC has requested only that the Commission disapprove the Application "at this time,"<sup>11</sup> and it has not suggested what conditions, if any, the Commission should attach to any approval of the Application. Moreover, EPIC has not specified what, if any, conditions in § 38.2-1326 of the Code are violated that would warrant Commission disapproval of the Application.

EPIC does not offer, nor does it claim that it intends to offer, any expert testimony at a requested hearing to rebut the Form E filed by Anthem or the Bureau Report, both of which pertain to the second negative factor in § 38.2-1326 of the Code, *to wit*, whether the acquisition of control would lessen competition substantially or tend to create a monopoly in insurance in this Commonwealth.<sup>12</sup> At most, EPIC hopes to generate through cross-examination additional information that would be helpful to the Commission in rendering its decision on the Application. Given the size of this transaction as it relates to Virginia, as well as the Bureau's recommended approval and accompanying economist report, the lack of any objection from Consumer Counsel and the failure of EPIC to provide recommended conditions on any approval of the merger, to actually oppose it outright or to indicate that it would be supplying expert testimony at a hearing to rebut the expert testimony of the Bureau, we decline, in the exercise of our discretion, to schedule this matter for hearing.

EPIC also claims that the Commission has established the proposition that a hearing must be held in any proceeding that has as its focus the resolution of disputed factual claims.<sup>13</sup> As previously discussed, the Commission must be guided by the statutory provisions, which do not even require notice and an opportunity to be heard unless the Commission intends to disapprove the Application for one of the six reasons listed in the statute. Moreover, in the pleading referenced by EPIC, the Commission was litigating its position before the Federal Energy Regulatory Commission, not ruling on issues before the Commission. The Marathon Oil case cited by the Commission in its pleading involved a challenge to certain actions taken by the Environmental Protection Agency pursuant to the federal Water Pollution Control Act and the federal Administrative Procedure Act. EPIC has not demonstrated why actions taken by federal agencies in administrative proceedings under a federal administrative scheme have any legal significance for actions taken by this Commission pursuant to state law. Cases from the Supreme Court of Virginia addressing the cross-examination issue focus on whether a court made an error in limiting cross-examination in an ongoing trial.<sup>14</sup> None of the cases dictate that the Commission must hold a hearing to permit such cross-examination when a governing statute indicates that no hearing need be held.

<sup>10</sup> See *Application of Anthem, Inc. and Trigon Healthcare, Inc.*, Case No. INS-2002-00131, Order Scheduling Public Hearing, entered on June 4, 2002, at 1 ("Trigon") (Commission determined that a public hearing should be held on the Anthem/Trigon merger in order to provide the public and interested persons with an opportunity to comment). Anthem has acknowledged that we have such discretion. Anthem Response at 9-10 and n. 8.

<sup>11</sup> EPIC Response at 4, 25.

<sup>12</sup> EPIC makes passing reference to the third negative factor in § 38.2-1326 of the Code: that the financial condition of any acquiring person might jeopardize the financial stability of the insurer or prejudice the interest of its policyholders. EPIC Response at 18. EPIC's concerns here appear to be based on nothing more than speculation. Anthem Reply at 7-8.

<sup>13</sup> EPIC Response at 4-5. (citing *Request for Rehearing of the Virginia State Corporation Commission* in FERC Docket No. PA03-12-000 (Transmission Congestion on the Delmarva Peninsula) and Marathon Oil Co. v. EPA, 564 F.2d 1253, 1261 (9<sup>th</sup> Cir. 1977)).

<sup>14</sup> See Commonwealth v. National Council on Compensation Ins., 238 Va. 513 (1989); State Highway and Transp. Comm'r v. Cantrell, 223 Va. 185, 186-187 (1982).

In analyzing whether the proposed acquisition runs afoul of § 38.2-1326(2) of the Code, we also are guided by certain Commission regulations. 14 VAC 5-260-40 A 2 provides that "[w]henver an application includes information in the format required by Form E, the Commission *may* require an opinion of an economist as to the competitive impact of the proposed acquisition." (emphasis added). This provision indicates that the Commission could have approved the Application, based on its own analysis, without the opinion of an economist. The Bureau deemed it prudent, however, to submit the expert opinion of an economist.

14 VAC 5-260-50 A 3 contains the following language:

[i]n determining whether competition may be detrimental, the commission shall consider, among other things, whether applicable competitive standards promulgated by the NAIC<sup>15</sup> have or may be violated as a consequence of the acquisition. Such standards may include any indicators of competition identified or enumerated by the NAIC in any model laws or portions of practice and procedure or instructional manuals developed to provide guidance in regulatory oversight of holding company systems, mergers and acquisitions, or competitive practices within the marketplace. Such standards include particularly the definitions, guidelines or standards embodied in any model holding company act or model holding company regulation adopted by the NAIC. In addition, the commission may request and consider the opinion of an economist as to the competitive impact of the acquisition whenever pre-acquisition notification is submitted pursuant to subsection B of § 38.2-1323 of the Act.

While this regulation ostensibly only applies to acquisitions under § 38.2-1323 B of the Code (acquisitions not involving domestic insurers), the Bureau has traditionally evaluated mergers using this analysis, and all parties agree that consideration of the NAIC standards is appropriate.<sup>16</sup> Based upon these regulations, the Commission is required to consider the NAIC guidelines as one factor in conducting its analysis to determine whether a merger will "lessen competition substantially or tend to create a monopoly in insurance in this Commonwealth."<sup>17</sup>

The NAIC Insurance Holding Company System Regulatory Act contains the applicable guidelines. Therein, in § 3(D)(1)(b), the guidelines provide, *inter alia*, that "[t]he commissioner [of insurance] shall approve any merger . . . unless, after a public hearing, the commissioner finds that . . . [t]he effect of the merger . . . would be substantially to lessen competition in insurance in this state or tend to create a monopoly. In applying the competitive standard in this subparagraph: (i) [t]he informational requirements . . . and the standards of Section 3.1D(2) shall apply."

Section 3.1(D)(2) contains the competitive standards. Those standards provide, *inter alia*, that an acquisition involving two or more insurers competing in the same market is *prima facie* evidence of violation of the competitive standards if the market is highly concentrated and one insurer has at least 15% of the market and the other has at least 1% of the market. A "highly concentrated market" is one in which the share of the four largest insurers is 75% or more of the market.<sup>18</sup> Section 3.1(D)(2)(d) provides that, even though there is a *prima facie* violation of the competitive standards, an insurer may establish the absence of the requisite anticompetitive effect based upon other substantial evidence. Factors listed as relevant include, but are not limited to, market shares, volatility of ranking of market leaders, number of competitors, concentration, trend of concentration in the industry, and ease of entry and exit into the market. Thus, the NAIC guidelines focus on two aspects of *prima facie* violations of the competitive standard: (i) the relative market shares of the merging companies; and (ii) the trend toward increased concentration.<sup>19</sup>

Anthem and the Bureau maintain that the Application should be approved. According to the Form E, UNICARE is a wholly owned indirect subsidiary of WellPoint. UNICARE writes primarily HMO Medicaid business, and some HMO health insurance, in the Commonwealth of Virginia, principally in the Washington, DC suburbs and in Charlottesville.<sup>20</sup> For 2002, the combined direct written accident and health insurance premiums of Anthem were about 49.94% of the Virginia market.<sup>21</sup> For 2002, the combined direct written HMO Medicaid premiums of Anthem were about 23.85% of the Virginia market.<sup>22</sup> For 2002, the combined direct written accident and health insurance premiums of WellPoint were about 1.27% of the Virginia market.<sup>23</sup> For 2002, the combined direct written HMO Medicaid premiums of WellPoint were 10.06% of the Virginia market.<sup>24</sup> Because of the *de minimis* market share held by Anthem, WellPoint, or both in several lines of insurance, the only lines of insurance that are analyzed further are the accident and health insurance and the HMO Medicaid lines.<sup>25</sup> As to the accident and health insurance line, the Applicants assert that "[b]ecause the Anthem Insurers and

<sup>15</sup> The "NAIC" is the National Association of Insurance Commissioners. 14 VAC 5-260-30.

<sup>16</sup> Additionally, the Bureau's instructions for completing the Form E, in section V(3), provide, *inter alia*, that "[t]he Commission may consider, among other things, competitive standards promulgated by the NAIC and also may require an opinion of an economist as to the competitive impact of the acquisition or merger in the Commonwealth."

<sup>17</sup> Section 38.2-1326(2) of the Code.

<sup>18</sup> Both the Accident and Health and HMO Medicaid lines of insurance are "highly concentrated." See Bureau Report, Appendix II at 3.

<sup>19</sup> See Bureau Report, Appendix I at 6.

<sup>20</sup> Form E at 6.

<sup>21</sup> *Id.* at 7-8.

<sup>22</sup> *Id.* at 8-9.

<sup>23</sup> *Id.* at 11-12.

<sup>24</sup> *Id.* at 12.

<sup>25</sup> Because either Anthem or WellPoint do not have at least 1% of the market, the acquisition *per se* does not reach the NAIC threshold *prima facie* standard in the following lines: life insurance, workers' compensation insurance, HMO health insurance, and HMO Federal Employee Health Benefit Programs.



the WellPoint Insurers are, for the most part, serving distinct consumer groups in the accident and health Market, and because of the WellPoint Insurers' very small market Share, the acquisition will not have the effect of substantially lessening competition in the Virginia accident and health insurance Market."<sup>26</sup> As to the HMO Medicaid line, the Applicants assert that "[b]ecause the Anthem Insurers and the WellPoint Insurers are serving distinct geographic Markets within Virginia, the acquisition will not have the effect of substantially lessening competition in the Virginia HMO Medicaid Market. It will not increase Market Share in the distinct Markets served by Anthem and WellPoint."<sup>27</sup>

The Bureau's analysis is slightly different than the Applicants but reaches the same conclusion. The Bureau also references WellPoint's small market share in the accident and health insurance market in concluding that "the proposed merger will not lessen competition substantially in Virginia and will not tend to create a monopoly."<sup>28</sup> As to the HMO Medicaid line, the Bureau opines that the HMO Medicaid market "is not a 'competitive' line of insurance. . . . Consequently, it is concluded that the proposed merger will not lessen competition substantially or tend to create a monopoly in the HMO Medicaid line of insurance."<sup>29</sup> The Bureau notes that, while the *prima facie* standard is violated for accident and health, WellPoint's 1.27% market share barely exceeds the threshold 1% necessary to show a *prima facie* violation.<sup>30</sup> The Bureau also notes an increased trend in concentration for the accident and health line and a decreased trend in concentration in the HMO Medicaid line over the last five years.<sup>31</sup> The Bureau concludes that the following factors provide some degree of offset to the *prima facie* violation: volatility of ranking of market leaders, number of competitors, and ease of entry and exit into the market.<sup>32</sup> The Bureau Report concludes its analysis of the accident and health line by stating that

[i]n summary, the Accident and Health line of insurance in Virginia is already somewhat concentrated, with Anthem currently holding about one-half of the market. In addition, this market has become increasingly concentrated over the past five years. On the other hand, the Accident and Health line exhibits some level of offset to these *prima facie* standards, as demonstrated by the factors cited above. In addition, it should be noted that the WellPoint market share is only marginally over the 1% threshold in 2002 and was, in fact, below the threshold level in prior years. In addition, the merger would not alter the ranking of the largest writers in this line. As a result, [the Bureau] concludes that the merger of Anthem and WellPoint will not lessen competition substantially or tend to create a monopoly in the Accident and Health line of insurance.<sup>33</sup>

The Bureau indicates that the HMO Medicaid line is somewhat concentrated, although less so than the accident and health line. The trend in concentration has been negative. The Bureau emphasizes that the HMO Medicaid line is not characterized by competition in that the HMO Medicaid line is restricted in terms of market entry, and rates are established by the Department of Medical Assistance Services ("DMAS") based on General Assembly budget allocations; the HMOs receive their premiums directly from DMAS rather than from the insured individuals; and DMAS assigns individuals to a participating HMO in a region.<sup>34</sup> The Bureau thus concludes that the NAIC guidelines should not be applied to the HMO Medicaid line of insurance in order to evaluate the competitive impact of mergers or acquisitions of control among HMOs providing this insurance product in Virginia. Accordingly, the Bureau asserts that the acquisition of control of UNICARE by Anthem will not lessen competition substantially or tend to create a monopoly in the HMO Medicaid line of insurance.<sup>35</sup>

EPIC acknowledges that the Bureau has taken its charge to protect the public interest seriously by filing the Bureau Report.<sup>36</sup> EPIC maintains, however, that "the record does not contain enough information to support [the finding that the acquisition will not lessen competition substantially or tend to create a monopoly in insurance in Virginia]...both the Applicants and the Bureau have not considered other evidence that bears on this determination, and there are conflicts in the information that is now part of the record. EPIC believes these disputed issues are best explored through a public hearing."<sup>37</sup>

EPIC alleges conflicting information from Anthem and the Bureau regarding market share. Such allegation has been resolved to our satisfaction.<sup>38</sup> EPIC's major contention is that the Bureau and Anthem ignored available 2003 data in reaching their conclusions regarding market share and

<sup>26</sup> *Id.* at 14, 16.

<sup>27</sup> *Id.* at 15, 17, and Amendment No. 1 to Acquisition Statement Reporting Competitive Impact Data filed with the Commonwealth of Virginia State Corporation Commission Bureau of Insurance dated January 9, 2004 ("Amendment 1 to Form E"), at 2.

<sup>28</sup> Bureau Report at 2.

<sup>29</sup> *Id.*

<sup>30</sup> Bureau Report, Appendix II at 4.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.* at 7-10. The Bureau Report erroneously refers to "ease and entry into the market" but the Bureau asserts that its analysis in the Bureau Report incorporates both entry and exit from the market. Bureau Reply at 8-9 and Bureau Report, Table A-5.

<sup>33</sup> *Id.* at 8-9.

<sup>34</sup> Bureau Report at 11; Form E, Amendment 1 to Form E at 2.

<sup>35</sup> Bureau Report at 12-13.

<sup>36</sup> EPIC Response at 4.

<sup>37</sup> *Id.* at 8.

<sup>38</sup> See Bureau Reply at 2-3. The Anthem data did not include accident and health insurance premium reported by fraternal benefit societies and prepaid plans operating in Virginia. More importantly, "[r]egardless of which 2002 total premium value is used, Anthem's market share is seen to be under 50 percent and WellPoint's market share is seen to be approximately 1.2 percent to 1.3 percent." Bureau Reply at 4, Anthem Reply at 5, fn. 9.

concentration.<sup>39</sup> EPIC argues that preliminary 2003 data indicate a significant increase in direct written premium for Anthem in the accident and health line and complains that "[this information] was not analyzed by [the Bureau] or included in its market analysis."<sup>40</sup> EPIC extrapolates from this preliminary data that the combined market share is much higher than asserted by the Bureau and Anthem. EPIC makes similar assertions with regard to the HMO Medicaid line.<sup>41</sup> It is apparent, however, that EPIC's argument regarding market share based on unaudited 2003 data is flawed.

EPIC uses 2002 data for total written premiums for all other insurers but uses 2003 data for Anthem and WellPoint total written premiums. Essentially, then, EPIC assumes no growth in 2003 for any insurer but Anthem and WellPoint in reaching its conclusion regarding market share. Such an assumption is without foundation, and EPIC provides no evidence, economic or otherwise, to support such a flawed premise. Moreover, EPIC's analysis equates premium to market share when other factors, such as rate increases, also contribute to increases in direct written premium.<sup>42</sup>

EPIC also contends that the Bureau may have improperly defined the "market." EPIC claims that the Bureau fails to address the extent to which Anthem's Blue Cross/Blue Shield franchise would permit it to sell accident and health insurance in the Northern Virginia region. Without explanation, EPIC then claims that if Anthem is prohibited from doing so, then the Bureau Report is flawed as it considered the entire Virginia market.<sup>43</sup> According to both the Bureau and Anthem, EPIC's speculation as to the possible prohibition on Anthem writing insurance in Northern Virginia is simply wrong.<sup>44</sup> EPIC makes a number of other assertions regarding the Bureau Report and claims that it "wishes to cross-examine witnesses for the Applicants and the Bureau on these issues."<sup>45</sup> EPIC's arguments are simply not supported nor does EPIC provide any expert economic analysis in support of its arguments.<sup>46</sup> EPIC makes similarly unsubstantiated assertions with regard to the HMO Medicaid line.<sup>47</sup>

We find that none of the factors listed in § 38.2-1326 has been demonstrated nor do we believe that a hearing will unearth evidence of such factors. We are, therefore, required to approve the Application.

Accordingly, IT IS ORDERED THAT:

- (1) The Application for Approval of Acquisition of Control of or Merger with a Domestic Insurer or Health Maintenance Organization by Anthem and WellPoint is approved;
- (2) The Bureau's Motion is granted; and
- (3) This matter is dismissed.

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<sup>39</sup> EPIC Response at 8-11, 16.

<sup>40</sup> *Id.* at 9.

<sup>41</sup> *Id.* at 12-13.

<sup>42</sup> Anthem Reply at 4-5, and fns. 7 & 8; Bureau Reply at 4-6 (all but one of the top 7 accident and health insurers preliminarily indicated growth in direct written premium for 2003).

<sup>43</sup> EPIC Response at 16-17.

<sup>44</sup> Anthem Reply at 7-8; Bureau Reply at 7.

<sup>45</sup> EPIC Response at 19-25.

<sup>46</sup> To take just one example, EPIC claims that some volatility of ranking among the market leaders causes it to reach "the conclusion that this reflects a greater trend of concentration within the industry..." The Bureau points out, however, that a showing of volatility among the leaders "indicates that different insurers are constantly taking market shares from each other. This is clearly a sign of 'competition,' not 'concentration' as claimed by EPIC." Bureau Reply at 8. EPIC's claimed "factual issues," EPIC Response at 19, are not genuine "issues."

<sup>47</sup> EPIC Response at 20-24. Notably, EPIC states that "[t]he [Bureau] Report notes that the rates are established by Price WaterhouseCoopers, on behalf of DMAS, and are then offered to the HMO on a 'take it or leave it' basis. *If this is evidence that the area is not competitive, then Anthem's use of the same approach with respect to pharmacy reimbursements is also not competitive.*" EPIC Response at 21, fn. 9 (emphasis added). EPIC's focus on its contractual dispute with Anthem undermines the theoretical argument it makes regarding the lessening of competition in insurance.

**CASE NO. INS-2003-00264  
JULY 7, 2004**

PETITION OF  
EDWARD AND KATHRYN CIPARIS

For review of HOW Insurance Company, Home Warranty Corporation and Home Owners Warranty Corporation Deputy Receiver's Determination of Appeal

**ORDER**

On October 14, 1994, the Circuit Court of Richmond, Virginia, entered an order appointing the State Corporation Commission ("Commission") the Receiver of HOW Insurance Company ("HOWIC"), Home Warranty Corporation ("HWC") and Home Owners Warranty Corporation ("HOW") (collectively, the "HOW Companies"). The receivership order granted the Commission authority to proceed with the rehabilitation or liquidation of the

HOW Companies and established a Receivership Appeal Procedure ("RAP") to govern any appeals or challenges to any decision rendered by the Receiver or the Receiver's duly authorized representatives.

On December 17, 2003, Edward and Kathryn Ciparis ("Petitioners" or "Ciparis") filed a Petition for Review ("Petition") with the Commission contesting a Determination of Appeal issued in Claim No. 4145814-A in which the Deputy Receiver of the HOW Companies denied Petitioners' claim for brickwork not done in accordance with the contracted house plan for their residence located at 38 Middle Valley Road, Long Valley, New Jersey 07853.<sup>1</sup> Specifically, Petitioners' claim is for the non-standard manner in which bricks had been laid over the steel lintels of doors and windows.<sup>2</sup>

By order dated December 1, 2003, the Commission docketed the case, 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 February 4, 2004.

On February 4, 2004, the Deputy Receiver filed a Demurrer and Memorandum in Support of Demurrer and Answer to the Petition. Therein, the Deputy Receiver claimed, among other things, that the Petition fails to state a cause of action for which relief under the HOW Program can be granted. Also, the Deputy denied any liability or responsibility to Petitioners under the HOW insurance/warranty document relative to the brick veneer aspect of their claim, inasmuch as the Builder's Limited Warranty coverage<sup>3</sup> for the home expired in 1994, and the Major Structural Defect coverage<sup>4</sup> was not available. As an affirmative defense, the Deputy Receiver averred that Petitioners' claim is time-barred by the express terms of the HOW insurance/warranty documents.

Petitioners filed no response to the Demurrer.

After reviewing the filings submitted in the case and the applicable law, the Hearing Examiner issued his Report on June 9, 2004. Therein, the Hearing Examiner made, among other things, the following findings and recommendations:

- (1) Petitioners' home was enrolled in the HOW Program on November 23, 1992;
- (2) Builder's Limited Warranty coverage for Petitioners' home expired on November 23, 1994;
- (3) The only coverage in effect at the time Petitioners filed their claim was for Major Structural Defect coverage;
- (4) For Major Structural Defect coverage to apply, Petitioners must show actual physical damage to one of the eight designated load-bearing portions of the home, which affects their load-bearing functions to the extent that the home becomes unsafe, unsanitary, or otherwise unlivable;
- (5) Petitioners have not alleged that the defects in the brick veneer constitute failure of one of the load-bearing structures;
- (6) Brick veneer is excluded from Major Structural Defect coverage<sup>5</sup>;
- (7) No Major Structural Defect coverage is available to Petitioners for brick veneer;
- (8) The Deputy Receiver's Demurrer should be granted; and
- (9) The Commission should enter an order granting the demurrer and dismissing the Petition with prejudice.

No comments were filed to the Report of the Hearing Examiner.

Upon consideration of the record herein and the Report of the Hearing Examiner, the Commission is of the opinion and so finds that the findings and recommendations of the Hearing Examiner should be adopted.

Accordingly, IT IS ORDERED THAT:

- (1) The Demurrer submitted by the Deputy Receiver be, and the same is hereby, GRANTED;

<sup>1</sup> On October 15, 2002, Petitioners filed a foundation defect claim with the HOW Companies. The Deputy Receiver has agreed to pay Petitioners \$2,150 for the foundation defect claim.

<sup>2</sup> Petitioners' home was enrolled in the HOW Program on November 23, 1992. Builder's Limited Warranty coverage for Petitioners' home expired on November 23, 1994. Therefore, the only coverage which remained in effect upon filing of the claim now under review by this Commission was coverage for a Major Structural Defect.

<sup>3</sup> The HOW insurance/warranty explicitly limits the HOW Program's Builder's Limited Warranty period to two years: a one year period for defects due to noncompliance with the performance standards listed in the HOW insurance/warranty document and a one year period for specifically designated systems such as electrical, plumbing, heating, cooling and ventilation systems. Coverage under the Builder's Limited Warranty runs the first two years after enrollment of the home in the HOW Program. HOW insurance/warranty document at 3. Exhibit E of Deputy Receiver's Memorandum in Support of Demurrer and Answer to Petition for Review.

<sup>4</sup> A Major Structural Defect is actual physical damage to any of the following designated load-bearing portions of the home caused by a failure of such load-bearing portions which affects their load-bearing functions to the extent that the home becomes unsafe, unsanitary, or otherwise unlivable: (i) foundations systems and footings; (ii) beams; (iii) girders; (iv) lintels; (v) columns; (vi) walls and partitions; (vii) floor systems; and (viii) roof framing systems. This coverage is only available from years three through ten after enrollment of the home in the HOW Program. HOW insurance/warranty document at 6. Exhibit E of Deputy Receiver's Memorandum in Support of Demurrer and Answer to Petition for Review.

<sup>5</sup> HOW insurance/warranty document. Memorandum in Support of Demurrer, Exhibit E at 22, V1.H.

- (2) The Determination of Appeal in Claim No. 4145814-A issued by the Deputy Receiver on November 25, 2003, be, and the same is hereby, **AFFIRMED**;
- (3) The Petition for Review of Edward and Kathryn Ciparis be, and the same is hereby, **DISMISSED** with prejudice; and
- (4) The papers herein are passed to the file for ended causes.

**CASE NO. INS-2003-00265  
JANUARY 8, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
AMERICAN HOME SHIELD OF VIRGINIA, INC.,  
Defendant

**SETTLEMENT ORDER**

Based on a market conduct examination performed by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, violated §§ 38.2-305 B, 38.2-604 A, 38.2-2608 A, 38.2-2608 D, and 38.2-1612 of the Code of Virginia.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of six thousand six hundred dollars (\$6,600), 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 Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

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

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendant cease and desist from any conduct which constitutes a violation of §§ 38.2-305 B, 38.2-604 A, 38.2-2608 A, 38.2-2608 D, or 38.2-1612 of the Code of Virginia; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2003-00265  
JANUARY 27, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
AMERICAN HOME SHIELD OF VIRGINIA, INC.,  
Defendant

**CORRECTING ORDER**

In the Settlement Order entered herein January 8, 2004, in line 4 of the first paragraph set forth on page 1 of the Order, as well as line 2 of ordering paragraph (2) set forth on page 2 of the Order, § 38.2-1612 of the Code of Virginia is listed as being one of the statutes allegedly violated by Defendant. In fact, the Order should have referred to § 38.2-2612; therefore, it is necessary to correct these paragraphs of the Order.

IT IS THEREFORE ORDERED THAT:

(1) The references to "38.2-1612" in line 4 of the first paragraph set forth on page 1 of the Order and in line 2 of ordering paragraph (2) set forth on page 2 of the Settlement Order entered January 8, 2004, shall be corrected to read "38.2-2612;" and

(2) All other provisions of the Settlement Order entered January 8, 2004, shall remain in full force and effect.

**CASE NO. INS-2003-00266  
JANUARY 15, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

JOSEPH LEE CREWS,  
Defendant

**ORDER TO TAKE NOTICE**

On January 12, 2004, the Bureau of Insurance, by counsel, filed a Motion for Permanent Injunction asking that Defendant be permanently enjoined from transacting the business of insurance in the Commonwealth of Virginia based on Defendant's violations of §§ 38.2-1822 and 38.2-1831 of the Code of Virginia.

IT IS THEREFORE ORDERED that Defendant TAKE NOTICE that the Commission shall enter a Judgment Order permanently enjoining Defendant from transacting the business of insurance in the Commonwealth of Virginia unless on or before February 12, 2004, Defendant files with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, a responsive pleading and a request for hearing.

**CASE NO. INS-2003-00266  
FEBRUARY 23, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

JOSEPH LEE CREWS,  
Defendant

**JUDGMENT ORDER**

By order entered on January 15, 2004, Defendant was ordered to take notice that the Commission would enter a Judgment Order subsequent to February 12, 2004, permanently enjoining Defendant from transacting the business of insurance in the Commonwealth of Virginia, unless on or before February 12, 2004, Defendant filed with the Clerk of the Commission a responsive pleading and a request for a hearing.

The Order to Take Notice was entered in response to a Motion for Permanent Injunction filed by the Bureau of Insurance wherein the Bureau alleged that Defendant violated §§ 38.2-1822 and 38.2-1831 of the Code of Virginia.

As of the date of this Order, Defendant has failed to file a responsive pleading to object to the entry of a Judgment Order, nor has Defendant requested a hearing.

THEREFORE IT IS ORDERED THAT:

(1) Defendant Joseph Lee Crews be, and he is hereby, permanently enjoined from transacting the business of insurance in the Commonwealth of Virginia; and

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

**CASE NO. INS-2003-00272  
JANUARY 6, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of Adopting Rules Governing Use of the 2001 CSO Mortality Table in Determining Reserve Liabilities And Nonforfeiture Benefits

**ORDER TO TAKE NOTICE**

Section 12.1-13 of the Code of Virginia provides that the 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 has submitted to the Commission proposed rules to be designated as Chapter 321 of Title 14 of the Virginia Administrative Code entitled "Use of the 2001 CSO Mortality Table in Determining Reserve Liabilities and Nonforfeiture Benefits," which set forth new rules at 14 VAC 5-321-10 through 14 VAC 5-321-60.

The proposed rules create a new chapter (14 VAC 5-321) that authorizes life insurers to use the 2001 Commissioners Standard Ordinary (CSO) Mortality Table in determining reserve liabilities and nonforfeiture benefits for certain life insurance policies. This new chapter is based on a model regulation adopted in 2002 by the National Association of Insurance Commissioners.

The Commission is of the opinion that the proposed rules submitted by the Bureau of Insurance should be considered for adoption with an effective date of July 1, 2004.

IT IS THEREFORE ORDERED THAT:

(1) The proposed rules designated as Chapter 321 of Title 14 of the Virginia Administrative Code and entitled "Use of the 2001 CSO Mortality Table in Determining Reserve Liabilities and Nonforfeiture Benefits," which set forth new rules at 14 VAC 5-321-10 through 14 VAC 5-321-60, be attached hereto and 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 rules shall file such comments or hearing request on or before March 12, 2004, in writing with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218 and shall refer to Case No. INS-2003-00272.

(3) If no written request for a hearing on the proposed rules is filed on or before March 12, 2004, the Commission, upon consideration of any comments submitted in support of or in opposition to the proposed rules, may adopt the rules proposed by the Bureau of Insurance.

(4) AN ATTESTED COPY hereof, together with a copy of the proposed 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 proposed adoption of the rules by mailing a copy of this Order, together with the proposed rules, to all persons licensed or authorized by the Commission pursuant to Title 38.2 of the Code of Virginia to write or reinsure any form of life insurance, and certain interested parties designated by the Bureau of Insurance.

(5) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, together with the 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 proposed rules on the Commission's website, <http://www.state.va.us/scc/caseinfo.htm>.

(6) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (4) above.

NOTE: A copy of Attachment A entitled "Use of the 2001 CSO Mortality Table in Determining Reserve Liabilities and Nonforfeiture Benefits" 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-2003-00272  
MARCH 17, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of Adopting Rules Governing Use of the 2001 CSO Mortality Table in Determining Reserve Liabilities And Nonforfeiture Benefits

**ORDER ADOPTING RULES**

By Order to Take Notice entered herein January 6, 2004, all interested persons were ordered to take notice that subsequent to March 12, 2004, the Commission would consider the entry of an order adopting rules proposed by the Bureau of Insurance entitled "Use of the 2001 CSO Mortality Table in Determining Reserve Liabilities and Nonforfeiture Benefits," to be designated as Chapter 321 of Title 14 of the Virginia Administrative Code, and which set forth new rules at 14 VAC 5-321-10 through 14 VAC 5-321-60, unless on or before March 12, 2004, any person objecting to the adoption of the proposed rules filed a request for a hearing on the proposed rules with the Clerk of the Commission. The Order to Take Notice also required all interested persons to file their comments in support of or in opposition to the proposed rules on or before March 12, 2004.

The proposed rules create a new chapter in the Virginia Administrative Code (14 VAC 5-321) that authorizes life insurers to use the 2001 Commissioners Standard Ordinary (CSO) Mortality Table in determining reserve liabilities and nonforfeiture benefits for certain life insurance policies. This new chapter is based on a model regulation adopted in 2002 by the National Association of Insurance Commissioners.

Monumental Life Insurance Company ("Monumental") filed its comments on the proposed rules with the Clerk on January 27, 2004. Monumental recommended that the new table be permitted for use as of July 1, 2004, the effective date of the proposed rules, rather than January 1, 2005, as set forth in the proposed rules at 14 VAC 5-321-30 A, 14 VAC 5-321-40 A, 14 VAC 5-321-40 B, and 14 VAC 5-321-60 A.

On March 11, 2004, the Bureau received a comment letter from the American Council of Life Insurers, which stated its support of the proposed rules and recommended their adoption.

The Bureau has reviewed the comments and recommends that, in accordance with Monumental's comment letter, the proposed rules be modified at 14 VAC 5-321-30 A, 14 VAC 5-321-40 A, 14 VAC 5-321-40 B, and 14 VAC 5-321-60 A by deleting the date of January 1, 2005, and inserting July 1, 2004 in its place.

THE COMMISSION, having considered the proposed rules, the filed comments, and the Bureau's response to and recommendation regarding the filed comments, is of the opinion that the attached rules, which reflect the recommendation of the Bureau, should be adopted.

**THEREFORE, IT IS ORDERED THAT:**

(1) The rules entitled "Use of the 2001 CSO Mortality Table in Determining Reserve Liabilities and Nonforfeiture Benefits," to be designated as Chapter 321 of Title 14 of the Virginia Administrative Code, which set forth new rules at 14 VAC 5-321-10 through 14 VAC 5-321-60, and which are attached hereto and made a part hereof, should be, and they are hereby, ADOPTED to be effective July 1, 2004.

(2) AN ATTESTED COPY hereof 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 rules by mailing a copy of this Order, including a copy of the attached rules, to all persons licensed or authorized by the Commission pursuant to Title 38.2 of the Code of Virginia to write or reinsure any form of life insurance, 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, including a copy of the attached 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 rules on the Commission's website, <http://www.state.va.us/scc/caseinfo.htm>.

(4) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (2) above.

NOTE: A copy of Attachment A entitled "Rules Governing Use of the 2001 CSO Mortality Table in Determining Reserve Liabilities and Nonforfeiture Benefits" 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-2004-00001  
JANUARY 23, 2004**

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

**SETTLEMENT ORDER**

Based on an investigation and subsequent allegations by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated § 38.2-610 of the Code of Virginia by failing to give 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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of seven thousand five hundred dollars (\$7,500) and waived its right to a hearing.

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

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

IT IS THEREFORE ORDERED THAT:

- (1) The offer of 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-2004-00004  
MARCH 9, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
CHRISTINE JOANN RIDDELL,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance as an insurance agent and as a surplus lines broker in the Commonwealth of Virginia, in a certain instance, violated § 38.2-4806 D of the Code of Virginia by failing to file timely with the Commission the quarterly report summarizing the business transacted by Defendant for the third quarter of 2003.

The Commission is authorized by §§ 38.2-218, 38.2-219, 38.2-1831, and 38.2-1857.7 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and to suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of her right to a hearing before the Commission in this matter by certified letters dated December 3, 2003, January 6, 2004, and January 29, 2004, respectively, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of Defendant's licenses to transact the business of insurance in the Commonwealth of Virginia as an insurance agent and as a surplus lines broker.

THE COMMISSION is of the opinion and finds that Defendant has violated § 38.2-4806 D of the Code of Virginia by failing to file timely with the Commission the quarterly report summarizing the business transacted by Defendant for the third quarter of 2003.



## IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an agent and as a surplus lines broker in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said insurance agent license be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent or as a surplus lines broker;
- (4) Defendant shall not apply to the Commission to be licensed as an insurance agent or as a surplus lines broker in the Commonwealth of Virginia prior to five (5) years from the date of this Order;
- (5) The Bureau of Insurance shall cause a copy of this Order to be sent to every insurance company for which 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-2004-00007  
MARCH 9, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
MATT LYDON MCDONOUGH,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance as a surplus lines broker in the Commonwealth of Virginia, in a certain instance, violated § 38.2-4806 D of the Code of Virginia by failing to file timely with the Commission the quarterly report summarizing the business transacted by Defendant for the third quarter of 2003.

The Commission is authorized by §§ 38.2-218, 38.2-219, 38.2-1831, and 38.2-1857.7 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and to suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letters dated December 3, 2003, January 6, 2004, and January 29, 2004, respectively, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking Defendant's license to transact the business of insurance in the Commonwealth of Virginia as a surplus lines broker.

THE COMMISSION is of the opinion and finds that Defendant has violated § 38.2-4806 D of the Code of Virginia by failing to file timely with the Commission the quarterly report summarizing the business transacted by Defendant for the third quarter of 2003.

## IT IS THEREFORE ORDERED THAT:

- (1) The license of Defendant to transact the business of insurance as a surplus lines broker in the Commonwealth of Virginia be, and it is hereby, REVOKED;
- (2) Defendant transact no further business in the Commonwealth of Virginia as a surplus lines broker;
- (3) Defendant shall not apply to the Commission to be licensed as a surplus lines broker in the Commonwealth of Virginia prior to five (5) years from the date of this Order; and
- (4) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2004-00016  
MARCH 2, 2004**

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

**SETTLEMENT ORDER**

Based on an investigation and subsequent allegations by the Bureau of Insurance, it appears that Defendant, duly licensed by the 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 agent 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 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein 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 Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

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

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendant cease and desist from any 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-2004-00017  
FEBRUARY 12, 2004**

APPLICATION OF  
FIDELITY SECURITY LIFE INSURANCE COMPANY

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

**ORDER APPROVING APPLICATION**

By application filed with the Commission on January 14, 2004, Fidelity Security Life Insurance Company, a Missouri-domiciled insurer licensed to transact the business of insurance in the Commonwealth of Virginia ("Fidelity Security"), requested approval of an assumption reinsurance agreement pursuant to § 38.2-136 C of the Code of Virginia, whereby Fidelity Security would assume certain Virginia individual deferred variable annuity contracts with a fixed account from London Pacific Life & Annuity Company in Receivership, a North Carolina-domiciled insurer in delinquency proceedings, whose license to transact the business of insurance in the Commonwealth of Virginia was revoked by the Commission in Case No. INS-2002-00203 on September 8, 2003.

The assumption reinsurance agreement does not require the approval of the Missouri Department of Insurance, the domiciliary regulator of Fidelity Security.

The Superior Court Division of the General Court of Justice of Wake County, North Carolina, approved the assumption reinsurance agreement on December 30, 2003.

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.

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.

THEREFORE, IT IS ORDERED THAT the application of Fidelity Security Life Insurance Company for approval of the assumption reinsurance agreement with London Pacific & Annuity Company in Receivership, pursuant to § 38.2-136 C of the Code of Virginia be, and it is hereby, APPROVED.

**CASE NO. INS-2004-00018  
MARCH 15, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

KENNETH J. ALEXANDER,  
Defendant

**ORDER SUSPENDING LICENSE**

Based on an investigation by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance as an insurance agent in the Commonwealth of Virginia, violated § 38.2-1826 of the Code of Virginia by failing to inform the Commission of disciplinary action taken against Defendant by another jurisdiction.

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 to suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated January 14, 2004, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

In a letter to the Bureau of Insurance dated January 19, 2004, Defendant requested that, given the alleged violation of § 38.2-1826, the Commission suspend his license for a period of two (2) years from the date of the entry of this Order and otherwise admonish him for the alleged violation of § 38.2-1826.

The Bureau of Insurance is in agreement with Defendant's request and recommends that the Commission enter an order suspending all of Defendant's licenses to transact the business of insurance in the Commonwealth of Virginia as an insurance agent for a period of two (2) years, and if during the foregoing two (2)-year period any additional violations of § 38.2-1826 are discovered, the Bureau of Insurance may initiate action to revoke permanently Defendant's licenses.

THE COMMISSION is of the opinion and finds that Defendant has violated § 38.2-1826 of the Code of Virginia by failing to inform the Commission of disciplinary action taken against Defendant by another jurisdiction.

IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an agent in the Commonwealth of Virginia be, and they are hereby, SUSPENDED for a period of two (2) years from the date of this Order;
- (2) All appointments issued under said licenses be, and they are hereby, SUSPENDED;
- (3) If during the foregoing two (2)-year period any additional violations of § 38.2-1826 of the Code of Virginia are discovered, the Bureau of Insurance may initiate action to revoke permanently Defendant's licenses;
- (4) The Bureau of Insurance shall cause a copy of this Order to be sent to every insurance company for which Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia; and
- (5) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2004-00025  
FEBRUARY 12, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

AMERICAN MANUFACTURERS MUTUAL INSURANCE COMPANY,  
Defendant

**CONSENT ORDER**

By letter filed with the Bureau of Insurance, American Manufacturers Mutual Insurance Company, a foreign corporation domiciled in the State of Illinois and licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia ("Defendant"), consented to the issuance of

an order in which Defendant agrees, effective as of the date hereof, and continuing until further order of the Commission, not to solicit or issue any new insurance policies or contracts or renew any insurance policies or contracts in the Commonwealth of Virginia;

THEREFORE, IT IS ORDERED THAT:

- (1) Defendant shall not issue any new contracts or policies of insurance in the Commonwealth of Virginia until further order of the Commission;
- (2) Defendant shall not renew any contracts or policies of insurance in the Commonwealth of Virginia until further order of the Commission; and
- (3) Defendant, by March 15, 2004, shall provide to each of its agents appointed to act on behalf of Defendant in the Commonwealth of Virginia an attested copy of this Order.

**CASE NO. INS-2004-00026  
FEBRUARY 12, 2004**

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

**CONSENT ORDER**

By letter filed with the Bureau of Insurance, American Protection Insurance Company, a foreign corporation domiciled in the State of Illinois and licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia ("Defendant"), consented to the issuance of an order in which Defendant agrees, effective as of the date hereof, and continuing until further order of the Commission, not to solicit or issue any new insurance policies or contracts or renew any insurance policies or contracts in the Commonwealth of Virginia;

THEREFORE, IT IS ORDERED THAT:

- (1) Defendant shall not issue any new contracts or policies of insurance in the Commonwealth of Virginia until further order of the Commission;
- (2) Defendant shall not renew any contracts or policies of insurance in the Commonwealth of Virginia until further order of the Commission; and
- (3) Defendant, by March 15, 2004, shall provide to each of its agents appointed to act on behalf of Defendant in the Commonwealth of Virginia an attested copy of this Order.

**CASE NO. INS-2004-00027  
FEBRUARY 12, 2004**

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

**CONSENT ORDER**

By letter filed with the Bureau of Insurance, Specialty National Insurance Company, a foreign corporation domiciled in the State of Illinois and licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia ("Defendant"), consented to the issuance of an order in which Defendant agrees, effective as of the date hereof, and continuing until further order of the Commission, not to solicit or issue any new insurance policies or contracts or renew any insurance policies or contracts in the Commonwealth of Virginia;

THEREFORE, IT IS ORDERED THAT:

- (1) Defendant shall not issue any new contracts or policies of insurance in the Commonwealth of Virginia until further order of the Commission;
- (2) Defendant shall not renew any contracts or policies of insurance in the Commonwealth of Virginia until further order of the Commission; and
- (3) Defendant, by March 15, 2004, shall provide to each of its agents appointed to act on behalf of Defendant in the Commonwealth of Virginia an attested copy of this Order.

**CASE NO. INS-2004-00028  
FEBRUARY 12, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

AMERICAN MOTORISTS INSURANCE COMPANY,  
Defendant

**CONSENT ORDER**

By letter filed with the Bureau of Insurance, American Motorists Insurance Company, a foreign corporation domiciled in the State of Illinois and licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia ("Defendant"), consented to the issuance of an order in which Defendant agrees, effective as of the date hereof, and continuing until further order of the Commission, not to solicit or issue any new insurance policies or contracts or renew any insurance policies or contracts in the Commonwealth of Virginia;

THEREFORE, IT IS ORDERED THAT:

- (1) Defendant shall not issue any new contracts or policies of insurance in the Commonwealth of Virginia until further order of the Commission;
- (2) Defendant shall not renew any contracts or policies of insurance in the Commonwealth of Virginia until further order of the Commission; and
- (3) Defendant, by March 15, 2004, shall provide to each of its agents appointed to act on behalf of Defendant in the Commonwealth of Virginia an attested copy of this Order.

**CASE NO. INS-2004-00029  
FEBRUARY 12, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

LUMBERMENS MUTUAL CASUALTY COMPANY,  
Defendant

**CONSENT ORDER**

By letter filed with the Bureau of Insurance, Lumbermens Mutual Casualty Company, a foreign corporation domiciled in the State of Illinois and licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia ("Defendant"), consented to the issuance of an order in which Defendant agrees, effective as of the date hereof, and continuing until further order of the Commission, not to solicit or issue any new insurance policies or contracts or renew any insurance policies or contracts in the Commonwealth of Virginia;

THEREFORE, IT IS ORDERED THAT:

- (1) Defendant shall not issue any new contracts or policies of insurance in the Commonwealth of Virginia until further order of the Commission;
- (2) Defendant shall not renew any contracts or policies of insurance in the Commonwealth of Virginia until further order of the Commission; and
- (3) Defendant, by March 15, 2004, shall provide to each of its agents appointed to act on behalf of Defendant in the Commonwealth of Virginia an attested copy of this Order.

**CASE NO. INS-2004-00030  
FEBRUARY 12, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

KEMPER CASUALTY INSURANCE COMPANY,  
Defendant

**CONSENT ORDER**

By letter filed with the Bureau of Insurance, Kemper Casualty Insurance Company, a foreign corporation domiciled in the State of Illinois and licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia ("Defendant"), consented to the issuance of an order in which Defendant agrees, effective as of the date hereof, and continuing until further order of the Commission, not to solicit or issue any new insurance policies or contracts or renew any insurance policies or contracts in the Commonwealth of Virginia;

THEREFORE, IT IS ORDERED THAT:

- (1) Defendant shall not issue any new contracts or policies of insurance in the Commonwealth of Virginia until further order of the Commission;
- (2) Defendant shall not renew any contracts or policies of insurance in the Commonwealth of Virginia until further order of the Commission; and
- (3) Defendant, by March 15, 2004, shall provide to each of its agents appointed to act on behalf of Defendant in the Commonwealth of Virginia an attested copy of this Order.

**CASE NO. INS-2004-00031  
MARCH 2, 2004**

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

**SETTLEMENT ORDER**

Based on a market conduct examination performed by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated subsection 1 of § 38.2-502 and §§ 38.2-316 A, 38.2-316 B, 38.2-316 C, 38.2-503, 38.2-510 A 15, 38.2-511, 38.2-1812 A, 38.2-1822 A, 38.2-1833 A 1, 38.2-3407.1, 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 C, 38.2-3431 C 3, 38.2-3431 C 6, 38.2-3542 C, and 38.2-5804 A of the Code of Virginia, as well as 14 VAC 5-90-60 B 1, 14 VAC 5-90-90 C, 14 VAC 5-90-130 A, 14 VAC 5-400-50 A, 14 VAC 5-400-60 A, 14 VAC 5-400-60 B, and 14 VAC 5-400-70 B.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant, has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of twenty-six thousand dollars (\$26,000), waived its right to a hearing, and agreed to the entry by the Commission of a partial cease and desist order.

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

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

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendant cease and desist from any conduct which constitutes a violation of subsection 1 of § 38.2-502 or §§ 38.2-316 A, 38.2-316 B, 38.2-316 C, 38.2-503, 38.2-511, 38.2-1812 A, 38.2-1822 A, 38.2-1833 A 1, 38.2-3407.1, or 38.2-3431 C 6 of the Code of Virginia, or 14 VAC 5-90-130 A, 14 VAC 5-400-60 A, 14 VAC 5-400-60 B, or 14 VAC 5-400-70 B; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2004-00034  
FEBRUARY 25, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
KEISHA DIANE JOHNSON,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance as an insurance agent in the Commonwealth of Virginia, violated § 38.2-1822 of the Code of Virginia by acting as an agent of an insurer without first being appointed as an agent by that insurer as prescribed by the Commission.

## 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 to suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been notified of her right to a hearing before the Commission in this matter by certified letters dated January 7, 2004, and January 28, 2004, respectively, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 Defendant has violated § 38.2-1822 of the Code of Virginia by acting as an agent of an insurer without first being appointed as an agent by that insurer as prescribed by the Commission.

## IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) 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 cause a copy of this Order to be sent to every insurance company for which 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 NOS. INS-2004-00035 and INS-2004-00036  
APRIL 6, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
MARK K. STOPCHINSKI,  
PREMIER INSURANCE AGENTS, INC.,  
Defendants

**SETTLEMENT ORDER**

Based on an investigation and subsequent allegations by the Bureau of Insurance (the "Bureau"), it appears that Defendants, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, violated §§ 38.2-502, 38.2-512, and 38.2-1822 of the Code of Virginia (the "Code"), by misrepresenting the benefits, advantages, conditions or terms of an insurance policy, by making false statements or representations on or relative to an application for an insurance policy for the purpose of obtaining a fee, commission, money, or other benefit, and by knowingly permitting a person to act as an agent without first obtaining a license in the manner and form prescribed by the Commission.

The Commission issued a Rule to Show Cause ("Rule") against Defendants on February 24, 2004. The Rule ordered the Defendants to appear before the Commission on April 20<sup>th</sup> and 21<sup>st</sup>, 2004. Before the scheduled hearing date, Defendants negotiated a settlement with the Bureau.

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 Defendants' licenses upon a finding by the Commission, after notice and opportunity to be heard, that Defendants have committed the aforesaid alleged violations.

Defendants, without admitting any violation of Virginia law, have made an offer of settlement to the Commission wherein Defendants have tendered to the Commonwealth of Virginia the sum of fifteen thousand dollars (\$15,000), waived their right to a hearing, agreed to the entry by the Commission of a cease and desist order, and agreed that Andrew G. Stopchinski will not be employed with Premier Insurance Agents, Inc., or any other agency owned or operated by Mark K. Stopchinski, as of the date of the entry of this Order.

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

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendants in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendants cease and desist from any conduct which constitutes a violation of §§ 38.2-502, 38.2-512, or 38.2-1822 of the Code of Virginia;
- (3) Mark K. Stopchinski shall not employ Andrew G. Stopchinski with Premier Insurance Agents, Inc., or any other agency owned or operated by Mark K. Stopchinski, as of the date of the entry of this Order; and
- (4) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2004-00038  
FEBRUARY 2, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
BRIAN TITLE COMPANY, INC.,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, violated § 6.1-2.26 of the Code of Virginia, 14 VAC 5-395-60, and the Cease and Desist Order entered by the Commission in Case No. INS-2002-01287, by providing escrow, closing or settlement services in the Commonwealth of Virginia without being properly registered as a settlement agent with the Virginia State Bar.

IT FURTHER APPEARING that the Commission is authorized by § 6.1-2.27 of the Code of Virginia to impose certain monetary penalties and to suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations of Chapter 1.3 (§ 6.1-2.19 et seq.) of Title 6.1 of the Code of Virginia.

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 to suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been notified of its right to a hearing before the Commission in this matter by certified letters dated December 1, 2003, and January 5, 2004, respectively, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 Defendant has violated § 6.1-2.26 of the Code of Virginia, 14 VAC 5-395-60, and the Cease and Desist Order entered by the Commission in Case No. INS-2002-01287, by providing escrow, closing or settlement services in the Commonwealth of Virginia without being properly registered as a settlement agent with the Virginia State Bar.

IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00039  
FEBRUARY 25, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

VETERANS LIFE INSURANCE COMPANY,  
Defendant

**SETTLEMENT ORDER**

Based on an investigation and subsequent allegations by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated § 38.2-610 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.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of fifteen thousand dollars (\$15,000), 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 Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

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

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendant cease and desist from any conduct which constitutes a violation of § 38.2-610 of the Code of Virginia; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2004-00039  
MARCH 5, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

VETERANS LIFE INSURANCE COMPANY,  
Defendant

**CORRECTING ORDER**

In the Settlement Order entered herein February 25, 2004, the third paragraph, set forth on page 1 of the order, indicated that Defendant had agreed to the entry by the Commission of a cease and desist order, and ordering paragraph (2), set forth on page 2 of the order, ordered Defendant to cease and desist from any conduct which constitutes a violation of § 38.2-610 of the Code of Virginia. Defendant, in fact, had not agreed to the entry of such cease and desist order, making it necessary to correct the language of the two aforementioned paragraphs of the order.

IT IS THEREFORE ORDERED THAT:

- (1) The language of the third paragraph of the Settlement Order entered herein February 25, 2004, shall be deleted in its entirety, and the following language shall be inserted in its place and stead:

"Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of fifteen thousand dollars (\$15,000) and waived its right to a hearing.";

- (2) The language of ordering paragraph (2) of the Settlement Order shall be deleted in its entirety, causing ordering paragraph (3) of the Settlement Order to be renumbered as ordering paragraph (2); and
- (3) All other provisions of the Settlement Order shall remain in full force and effect.

**CASE NO. INS-2004-00040  
MARCH 12, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
DOMINION DENTAL SERVICES, INC.,  
Defendant

**SETTLEMENT ORDER**

Based on a market conduct examination performed by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of a health maintenance organization in the Commonwealth of Virginia, in certain instances, violated subsection 1 of § 38.2-502, and §§ 38.2-316 B, 38.2-316 C, 38.2-503, 38.2-510 A 4, 38.2-510 A 5, 38.2-510 A 6, 38.2-510 A 14, 38.2-510 A 15, 38.2-1812 A, 38.2-1833 A 1, 38.2-1834 D, 38.2-3407.4 A, 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 6, 38.2-3522.1 A 3, 38.2-3542 C, 38.2-4306 B 1, 38.2-4306.1, 38.2-4312 A, and 38.2-5804 A of the Code of Virginia, as well as 14 VAC 5-90-50 A, 14 VAC 5-90-50 B, 14 VAC 5-90-60 A 1, 14 VAC 5-90-60 A 2, 14 VAC 5-90-60 B 1, 14 VAC 5-90-90 C, 14 VAC 5-90-120 B, 14 VAC 5-90-130 A, 14 VAC 5-90-170 A, and 14 VAC 5-210-110 B.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of fifty-six thousand dollars (\$56,000), 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 Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

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

**IT IS THEREFORE ORDERED THAT:**

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendant cease and desist from any conduct which constitutes a violation of subsection 1 of § 38.2-502, or §§ 38.2-316 B, 38.2-316 C, 38.2-503, 38.2-1812 A, 38.2-1833 A 1, 38.2-3407.4 A, or 38.2-4306 B 1 of the Code of Virginia, or 14 VAC 5-90-50 B, 14 VAC 5-90-60 A 1, 14 VAC 5-90-60 A 2, 14 VAC 5-90-90 C, or 14 VAC 5-210-110 B; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2004-00040  
MARCH 31, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
DOMINION DENTAL SERVICES, INC.,  
Defendant

**CORRECTING ORDER**

In the Settlement Order entered herein March 12, 2004, ordering paragraph (2), set forth on page 2 of the order, reads as follows: "Defendant cease and desist from any conduct which constitutes a violation of subsection 1 of § 38.2-502, or §§ 38.2-316 B, 38.2-316 C, 38.2-503, 38.2-1812 A, 38.2-1833 A 1, 38.2-3407.4 A, or 38.2-4306 B 1 of the Code of Virginia, or 14 VAC 5-90-50 B, 14 VAC 5-90-60 A 1, 14 VAC 5-90-60 A 2, 14 VAC 5-90-90 C, or 14 VAC 5-210-110 B." The following language, however, inadvertently was not included in the paragraph: "future violations," and "with respect to the matters cited in the market conduct examination report."

**THEREFORE, IT IS ORDERED THAT:**

- (1) Ordering paragraph (2), set forth on page 2 of the Settlement Order entered March 12, 2004, shall be corrected to read "Defendant cease and desist from any future violations of subsection 1 of § 38.2-502, or §§ 38.2-316 B, 38.2-316 C, 38.2-503, 38.2-1812 A, 38.2-1833 A 1, 38.2-3407.4 A, or 38.2-4306 B 1 of the Code of Virginia, or 14 VAC 5-90-50 B, 14 VAC 5-90-60 A 1, 14 VAC 5-90-60 A 2, 14 VAC 5-90-90 C, or 14 VAC 5-210-110 B with respect to the matters cited in the market conduct examination report; and";
- (2) All other provisions of the Settlement Order entered herein March 12, 2004, shall remain in full force and effect.

**CASE NO. INS-2000-00041  
FEBRUARY 11, 2004**

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

**ORDER TO TAKE NOTICE**

Pursuant to § 38.2-1040 of the Code of Virginia (the "Code"), 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 whenever the Commission finds that the company has violated any law of this Commonwealth.

Mid-South Insurance Company, a foreign corporation originally domiciled in the State of North Carolina ("Defendant"), initially was licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia on August 29, 1972.

In 2000, Defendant changed its state of incorporation from North Carolina to Nebraska.

Pursuant to § 38.2-1027 of the Code, Defendant, as a foreign corporation, is required to maintain a Virginia Certificate of Authority in addition to the license to transact the business of insurance issued by the Commission.

Pursuant to § 13.1-760 and § 38.2-1022 of the Code, Defendant was required to file with the Commission any necessary amendments to its corporate documents and to obtain from the Commission an amended Certificate of Authority to reflect the change in its state of incorporation.

Defendant's Virginia Certificate of Authority was revoked as of October 31, 2002, for failure to pay its annual registration fee.

As of the date of this Order, Defendant has failed to amend its Virginia Certificate of Authority and has not had its Certificate of Authority reinstated.

IT IS THEREFORE ORDERED THAT Defendant TAKE NOTICE that the Commission shall enter an Order subsequent to February 26, 2004, suspending the license of Defendant to transact the business of insurance in the Commonwealth of Virginia unless on or before February 26, 2004, Defendant files with the Clerk of the 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 Defendant's license.

**CASE NO. INS-2004-00041  
APRIL 16, 2004**

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

**FINAL ORDER**

In an order entered herein February 11, 2004, Mid-South Insurance Company, a foreign corporation domiciled in the State of Nebraska ("Defendant"), was ordered to take notice that the Commission would enter an order subsequent to February 26, 2004, suspending the license of Defendant to transact the business of insurance in the Commonwealth of Virginia for the reasons set forth therein, unless on or before February 26, 2004, Defendant filed with the Clerk of the Commission a request for a hearing before the Commission with respect to the proposed suspension of Defendant's license.

By letter of H. Guy Collier, attorney for Defendant, dated February 25, 2004, and filed with the Commission on February 26, 2004, Defendant requested a hearing in connection with the proposed suspension of its license. Attached to Mr. Collier's letter was a copy of a letter filed with the Clerk of the Commission on February 26, 2004, by which Defendant submitted a reentry application, including the appropriate fees and penalties, pursuant to § 13.1-796.1 of the Code of Virginia, for the reinstatement of its Certificate of Authority, which had been revoked on October 31, 2002.

In an Order of Reentry entered herein March 16, 2004, Defendant's Certificate of Authority was reentered, effective as of March 16, 2004.

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

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.

THEREFORE, IT IS ORDERED THAT:

- (1) The Order to Take Notice entered by the Commission be, and it is hereby, DISMISSED;

- (2) This case be, and it is hereby, closed; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2004-00050  
MARCH 12, 2004**

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

**SETTLEMENT ORDER**

Based on an investigation and subsequent allegations by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated § 38.2-3407.14 of the Code of Virginia by failing to provide in conjunction with the proposed renewal of certain of its policies sixty (60) days' written notice to affected policyholders of its intent to increase by more than thirty-five percent (35%) the annual premium charged for coverage under such policies.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein 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 Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

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

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendant cease and desist from any conduct which constitutes a violation of § 38.2-3407.14 of the Code of Virginia;
- (3) Defendant reimburse, within sixty (60) days from the date of entry of this Order, all affected policyholders with the amount by which any premium applied to their policy exceeded thirty-five percent (35%) for the entire period for which no notice, or sufficient notice, was provided;
- (4) Defendant notify the Bureau of Insurance in writing that the reimbursements have been made within thirty (30) days of the mailing of such reimbursements; and
- (5) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2004-00062  
APRIL 28, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
ELLIOT H. CEPLER,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, violated § 38.2-512 of the Code of Virginia by making false statements or representations on or relative to an application for an insurance policy for the purpose of obtaining a fee or commission.

## 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 to suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letters dated February 12, 2004, and March 23, 2004, respectively, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 Defendant has violated § 38.2-512 of the Code of Virginia by making false statements or representations on or relative to an application for an insurance policy for the purpose of obtaining a fee or commission.

## IT IS THEREFORE ORDERED THAT:

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

(2) All appointments issued under said licenses be, and they are hereby, VOID;

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

(4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00063  
MARCH 15, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
CAREFIRST BLUECHOICE, INC.,  
Defendant

**SETTLEMENT ORDER**

Based on a market conduct examination performed by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance as a health maintenance organization in the Commonwealth of Virginia, in certain instances, violated subsection 1 of § 38.2-502 and §§ 38.2-316 A, 38.2-316 B, 38.2-316 C, 38.2-503, 38.2-510 A 15, 38.2-1318 C, 38.2-1812 A, 38.2-1822 A, 38.2-1833 A 1, 38.2-1834 D, 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 C, 38.2-3412.1:01, 38.2-3542 C, 38.2-4306.1, 38.2-4312 A, 38.2-4313, 38.2-5804 A, 38.2-5805 C 6, and 38.2-5805 C 10 of the Code of Virginia, as well as 14 VAC 5-90-50 A, 14 VAC 5-90-50 B, 14 VAC 5-90-60 A 2, 14 VAC 5-90-60 B 1, 14 VAC 5-90-170 A, 14 VAC 5-210-70 A 1 b, 14 VAC 5-210-70 B 2, 14 VAC 5-210-70 C 3, 14 VAC 5-210-90 B 1 b, and 14 VAC 5-210-110 A.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of one hundred eighteen thousand dollars (\$118,000), 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 Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

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

## IT IS THEREFORE ORDERED THAT:

(1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

(2) Defendant cease and desist from any conduct which constitutes a violation of subsection 1 of § 38.2-502 or §§ 38.2-316 A, 38.2-316 B, 38.2-316 C, 38.2-503, 38.2-510 A 15, 38.2-1318 C, 38.2-1812 A, 38.2-1822 A, 38.2-1833 A 1, 38.2-1834 D, 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 C, 38.2-3412.1:01, 38.2-3542 C, 38.2-4306.1, 38.2-4312 A, 38.2-4313, 38.2-5804 A, 38.2-5805 C 6, or 38.2-5805 C 10 of the Code of Virginia, or 14 VAC 5-90-50 A, 14 VAC 5-90-50 B, 14 VAC 5-90-60 A 2, 14 VAC 5-90-60 B 1, 14 VAC 5-90-170 A, 14 VAC 5-210-70 A 1 b, 14 VAC 5-210-70 B 2, 14 VAC 5-210-70 C 3, 14 VAC 5-210-90 B 1 b, or 14 VAC 5-210-110 A; and

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

**CASE NO. INS-2004-00067  
MARCH 26, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.  
COMMONWEALTH DEALERS LIFE INSURANCE COMPANY,  
Defendant

**SETTLEMENT ORDER**

Based on a market conduct examination performed by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-501 (1), 38.2-503, 38.2-1834 D, 38.2-3115 A, 38.2-3729 A, 38.2-3729 C, 38.2-3729 E 2, and 38.2-3735 A 2 of the Code of Virginia, as well as 14 VAC 5-40-40 A 6, 14 VAC 5-40-40 D 2, 14 VAC 5-90-50 A, 14 VAC 5-90-90 A, 14 VAC 5-400-30, and 14 VAC 5-400-50 A.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of fifteen thousand dollars (\$15,000), 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 Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

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

IT IS THEREFORE ORDERED THAT:

(1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;

(2) Defendant cease and desist from any conduct which constitutes a violation of §§ 38.2-502 (1), 38.2-503, 38.2-1834 D, 38.2-3115 A, 38.2-3729 A, 38.2-3729 C, 38.2-3729 E 2, or 38.2-3735 A 2 of the Code of Virginia, as well as 14 VAC 5-40-40 A 6, 14 VAC 5-40-40 D 2, 14 VAC 5-90-50 A, 14 VAC 5-90-90 A, 14 VAC 5-400-30, or 14 VAC 5-400-50 A; and

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

**CASE NO. INS-2004-00067  
MARCH 31, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.  
COMMONWEALTH DEALERS LIFE INSURANCE COMPANY,  
Defendant

**CORRECTING ORDER**

In the Settlement Order entered herein March 26, 2004, in line 3 of the first paragraph set forth on page 1 of the Order, there is a reference to "38.2-501 (1)." The correct reference, however, should be 38.2-502 (1).

IT IS THEREFORE ORDERED THAT:

(1) The reference in line 3 of the first paragraph set forth on page 1 of the Order, entered March 26, 2004, shall be corrected to read "38.2-502 (1)."

(2) All other provisions of the Settlement Order entered March 26, 2004, shall remain in full force and effect.

**CASE NO. INS-2004-00068  
MARCH 16, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of Adopting Revisions to the Rules Governing Advertisement of Accident and Sickness Insurance

**ORDER TO TAKE NOTICE**

Section 12.1-13 of the Code of Virginia provides that the 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 has submitted to the Commission proposed revisions to Chapter 90 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Advertisement of Accident and Sickness Insurance" which amend the rules at 14 VAC 5-90-10 through 14 VAC 5-90-180.

The proposed revisions add or modify definitions in accordance with the National Association of Insurance Commissioner's model regulation, clarify provisions relating to an "advertisement" and an "invitation to contract," recognize forms of electronic communication as advertisements, and make stylistic changes in accordance with the Virginia Registrar Form, Style and Procedure Manual.

THEREFORE, IT IS ORDERED THAT:

(1) The proposed revisions to the "Rules Governing Advertisement of Accident and Sickness Insurance," which amend the rules at 14 VAC 5-90-10 through 14 VAC 5-90-180, be attached hereto and 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 revisions shall file such comments or hearing request on or before May 1, 2004, in writing with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218 and shall refer to Case No. INS-2004-00068.

(3) If no written request for a hearing on the proposed revisions is filed on or before May 1, 2004, the Commission, upon consideration of any comments submitted in support of or in opposition to the proposed revisions, may adopt the revisions proposed by the Bureau of Insurance.

(4) AN ATTESTED COPY hereof, together with a copy of the proposed revisions, shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Gerald A. Milsky, who forthwith shall give further notice of the proposed adoption of the revisions to the rules by mailing a copy of this Order, together with the proposed revisions, to all persons licensed by the Commission to transact the business of accident and sickness insurance.

(5) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, together with the proposed revisions, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations.

(6) On or before March 24, 2004, the Commission's Division of Information Resources shall make available this Order and the attached proposed revisions on the Commission's website, <http://www.state.va.us/scs/caseinfo.htm>.

(7) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (4) above.

NOTE: A copy of Attachment A entitled "Rules Governing Advertisement of Accident and Sickness Insurance" 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-2004-00068  
MAY 26, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of Adopting Revisions to the Rules Governing Advertisement of Accident and Sickness Insurance

**ORDER ADOPTING REVISIONS TO RULES**

By order entered herein March 16, 2004, all interested persons were ordered to take notice that subsequent to May 1, 2004, the Commission would consider the entry of an order adopting revisions proposed by the Bureau of Insurance to the Commission's Rules Governing Advertisement of Accident and Sickness Insurance, set forth in Chapter 90 of Title 14 of the Virginia Administrative Code, unless on or before May 1, 2004, any person objecting to the adoption of the proposed revisions filed a request for hearing with the Clerk of the Commission (the Clerk).

The Order to Take Notice also required all interested persons to file their comments in support of or in opposition to the proposed revisions on or before May 1, 2004.

The Virginia Association of Health Plans (VAHP) filed comments to the proposed revisions with the Clerk on April 30, 2004. VAHP did not request a hearing.

Aetna Inc. (Aetna), a health insurance company, filed comments to the proposed revisions with the Clerk on May 3, 2004, which were considered timely in accordance with Commission Rule 5 VAC 5-20-140. Aetna did not request a hearing.

The Alliance of Virginia Dental Plans (Alliance) filed comments to the proposed revisions with the Clerk on May 3, 2004, which were considered timely in accordance with Commission Rule 5 VAC 5-20-140. Alliance did not request a hearing.

The Bureau has reviewed the comments and recommends that the proposed rules be modified at 14 VAC 5-90-10, 14 VAC 5-90-30 in the definition of "advertisement", 14 VAC 5-90-30 in the definition of "invitation to inquire" and that a portion of that definition be moved to a new section known as 14 VAC 5-90-55 entitled "Form and content of invitations to inquire", 14 VAC 5-90-110, and 14 VAC 5-90-130 A.

The Bureau filed its Statements of Position in response to the comments filed by VAHP, Aetna and Alliance with the Clerk on May 25, 2004.

THE COMMISSION, having considered the proposed revisions, the filed comments, and the Bureau's response to and recommendations regarding the filed comments, is of the opinion that the attached revisions to the rules, which reflect the recommendations of the Bureau, should be adopted.

THEREFORE IT IS ORDERED THAT:

(1) The revisions to Chapter 90 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Advertisement of Accident and Sickness Insurance," which amend 14 VAC 5-90-10 through 14 VAC 5-90-50 and 14 VAC 5-90-60 through 14 VAC 5-90-180 and propose a new rule at 14 VAC 5-90-55, are attached hereto and made a part hereof, should be, and they are hereby, ADOPTED to be effective July 1, 2004.

(2) AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to Gerald A. Milsky, Deputy Commissioner, Bureau of Insurance, State Corporation Commission who forthwith shall give further notice of the adoption of the revisions to the rules by mailing a copy of this Order, including a clean copy of the attached final revised rules, to all insurance companies licensed by the Bureau of Insurance to transact the business of accident and sickness insurance in the Commonwealth of Virginia, 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, including a copy of the attached revised rules, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations and shall make this Order and the attached revisions to the rules available on the Commission's website, <http://www.state.va.us/scc/caseinfo.htm>.

(4) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements in paragraph (2) of this Order.

NOTE: A copy of Attachment A entitled "Rules Governing Advertisement of Accident and Sickness Insurance" 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-2004-00070  
JUNE 23, 2004**

PETITION OF  
JACK AND HELEN BAKER

For review of HOW Insurance Company, Home Warranty Corporation and Home Owners Warranty Corporation Deputy Receiver's Determination of Appeal

**ORDER**

On October 14, 1994, the Circuit Court of the City of Richmond, Virginia, entered an order appointing the State Corporation Commission ("Commission") the Receiver of HOW Insurance Company ("HOWIC"), Home Warranty Corporation ("HWC") and Home Owners Warranty Corporation ("HOW") (collectively, the "HOW Companies"). The receivership order granted the Commission authority to proceed with the rehabilitation or liquidation of the HOW Companies and established a Receivership Appeal Procedure ("RAP") to govern any appeals or challenges to any decision rendered by the Receiver or the Receiver's duly authorized representatives.

On February 26, 2004, Jack and Helen Baker ("Petitioners") filed a Petition for Review ("Petition") with the Commission contesting a Determination of Appeal issued in Claim No. 4333299 in which the Deputy Receiver of the HOW Companies ("Deputy Receiver") denied Petitioners' claim for Major Structural Defect damage to their residence located at 3850 Birdsville Road, Davidsonville, Maryland 21035.<sup>1</sup> Specifically, Petitioners claim rot at the bottom of all four columns of the home.<sup>2</sup>

By order dated March 3, 2004, the Commission docketed the case, 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 April 13, 2004.

On April 13, 2004, the Deputy Receiver filed a Demurrer and Answer to Petition for Review. Therein, the Deputy Receiver claims, among other things, that the Petition, a cover page, and a copy of the Determination of Appeal fails to state any allegations or cause of action upon which relief may be granted, is legally deficient, and should be dismissed as a matter of law. In its Answer, the Deputy Receiver, among other things, denies any liability or responsibilities to Petitioners under the HOW Program relative to the instant claim. As its affirmative defense, the Deputy Receiver contends that Petitioners' claims are excluded from Major Structural Defect coverage pursuant to the express terms of the HOW insurance/warranty document, which specifically excludes damages to the extent that it is caused by, or results from, the seepage of water.

Petitioners filed no response to the Demurrer.

After reviewing the filings submitted in the case and the applicable law, the Hearing Examiner issued his Report on May 13, 2004. Therein, the Hearing Examiner made, among other things, the following findings and recommendations:

- (1) The only coverage that remained in effect at the time Petitioners filed their claim was coverage for Major Structural Defects<sup>3</sup> as defined in the HOW Insurance/Warranty Documents;
- (2) Petitioners alleged there are four wooden columns on their home that have rot damage;
- (3) For Major Structural Defect coverage to apply, Petitioners must allege four elements: (i) actual physical damage; (ii) to one of the eight load-bearing portions of the home; (iii) which affects its load-bearing function; and (iv) which make the home unsafe, unsanitary, or otherwise unlivable;<sup>4</sup>
- (4) Petitioners failed to allege that rot damage to the four columns has affected their load-bearing function, such that the home is unsafe, unsanitary, or otherwise unlivable;
- (5) Petitioners have failed to state a cause of action for which relief may be granted;
- (6) Petitioners have failed to allege a set of facts under which coverage under HOW Insurance/Warranty Documents would apply;
- (7) The law of Virginia recognizes the use of a Demurrer;<sup>5</sup>
- (8) The Deputy Receiver's Demurrer should be granted; and

<sup>1</sup> The Builder's Limited Warranty coverage for Petitioners' home expired on January 1, 1996. Therefore, the only coverage which remained in effect when the instant claim was filed was for Major Structural Defects first occurring during years three through ten of the HOW Program coverage.

<sup>2</sup> Notice of Appeal from Jack Baker to HOW Insurance Company dated August 22, 2003. Exhibit B of the Deputy Receiver's Memorandum in Support of Demurrer and Answer to Petition for Review.

<sup>3</sup> Major Structural Defect is defined as actual physical damage to any of the following designated load-bearing portions of the home caused by failure of such load-bearing portions which affects their load-bearing functions to the extent that the home becomes unsafe, unsanitary or otherwise unlivable: foundation systems and footings; beams; girders; lintels; columns; walls and partitions; floor systems; and roof and framing systems. Memorandum in Support of Demurrer, Exhibit E (Home Owners Warranty Corporation Insurance/Warranty Documents) at 6.

<sup>4</sup> Memorandum in Support of Demurrer, Exhibit E. (Home Owners Warranty Corporation Insurance/Warranty Documents) at 6.

<sup>5</sup> Section 8.01-273 of the Code of Virginia provides: "In any suit in equity or action at law, the contention that a pleading does not state a cause of action or that such pleading fails to state facts upon which the relief demanded can be granted may be made by demurrer."

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

(9) The Commission should enter an order granting the Deputy Receiver's Demurrer and dismissing the Petition with prejudice;

No Comments were filed to the Report of the Hearing Examiner.

Upon consideration of the filings and the Report of the Hearing Examiner, the Commission is of the opinion and so finds that the findings and recommendations of the Hearing Examiner should be adopted.

Accordingly, IT IS ORDERED THAT:

- (1) The Demurrer submitted by the Deputy Receiver be, and the same is hereby, GRANTED;
- (2) The Determination of Appeal in Claim No. 4333299 issued by the Deputy Receiver on February 5, 2004, be, and the same is hereby, AFFIRMED;
- (3) The Petition for Review of Jack and Helen Baker, be, and the same is hereby, DISMISSED with prejudice; and
- (4) The papers herein are passed to the file for ended causes.

**CASE NO. INS-2004-00072  
JUNE 15, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
DAVID R. EMERY,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, violated §§ 38.2-512 and 38.2-1813 of the Code of Virginia by affixing or 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 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 hold all premiums, return premiums, or other funds received by Defendant in a fiduciary capacity.

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 to suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letters dated April 19, 2004, and May 12, 2004, respectively, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 Defendant has violated §§ 38.2-512 and 38.2-1813 of the Code of Virginia by affixing or 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 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 hold all premiums, return premiums, or other funds received by Defendant in a fiduciary capacity.

IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00072  
JULY 1, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
DAVID R. EMERY,  
Defendant

**VACATING ORDER**

GOOD CAUSE having been shown, the Order Revoking License entered herein June 15, 2004, is hereby vacated.

**CASE NO. INS-2004-00075  
APRIL 14, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
ANTHONY N. CORRAO,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated § 38.2-1826 A of the Code of Virginia 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 to suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letters dated February 23, 2004, and March 11, 2004, respectively, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 Defendant has violated § 38.2-1826 A of the Code of Virginia 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.

IT IS THEREFORE ORDERED THAT:

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

(2) All appointments issued under said licenses be, and they are hereby, VOID;

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

(4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00076  
APRIL 14, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
RASHAD MAJIED,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-512, 38.2-1809, 38.2-1820, 38.2-1822, and 38.2-1826 of the Code of Virginia.

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 to suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letters dated February 10, 2004, and March 10, 2004, respectively, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 Defendant has violated §§ 38.2-512, 38.2-1809, 38.2-1820, 38.2-1822, and 38.2-1826 of the Code of Virginia.

IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00077  
APRIL 14, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
LEON DAVIS,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-512, 38.2-1809, 38.2-1820, 38.2-1822, and 38.2-1826 of the Code of Virginia.

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 to suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letters dated February 10, 2004, and March 10, 2004, respectively, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 Defendant has violated §§ 38.2-512, 38.2-1809, 38.2-1820, 38.2-1822, and 38.2-1826 of the Code of Virginia.

## IT IS THEREFORE ORDERED THAT:

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

(2) All appointments issued under said licenses be, and they are hereby, VOID;

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

(4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00080  
APRIL 14, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
GREGORY N. HEPBURN, JR.,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in a certain instance, violated § 38.2-1826 C of the Code of Virginia by failing to report to the Commission within thirty days of the final disposition of the matter, any administrative action taken against him in another jurisdiction or by another governmental agency in the Commonwealth.

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 to suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letters dated February 18, 2004, and March 17, 2004, respectively, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 Defendant has violated § 38.2-1826 C of the Code of Virginia by failing to report to the Commission within thirty days of the final disposition of the matter, any administrative action taken against him in another jurisdiction or by another governmental agency in the Commonwealth.

## IT IS THEREFORE ORDERED THAT:

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

(2) All appointments issued under said licenses be, and they are hereby, VOID;

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00081  
APRIL 14, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
JOHN M. BARNEY,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in a certain instance, violated § 38.2-1826 C of the Code of Virginia by failing to report within thirty days to the Commission the final disposition of a matter any administrative action taken against him in another jurisdiction or by another governmental agency in the Commonwealth.

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 to suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letters dated January 28, 2004, and March 17, 2004, respectively, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 Defendant has violated § 38.2-1826 C of the Code of Virginia by failing to report within thirty days to the Commission the final disposition of a matter any administrative action taken against him in another jurisdiction or by another governmental agency in the Commonwealth.

IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00084  
MARCH 25, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
CARILION HEALTH PLANS, INC.,  
Defendant

**ORDER SUSPENDING LICENSE**

Carilion Health Plans, Inc. ("Carilion"), is domiciled in the Commonwealth of Virginia and is duly licensed by the Commission to transact the business of a health maintenance organization in the Commonwealth of Virginia.

Carilion notified the Bureau of Insurance (the "Bureau") of its intent to discontinue all health plan coverage in the Commonwealth of Virginia as of December 31, 2003, terminating all contracts for health care services with employers and subscribers;

Carilion also has notified, and the Bureau has acknowledged, that Carilion has been winding down its operations in accordance with the Wind Down Plan filed with the Bureau and approved on August 22, 2003;

By letter of Carolyn H. Chrisman, President of Carilion, dated March 4, 2004, and filed with the Clerk of the Commission on March 19, 2004, Carilion has voluntarily consented to the suspension of its license to transact the business of a health maintenance organization in the Commonwealth of Virginia, pursuant to § 38.2-4316 of the Code of Virginia, as of December 31, 2003.

THEREFORE, IT IS ORDERED THAT:

(1) Pursuant to Carilion's voluntary consent and § 38.2-4316 of the Code of Virginia, the license of Carilion to transact the business of a health maintenance organization in the Commonwealth of Virginia be, and it is hereby, **SUSPENDED**, effective December 31, 2003;

(2) Carilion shall not issue any new evidence of coverage in the Commonwealth of Virginia until further order of the Commission nor engage in any advertising or solicitation;

(3) The appointments of Carilion's agents to act on behalf of Carilion in the Commonwealth of Virginia be, and they are hereby, **SUSPENDED**, effective December 31, 2003, subject to the terms of this Order;

(4) Carilion and its agents shall transact no new insurance business on behalf of Carilion 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 Carilion's agents appointed to act on behalf of Carilion in the Commonwealth of Virginia as notice of the suspension of such agent's appointment; and

(6) The Bureau of Insurance shall cause notice of the suspension of Carilion's license to be published in the manner set forth in § 38.2-1043 of the Code of Virginia.

**CASE NO. INS-2004-00089  
MARCH 31, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
NATIONAL FRATERNAL SOCIETY OF THE DEAF,  
Defendant

**ORDER TO TAKE NOTICE**

Pursuant to § 38.2-4131 of the Code of Virginia, the Commission may suspend or revoke the license of any foreign fraternal benefit society to transact the business of a fraternal benefit society in the Commonwealth of Virginia whenever the Commission finds that the fraternal benefit society is in a condition that any further transaction of business in this Commonwealth is hazardous to its members, creditors, or the public in this Commonwealth.

National Fraternal Society of the Deaf, a foreign fraternal benefit society domiciled in the State of Illinois ("Defendant"), is licensed by the Commission to transact the business of a fraternal benefit society in the Commonwealth of Virginia.

Defendant's 2003 Annual Statement, dated as of December 31, 2003, and filed with the Commission's Bureau of Insurance, indicates surplus of negative \$56,813.

THEREFORE, IT IS ORDERED THAT Defendant TAKE NOTICE that the Commission shall enter an order subsequent to April 12, 2004, suspending the license of Defendant to transact the business of a fraternal benefit society in the Commonwealth of Virginia unless on or before April 12,

2004, Defendant files with the Clerk of the 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 Defendant's license.

**CASE NO. INS-2004-00089  
APRIL 15, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.  
NATIONAL FRATERNAL SOCIETY OF THE DEAF,  
Defendant

**ORDER SUSPENDING LICENSE**

In an order entered herein March 31, 2004, Defendant was ordered to take notice that the Commission would enter an order subsequent to April 12, 2004, suspending the license of Defendant to transact the business of a fraternal benefit society in the Commonwealth of Virginia unless on or before April 12, 2004, Defendant filed with the Clerk of the Commission a request for a hearing before the Commission to contest the proposed suspension of Defendant's license.

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

THEREFORE, IT IS ORDERED THAT:

- (1) Pursuant to § 38.2-4131 of the Code of Virginia, the license of Defendant to transact the business of a fraternal benefit society in the Commonwealth of Virginia be, and it is hereby, **SUSPENDED**;
- (2) 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 Defendant's agents to act on behalf of Defendant in the Commonwealth of Virginia be, and they are hereby, **SUSPENDED**;
- (4) Defendant's agents shall transact no new insurance business on behalf of 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 Defendant's agents appointed to act on behalf of Defendant in the Commonwealth of Virginia as notice of the suspension of such agent's appointment; and
- (6) The Bureau of Insurance shall cause notice of the suspension of Defendant's license to be published in the manner set forth in § 38.2-1043 of the Code of Virginia.

**CASE NO. INS-2004-00089  
SEPTEMBER 10, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.  
NATIONAL FRATERNAL SOCIETY OF THE DEAF,  
Defendant

**FINAL ORDER**

National Fraternal Society of the Deaf, a foreign fraternal benefit society domiciled in the State of Illinois ("Defendant"), initially was licensed to transact the business of a fraternal benefit society in the Commonwealth of Virginia on October 23, 1996.

By order entered herein April 15, 2004, Defendant's license to transact the business of a fraternal benefit society in the Commonwealth of Virginia was suspended due to financial concerns.

By letter of Defendant's counsel dated August 23, 2004, and attached affidavit of Defendant's President dated August 13, 2004, and filed with the Commission on September 8, 2004, the Commission was advised that Defendant wishes to withdraw its license to transact the business of a fraternal benefit society in the Commonwealth of Virginia.

The withdrawal of Defendant's license has been processed by the Bureau of Insurance, effective September 7, 2004.

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.



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.

THEREFORE, IT IS ORDERED THAT:

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

**CASE NO. INS-2004-00092  
JULY 23, 2004**

COMMONWEALTH OF VIRGINIA

At the relation of the  
STATE CORPORATION COMMISSION

v.

BROTHERHOOD MUTUAL INSURANCE COMPANY,  
Defendant

**SETTLEMENT ORDER**

Based on a market conduct examination performed by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, violated §§ 38.2-231, 38.2-304, 38.2-305 A, 38.2-305 B, 38.2-317 A, 38.2-510 A 1, 38.2-510 A 10, 38.2-512 A, 38.2-1822 A, 38.2-1822 E, 38.2-1906 D, 38.2-2014, 38.2-2202 A, 38.2-2202 B, 38.2-2220, and 38.2-2223 of the Code of Virginia.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of fifty-eight thousand nine hundred dollars (\$58,900), waived its right to a hearing, and filed with the Bureau a Corrective Action Plan describing the actions it will take to correct violations identified in the Market Conduct Examination Report as well as procedures it will implement to avoid future violations of the Virginia insurance laws and regulations.

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

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

IT IS THEREFORE ORDERED THAT:

- (1) The offer of 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-2004-00097  
MAY 12, 2004**

COMMONWEALTH OF VIRGINIA

At the relation of the  
STATE CORPORATION COMMISSION

v.

MORRIS D. LOSKOVE,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, has violated § 38.2-1826 A of the Code of Virginia 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.

## 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 to suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of Defendant's right to a hearing before the Commission in this matter by certified letters dated February 23, 2004, and April 1, 2004, respectively, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 Defendant has violated § 38.2-1826 A of the Code of Virginia 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.

## IT IS THEREFORE ORDERED THAT:

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

(2) All appointments issued under said licenses be, and they are hereby, VOID;

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

(4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00100  
APRIL 7, 2004**

COMMONWEALTH OF VIRGINIA

At the relation of the  
STATE CORPORATION COMMISSION

v.

UNITED SOUTHERN TITLE & ESCROW CORP.,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, violated § 6.1-2.21 of the Code of Virginia by failing to provide the Commission with a copy of Defendant's analysis or audit report of its escrow account.

The Commission is authorized by § 6.1-2.27 of the Code of Virginia to impose certain monetary penalties and to suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation of Chapter 1.3 (§ 6.1-2.19 et seq.) of Title 6.1 of the Code of Virginia.

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 to suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of Defendant's right to a hearing before the Commission in this matter by certified letters dated January 5, 2004, and January 29, 2004, respectively, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 Defendant has violated § 6.1-2.21 of the Code of Virginia by failing to provide the Commission with a copy of Defendant's analysis or audit report of its escrow account.

## IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00101  
JUNE 11, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
MICHAEL S. BUTLER,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the Commission to transact the business of insurance as an insurance agent in the Commonwealth of Virginia, has violated § 38.2-512 of the Code of Virginia by making false statements or representations on or relative to an application for an insurance policy for the purpose of obtaining a fee or 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 to suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letters dated April 7, 2004, and May 3, 2004, respectively, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 Defendant has violated § 38.2-512 of the Code of Virginia by making false statements or representations on or relative to an application for an insurance policy for the purpose of obtaining a fee or commission.

## IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00102  
MAY 12, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
MELISSA LEEANNE PELL,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, has violated § 38.2-1826 C of the Code of Virginia by failing to report to the Commission within thirty days of the final disposition of the matter, any administrative action taken against her in another jurisdiction or by another governmental agency in the Commonwealth.

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 to suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of Defendant's right to a hearing before the Commission in this matter by certified letters dated February 18, 2004, and April 12, 2004, respectively, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 Defendant has violated § 38.2-1826 C of the Code of Virginia by failing to report to the Commission within thirty days of the final disposition of the matter, any administrative action taken against her in another jurisdiction or by another governmental agency in the Commonwealth.

IT IS THEREFORE ORDERED THAT: \

- (1) The licenses of Defendant to transact the business of insurance as an agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00103  
JUNE 1, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
IRENE CECELIA DAER,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, has violated § 38.2-1826 C of the Code of Virginia by failing to report to the Commission within thirty days of the final disposition of the matter, any administrative action taken against her in another jurisdiction or by another governmental agency in the Commonwealth. Dispositive administrative action was taken against the Defendant by the State of Illinois.

## 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 to suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of Defendant's right to a hearing before the Commission in this matter by certified letters dated March 12, 2004, and April 12, 2004, respectively, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 Defendant has violated § 38.2-1826 C of the Code of Virginia by failing to report to the Commission within thirty days of the final disposition of the matter, any administrative action taken against her in another jurisdiction or by another governmental agency in the Commonwealth.

## IT IS THEREFORE ORDERED THAT:

- REVOKED;
- (1) The licenses of Defendant to transact the business of insurance as an agent in the Commonwealth of Virginia be, and they are hereby, VOID;
  - (2) All appointments issued under said licenses be, and they are hereby, VOID;
  - (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
  - (4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00107  
MAY 19, 2004**

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

v.

UNICARE HEALTH PLAN OF VIRGINIA, INC.,

Defendant

**SETTLEMENT ORDER**

Based on a market conduct examination performed by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, has violated §§ 38.2-316 A, 38.2-316 C, 38.2-510 A 5, 38.2-510 A 6, 38.2-510 A 14, 38.2-511, 38.2-3407.4, 38.2-4306.1, 38.2-5804 A, 38.2-5805 C, 38.2-5805 C 1, and 38.2-5805 C 10 of the Code of Virginia, as well as 14 VAC 5-210-60 H 2.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of ten thousand dollars (\$10,000) and waived its right to a hearing.

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

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

## IT IS THEREFORE ORDERED THAT:

- (1) The offer of 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-2004-00111  
JUNE 8, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
PINNACLE PREMIUM BUDGET PLAN, INC.,  
Defendant

**ORDER TO TAKE NOTICE**

Pursuant to § 38.2-4704 of the Code of Virginia, the Commission may suspend or revoke the license of an insurance premium finance company whenever the Commission finds that the company has violated or failed to comply with any of the provisions of Chapter 47 of Title 38.2 of the Code of Virginia or with any rule or regulation made by the Commission pursuant to Chapter 47.

Pursuant to 14 VAC 5-390-60, all licensed insurance premium finance companies are required to file on or before March 1 of each year an annual report of all business conducted in the Commonwealth of Virginia during the preceding year. Subsection B of 14 VAC 5-390-60 allows an extension until May 1 of the March 1 filing deadline.

Pinnacle Premium Budget Plan, Inc. ("Defendant"), a Virginia-domiciled insurance premium finance company, initially was licensed in the Commonwealth of Virginia on February 25, 1991.

As of the date of this Order, Defendant has not filed its 2003 Annual Report required pursuant to 14 VAC 5-390-60 and has failed to respond to repeated telephone calls and correspondence by the Bureau of Insurance.

In addition, although Defendant has been licensed as an insurance premium finance company in the Commonwealth of Virginia since 1991, it has yet to finance any premiums.

The Bureau of Insurance has recommended that, based on the foregoing, the license of Defendant to transact the business of an insurance premium finance company in the Commonwealth of Virginia be suspended.

IT IS THEREFORE ORDERED THAT Defendant TAKE NOTICE that the Commission shall enter an order subsequent to June 23, 2004, suspending the license of Defendant to transact the business of an insurance premium finance company in the Commonwealth of Virginia unless on or before June 23, 2004, Defendant files with the Clerk of the 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 Defendant's license.

**CASE NO. INS-2004-00111  
JULY 1, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
PINNACLE PREMIUM BUDGET PLAN, INC.,  
Defendant

**ORDER SUSPENDING LICENSE**

In an order entered herein June 8, 2004, Defendant was ordered to take notice that the Commission would enter an order subsequent to June 23, 2004, suspending the license of Defendant to transact the business of an insurance premium finance company in the Commonwealth of Virginia unless on or before June 23, 2004, Defendant filed with the Clerk of the Commission a request for a hearing before the Commission to contest the proposed suspension of Defendant's license.

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

THEREFORE, IT IS ORDERED THAT:

- (1) Pursuant to § 38.2-4704 of the Code of Virginia, the license of Defendant to transact the business of an insurance premium finance company in the Commonwealth of Virginia be, and it is hereby, **SUSPENDED**;
- (2) Defendant shall not issue or purchase any new contracts or agreements to finance premiums for insurance on subjects of insurance resident, located or to be performed in the Commonwealth of Virginia until further order of the Commission; and
- (3) The Bureau of Insurance shall cause notice of the suspension of Defendant's license to be published in the manner set forth in § 38.2-1043 of the Code of Virginia.

**CASE NO. INS-2004-00112  
SEPTEMBER 14, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
MUTUAL BENEFITS CORPORATION,  
Defendant

**ORDER TO TAKE NOTICE**

Section 38.2-6002 G of the Code of Virginia provides, inter alia, that the Commission may suspend or revoke the license of a viatical settlement provider in the Commonwealth of Virginia whenever the Commission finds that the licensee has been subject to a final administrative action or has otherwise been shown to be untrustworthy or incompetent to act as a viatical settlement provider.

Mutual Benefits Corporation, a Florida-domiciled corporation ("Defendant"), was licensed by the Commission on April 23, 1998, to transact the business of a viatical settlement provider in the Commonwealth of Virginia.

On May 3, 2004, by an Emergency Cease and Desist Order (the "Florida Order") entered by the Florida Office of Insurance Regulation (the "Florida Office") and designated therein as "an immediate final order" under the Florida Insurance Code, Defendant's license to transact the business of a viatical settlement provider in the State of Florida was suspended, and Defendant was ordered to cease and desist immediately from acting as a viatical settlement provider in and from the State of Florida.

The Florida Order was based on findings by the Florida Office as a result of its investigation of Defendant that Defendant was in violation of numerous Florida statutes governing viatical settlement providers, including that Defendant has engaged in fraudulent or dishonest practices, or otherwise has been shown to be untrustworthy or incompetent to act as a viatical settlement provider. The Florida Order provided that its issuance and enforcement are necessary to protect the public and are the only way to avoid future harm, given the "systemic and fraudulent nature of the violations."

On May 4, 2004, the United States District Court for the Southern District of Florida (the "District Court"), in Securities and Exchange Commission v. Mutual Benefits Corp., entered an Order Appointing Receiver, which appointed Roberto Martinez as Receiver for Defendant and several of its affiliates. The District Court also entered an order designated as Temporary Restraining Order and Other Emergency Relief (the "TRO") against Defendant, Joel Steinger a/k/a Joel Steiner, Leslie Steinger a/k/a Leslie Steiner, and Peter Lombardi, as well as several of Defendant's affiliates (hereinafter the foregoing are sometimes collectively referred to as "Defendants") upon a motion filed by the Securities and Exchange Commission (the "SEC") requesting various orders to be entered against Defendants based on the District Court's finding that the SEC had presented a prima facie case of securities laws violations by Defendants and had shown a reasonable likelihood that Defendants will harm the investing public by continuing to violate the federal securities laws.

The TRO ordered Defendants to appear at a hearing on May 17, 2004, and show cause why a Preliminary Injunction pursuant to Rule 65 of the Federal Rules of Civil Procedure should not be granted against Defendants, as requested by the SEC. The TRO restrained and enjoined Defendants from various actions and activities pursuant to federal securities laws, froze certain bank accounts of Defendants and persons related thereto, ordered Joel Steinger and Leslie Steinger to make sworn accountings to the District Court of all funds received from Defendants, and ordered expedited discovery in light of the scheduled hearing. The hearing was not held as scheduled due to an Agreed Motion filed with the District Court by the SEC and Defendants, which resulted in the entry of an Order by the District Court on May 17, 2004, continuing the hearing until June 9-10, 2004, and extending the TRO until the resolution of the hearing or further order of the District Court.

The June 9-10<sup>th</sup> hearing was convened as scheduled; however, it was continued until June 22, 2004, at which time additional evidence was presented and closing arguments were heard. On June 25, 2004, the District Court ruled that the sale of viatical settlement contracts constitutes the sale of a security under federal law and set an additional hearing for June 30, 2004, to determine whether the Receivership should remain in place. The District Court also continued the Order Appointing Receiver and the TRO. The hearing set for June 30<sup>th</sup> did not take place and has not been rescheduled, leaving the Order Appointing Receiver and the TRO in effect.

In light of the foregoing, the Bureau of Insurance has recommended that Defendant's license to transact the business of a viatical settlement provider in the Commonwealth of Virginia be suspended.

IT IS THEREFORE ORDERED that Defendant TAKE NOTICE that the Commission shall enter an Order subsequent to September 28, 2004, suspending the license of Defendant to transact the business of a viatical settlement provider in the Commonwealth of Virginia unless on or before September 28, 2004, Defendant files with the Clerk of the 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 Defendant's license.

**CASE NO. INS-2004-00114  
JUNE 4, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
CHERIE ANNTIONETTE ROBINSON,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the Commission to transact the business of insurance as an insurance agent and as a surplus lines broker in the Commonwealth of Virginia, violated § 38.2-4807 A of the Code of Virginia, as well as 14 VAC 5-350-160, by failing to file timely with the Commission a 2003 Annual Gross Premiums Tax Report.

The Commission is authorized by §§ 38.2-218, 38.2-219, 38.2-1831, and 38.2-1857.7 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of her right to a hearing before the Commission in this matter by certified letters dated April 13, 2004, and April 27, 2004, respectively, and mailed to Defendant's address shown in the records of the Bureau of Insurance. Defendant, having been advised in the above manner of her right to a hearing in this matter, has failed to request a hearing.

In addition, the Bureau of Insurance communicated with Defendant by telephone on May 11, 2004, and informed Defendant of the need to file the Report and pay the fees due in connection with the filing. As of the date of this Order, Defendant has not filed the Report or otherwise communicated further with the Bureau of Insurance.

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

THE COMMISSION is of the opinion and finds that Defendant has violated § 38.2-4807 A of the Code of Virginia, as well as 14 VAC 5-350-160, by failing to timely file a 2003 Annual Gross Premiums Tax Report.

IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an insurance agent and as a surplus lines broker in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said insurance agent license be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent or as a surplus lines broker;
- (4) Defendant shall not apply to the Commission to be licensed as an insurance agent or as a surplus lines broker in the Commonwealth of Virginia prior to five (5) years from the date of this Order;
- (5) The Bureau of Insurance shall cause a copy of this Order to be sent to every insurance company for which 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-2004-00120  
MAY 27, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
ALPHONSO L. GRANT,  
Defendant

**CONSENT ORDER**

By letters dated April 30 and May 13, 2004, and filed with the Clerk of the State Corporation Commission ("Commission") on May 25, 2004, Alphonso L. Grant ("Defendant"), an individual licensed by the Commission to transact the business of insurance as an insurance agent in the Commonwealth of Virginia, consented to the issuance of an order in which Defendant has agreed, effective as of the date hereof, and continuing until further order of the Commission, to the suspension of his insurance agent licenses pursuant to § 38.2-1831 A 9 of the Code of Virginia.



THEREFORE IT IS ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia be, and they are hereby, **SUSPENDED**, until further Order of the Commission;
- (2) All appointments issued under said licenses be, and they are hereby, **SUSPENDED**; and
- (3) The Bureau of Insurance shall cause a copy of this Order to be sent to every insurance company for which Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia.

**CASE NO. INS-2004-00121  
JULY 1, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
BRIAN MICHAEL GRAHAM,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the Commission to transact the business of insurance as an insurance agent in the Commonwealth of Virginia, has violated § 38.2-1826 A of the Code of Virginia 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 to suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letters dated April 22, 2004, and May 24, 2004, respectively, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 Defendant has violated § 38.2-1826 A of the Code of Virginia 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.

IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an agent in the Commonwealth of Virginia be, and they are hereby, **REVOKED**;
- (2) All appointments issued under said licenses be, and they are hereby, **VOID**;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00123  
AUGUST 16, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of Repealing and Restating the Rules Governing Health Maintenance Organizations

**ORDER TO TAKE NOTICE**

Section 12.1-13 of the Code of Virginia provides that the 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 has submitted to the Commission a proposal to repeal the Rules in Chapter 210 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Health Maintenance Organizations," which are set out at 14 VAC 5-210-10 through 14 VAC 5-210-150 and proposes a new chapter, Chapter 211 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Health Maintenance Organizations," which set forth new rules at 14 VAC 5-211-10 through 14 VAC 5-211-280.

The proposed rules set forth definitions in accordance with Chapter 43 of Title 38.2 of the Code of Virginia and the National Association of Insurance Commissioners (NAIC) Model Regulation. The proposed rules further explain and elaborate on financial condition and filing requirements set out in the Code of Virginia. The proposed rules also set out contractual and notification requirements, as well as disclosure provisions and specific prohibited practices. The proposed rules also further elaborate on health care services to be provided by health maintenance organizations.

The Commission is of the opinion that 14 VAC 5-210 should be repealed and that the proposed rules submitted by the Bureau of Insurance should be considered for adoption.

THEREFORE, IT IS ORDERED THAT:

(1) The proposed rules entitled "Rules Governing Health Maintenance Organizations," which are set out at 14 VAC 5-211-10 through 14 VAC 5-211-280, be attached hereto and 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 repeal of 14 VAC 5-210 and the adoption of the proposed rules shall file such comments or hearing request on or before November 15, 2004, in writing with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218 and shall refer to Case No. INS-2004-00123.

(3) If no written request for a hearing on the repeal of 14 VAC 5-210 and the proposed rules is filed on or before November 15, 2004, the Commission, upon consideration of any comments submitted in support of or in opposition to the proposed rules, may repeal 14 VAC 5-210 and adopt the rules proposed by the Bureau of Insurance.

(4) AN ATTESTED COPY hereof, together with a copy of the proposed rules, shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Jacqueline K. Cunningham, who forthwith shall give further notice of the repeal of 14 VAC 5-210 and the proposed adoption of the rules by mailing a copy of this Order, together with the proposed rules, to all health maintenance organizations licensed by the Commission.

(5) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, together with the proposed rules, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations.

(6) On or before August 25, 2004, the Commission's Division of Information Resources shall make available this Order and the attached proposed rules on the Commission's website, <http://www.state.va.us/scs/caseinfo.htm>.

(7) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (4) above.

NOTE: A copy of Attachment A entitled "Rules Governing Health Maintenance Organizations" 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-2004-00124  
DECEMBER 8, 2004**

APPLICATION OF  
NATIONAL COUNCIL ON COMPENSATION INSURANCE, INC.

For revision of voluntary loss costs and assigned risk workers' compensation insurance rates

**FINAL ORDER**

The State Corporation Commission ("Commission") heard the application filed in this matter on November 9, 2004. At the hearing appeared the National Council on Compensation Insurance, Inc. ("NCCI"), the Office of Attorney General of Virginia-Division of Consumer Counsel ("Consumer Counsel"), the Bureau of Insurance of the State Corporation Commission ("Bureau"), and the Washington Construction Employers Association and Iron Workers Employers Association ("Respondents"), by their respective counsel.

The Commission has considered the record in its entirety, including the application, the comments of the public witnesses, the pre-filed and rebuttal testimonies, and the evidence and exhibits presented at the hearing.

Accordingly, IT IS ORDERED THAT:

(1) The methodologies approved by the Commission in its 2003 Final Order for use in determining loss costs, rates and rating values for voluntary and assigned risks workers' compensation insurance policies shall be employed, except as modified herein;

(2) The proposal by NCCI to use a 5-year average when calculating loss development factors for coal mine occupational disease for voluntary and assigned risk rates is disapproved; in lieu thereof, development factors used by NCCI to project occupational disease claim frequency for April 1, 2005 policies shall be calculated as the averages of the latest 5-years, but excluding both the highest and the lowest values within the 5 values ("5-year ExHiLlo") as recommended by Consumer Counsel witness Richard W. Lo;

(3) The proposal by NCCI not to use the 2003 approved methodology to calculate Excess Loss Pure Premium Factors ("ELPPF") in the current voluntary market application for rates is approved; in lieu of the 2003 approved methodology, NCCI shall calculate ELPPFs for voluntary market rates taking effect on or after April 1, 2005 by the method recommended by NCCI witness DiDonato;

(4) The supplemental two-page document, entered into the record as Exhibit 11, as consensus compromise by the parties to the revisions for coal mines voluntary loss costs and assigned risks rates is accepted;

(5) NCCI shall revise its proposed voluntary loss costs and assigned risk rates as follows: (i) an increase of 4.9% in industrial class voluntary loss costs; (ii) a decrease of 15.6% in "F" class voluntary loss costs; (iii) a decrease of 12.2% in surface coal mines voluntary loss costs; (iv) a decrease of 7.4% in underground coal mines voluntary loss costs; (v) an increase of 10.2% in industrial assigned risk rates; (vi) a decrease of 11.7% in "F" class assigned risk rates; (vii) a decrease of 5.5% in the surface coal mines assigned risks rates; and (viii) a decrease of 2.4% in the underground coal mines assigned risk rates;

(6) Except as otherwise ordered herein, the proposed revisions to voluntary loss costs, assigned risk rates, minimum premiums, rating values, rules, regulations and procedures for writing workers' compensation voluntary loss costs and assigned risks rates that have been filed by NCCI in this proceeding on behalf of its members and subscribers shall be, and they are hereby, APPROVED, for use with respect to new and renewal business on and after April 1, 2005;

(7) NCCI, the Bureau, Consumer Counsel and Respondents in this proceeding, shall endeavor to recommend jointly to the Commission on or before June 1, 2005, a proposed schedule for any year 2005 voluntary loss costs/assigned risk rate revision proceeding before the Commission. Such 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 pre-file such discovery request; (iv) the dates for the pre-filing of the direct testimony of the Bureau, Consumer Counsel, and any respondents, and the rebuttal testimony of NCCI; and (v) the date of any proposed hearing before the Commission;

(8) The working group, consisting of representatives of NCCI, Consumer Counsel, the Bureau, the Respondents, and any other interested party, may consider the issues of relating to former self-insured coal mine companies and investigate the relevancy of this data to rate making methods used for coal mine classes in Virginia. The working group may also consider issues relating to the administration of the Virginia Contracting Classification Premium Adjustment Program as addressed in this proceeding;

(9) The working group may wish to continue studying alternative methods to the industrial method for making voluntary loss costs and assigned risk rates for coal classes. Any recommendations for a methodology change whether recommended by the working group or any other interested party may be offered to the Commission in connection with any workers' compensation voluntary loss costs/assigned risk rate hearing, or independently thereof; and

(10) NCCI and any other persons participating in future voluntary loss costs and assigned risk rate applications 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 rates and/or assigned risk rate or rating values are based, shall be required to disclose the 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.

**CASE NO. INS-2004-00130  
JUNE 18, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

FEDERAL INSURANCE COMPANY,  
GREAT NORTHERN INSURANCE COMPANY,  
PACIFIC INDEMNITY COMPANY,  
and  
VIGILANT INSURANCE COMPANY,  
Defendants

**SETTLEMENT ORDER**

Based on a market conduct examination performed by the Bureau of Insurance, it is alleged that Defendants, each of which is duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, violated the Code of Virginia and the Virginia Administrative Code as follows: Federal Insurance Company violated §§ 38.2-231, 38.2-304, 38.2-305, 38.2-317 A, 38.2-1812, 38.2-1822, 38.2-1833, 38.2-1906 D, 38.2-2014, 38.2-2124, 38.2-2125, and 38.2-2220 of the Code of Virginia, as well as 14 VAC 5-390-40 D and 14 VAC 5-400-40 A; Great Northern Insurance Company violated §§ 38.2-231, 38.2-304, 38.2-305, 38.2-317 A, 38.2-1833, 38.2-1906 D, 38.2-2014, and 38.2-2220 of the Code of Virginia; Pacific Indemnity Company violated §§ 38.2-231, 38.2-305, 38.2-317 A, 38.2-1833, 38.2-1906 D, 38.2-2124, 38.2-2125, and 38.2-2220 of the Code of Virginia; and Vigilant Insurance Company violated §§ 38.2-231, 38.2-304, 38.2-305, 38.2-317 A, 38.2-1812, 38.2-1822, 38.2-1833, 38.2-1906 D, 38.2-2014, 38.2-2125, and 38.2-2220 of the Code of Virginia.

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 Defendants' licenses upon a finding by the Commission, after notice and opportunity to be heard, that Defendants have committed the aforesaid alleged violations.

Defendants have been advised of their right to a hearing in this matter, whereupon Defendants, without admitting any violation of Virginia law, have made an offer of settlement to the Commission wherein Defendants have tendered to the Commonwealth of Virginia the sum of sixty-five thousand dollars (\$65,000), waived their 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 Defendants pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

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

**IT IS THEREFORE ORDERED THAT:**

(1) The offer of Defendants in settlement of the matter set forth herein be, and it is hereby, accepted;

(2) Federal Insurance Company cease and desist from any conduct that constitutes a violation of §§ 38.2-231, 38.2-304, 38.2-305, 38.2-317 A, 38.2-1812, 38.2-1822, 38.2-1833, 38.2-1906 D, 38.2-2014, 38.2-2124, 38.2-2125 or 38.2-2220 of the Code of Virginia, or 14 VAC 5-390-40 D or 14 VAC 5-400-40 A; Great Northern Insurance Company cease and desist from any conduct which constitutes a violation of §§ 38.2-231, 38.2-304, 38.2-305, 38.2-317 A, 38.2-1833, 38.2-1906 D, 38.2-2014 or 38.2-2220 of the Code of Virginia; Pacific Indemnity Company cease and desist from any conduct which constitutes a violation of §§ 38.2-231, 38.2-305, 38.2-317 A, 38.2-1833, 38.2-1906 D, 38.2-2124, 38.2-2125 or 38.2-2220 of the Code of Virginia; and Vigilant Insurance Company cease and desist from any conduct which constitutes a violation of §§ 38.2-231, 38.2-304, 38.2-305, 38.2-317 A, 38.2-1812, 38.2-1822, 38.2-1833, 38.2-1906 D, 38.2-2014, 38.2-2125 or 38.2-2220 of the Code of Virginia; and

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

**CASE NO. INS-2004-00131  
JULY 1, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

JAMES B. KELLY,  
Defendant

**SETTLEMENT ORDER**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, has violated §§ 38.2-502, 38.2-503, 38.2-512, and 38.2-3403 of the Code of Virginia by misrepresenting the benefits, advantages, conditions or terms of an insurance policy, 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, by affixing or 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 making false statements or representations on or relative to an application for an insurance policy for the purpose of obtaining a fee or commission, and by knowingly securing, attempting to secure or cause to be secured an individual accident and sickness insurance policy on any person not in an insurable condition by means of misrepresentation or false or fraudulent statements.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of his right to a hearing in this matter, whereupon Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of ten thousand dollars (\$10,000), waived his right to a hearing, agreed to the entry by the Commission of a cease and desist order, and agreed to have his license suspended for a period of ninety (90) days from the date of the entry of this Order.

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

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

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendant cease and desist from any conduct which constitutes a violation of §§ 38.2-502, 38.2-503, 38.2-512 or 38.2-3403 of the Code of Virginia;
- (3) Defendant's license is suspended for a period of ninety (90) days from the date of the entry of this Order. Said license will be restored to its original status at the end of the ninety (90) day suspension;
- (4) All appointments issued under said license be, and they are hereby, SUSPENDED;
- (5) The Bureau of Insurance shall cause a copy of this Order to be sent to every insurance company for which 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-2004-00134  
JUNE 24, 2004**

CINCINNATI LIFE INSURANCE COMPANY

Ex Parte, In re: Approval of a consent order by and between Cincinnati Life Insurance Company, and the Superintendent of the Ohio Department of Insurance, for and on behalf of the State of Ohio, the Virginia Bureau of Insurance and the Insurance Regulators of the affected states in the United States and the District of Columbia

**ORDER APPROVING CONSENT ORDER**

ON THIS DAY came the Bureau of Insurance ("the Bureau"), by counsel, and requested (i) Commission approval and acceptance of a certain multi-state regulatory Consent Order dated January 26, 2004 ("the Consent Order"), a copy of which is attached hereto and made a part hereof, by and between the Superintendent of the Ohio Department of Insurance, for and on behalf of the State of Ohio, the Bureau, and the Insurance Regulators of each of the affected states in the United States and the District of Columbia, and Cincinnati Life Insurance Company, a foreign insurer domiciled in the State of Ohio and licensed to transact the business of insurance in the Commonwealth of Virginia, and (ii) authority to execute any documents attendant to the Consent Order necessary to evidence the Commission's acceptance of the Consent Order;

AND THE COMMISSION, having considered the terms of the Consent Order together with the recommendation of the Bureau that the Commission approve and accept the Consent Order, is of the opinion, finds, and ORDERS that (i) the Consent Order be, and it is hereby, APPROVED AND ACCEPTED and (ii) the Commissioner of Insurance be, and he is hereby authorized to execute any attendant documents necessary to evidence the Commission's approval and acceptance of the Consent Order.

NOTE: A copy of the Consent Order 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-2004-00140  
JUNE 22, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
HERLEN C. PORTERFIELD, III,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 administrative action that was taken against him by the Florida insurance department.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated May 19, 2004, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 Defendant has violated § 38.2-1826 C of the Code of Virginia by failing to report to the Commission administrative action that was taken against him by the Florida insurance department.

IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00141  
JUNE 22, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
DAVID ALEXANDER MARTIN,  
and  
MARTIN INSURANCE AGENCY, INC.,  
Defendants

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendants, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, have violated §§ 38.2-512, 38.2-1809, and 38.2-1813 of the Code of Virginia, as well as the Cease and Desist Order entered by the Commission in Case No. INS-2000-00011, by making false statements or representations on or relative to an application for an insurance policy for the purpose of obtaining a fee or commission, by failing to retain all records relative to insurance transactions for the three previous calendar years, 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 Defendant in a fiduciary capacity, by failing to maintain an accurate record and itemization of funds deposited into a separate fiduciary account, 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 commingling business or personal funds with funds required to be maintained in a separate fiduciary account.

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 Defendants' licenses upon a finding by the Commission, after notice and opportunity to be heard, that Defendants have committed the aforesaid alleged violations.

Defendants have been notified of their right to a hearing before the Commission in this matter by certified letter dated April 21, 2004, and mailed to the Defendants' address shown in the records of the Bureau of Insurance.

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 of Insurance.

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

THE COMMISSION is of the opinion and finds that Defendants have violated §§ 38.2-512, 38.2-1809, and 38.2-1813 of the Code of Virginia, as well as the Cease and Desist Order entered by the Commission in Case No. INS-2000-00011, by making false statements or representations on or relative to an application for an insurance policy for the purpose of obtaining a fee or commission, by failing to retain all records relative to insurance transactions for the three previous calendar years, 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 Defendant in a fiduciary capacity, by failing to maintain an accurate record and itemization of funds deposited into a separate fiduciary account, 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 commingling business or personal funds with funds required to be maintained in a separate fiduciary account.

IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendants to transact the business of insurance as insurance agents in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendants transact no further business in the Commonwealth of Virginia as insurance agents;
- (4) Defendants shall not apply to the Commission to be licensed as insurance agents in the Commonwealth of Virginia prior to five (5) years from the date of this Order;
- (5) The Bureau of Insurance shall cause a copy of this Order to be sent to every insurance company for which Defendants hold an appointment to act as insurance agents in the Commonwealth of Virginia; and
- (6) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2004-00141  
OCTOBER 15, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
DAVID ALEXANDER MARTIN  
and  
MARTIN INSURANCE AGENCY, INC.,  
Defendants

**ORDER ON RECONSIDERATION**

By Order Revoking License entered on June 22, 2004 ("June 22, 2004, Order"), the State Corporation Commission ("Commission") ordered, among other things, the revocation of the licenses of David Alexander Martin and the Martin Insurance Agency, Inc. (collectively "Defendants") to transact the business of insurance in the Commonwealth of Virginia.

On October 8, 2004, Defendants, by counsel, pursuant to 5 VAC 5-20-220 of the Commission's Rules for Practice and Procedure ("Commission Rule"), filed a Petition for Rehearing or Reconsideration ("Petition"), requesting the Commission rehear or reconsider its June 22, 2004, Order.

Commission Rule 5 VAC 5-20-220 provides, in part: "Final judgments, orders, and decrees of the commission . . . shall remain under control of the commission and subject to modification or vacation for 21 days after the date of entry."

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Commission has considered the Petition. While the Commission is not unsympathetic to the reasons offered by Defendants for seeking reconsideration, we find no grounds for reconsideration of our June 22, 2004, Order. Since the Petition was filed well outside the time period permitted by 5 VAC 5-20-220 for the Commission to modify or vacate the order, the Commission is without jurisdiction to entertain the relief requested by Defendants.

Accordingly, IT IS ORDERED THAT the Petition for Rehearing or Reconsideration is denied.

**CASE NO. INS-2004-00170  
JUNE 24, 2004**

AMERICAN NATIONAL INSURANCE COMPANY

Ex Parte. In re: Approval of a multi-state regulatory settlement agreement by and between American National Insurance Company, and the Commissioner of Insurance for the Texas Department of Insurance, for and on behalf of the State of Texas, the Virginia Bureau of Insurance and the Insurance Regulators of the affected states in the United States and the District of Columbia

**ORDER APPROVING SETTLEMENT AGREEMENT**

ON THIS DAY came the Bureau of Insurance (the "Bureau"), by counsel, and requested (i) Commission approval and acceptance of a certain multi-state Regulatory Settlement Agreement dated June 9, 2004 (the "Regulatory Settlement Agreement"), a copy of which is attached hereto and made a part hereof, by and between the Commissioner of Insurance for the Texas Department of Insurance, for and on behalf of the State of Texas, the Bureau, and the Insurance Regulators of each of the affected states in the United States and the District of Columbia, and American National Insurance Company, a foreign insurer domiciled in the State of Texas and licensed to transact the business of insurance in the Commonwealth of Virginia, and (ii) authority to execute any documents attendant to the Regulatory Settlement Agreement necessary to evidence the Commission's acceptance of the Regulatory Settlement Agreement;

AND THE COMMISSION, having considered the terms of the Regulatory Settlement Agreement together with the recommendation of the Bureau that the Commission approve and accept the Regulatory Settlement Agreement, is of the opinion, finds, and ORDERS that (i) the Regulatory Settlement Agreement be, and it is hereby, APPROVED AND ACCEPTED and (ii) the Commissioner of Insurance be, and he is hereby authorized to execute any attendant documents necessary to evidence the Commission's approval and acceptance of the Regulatory Settlement Agreement.

NOTE: A copy of the Consent Order 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-2004-00172  
OCTOBER 22, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.  
MEDICAL SAVINGS INSURANCE COMPANY,  
Defendant

**SETTLEMENT ORDER**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, has violated §§ 38.2-610 and 38.2-612 of the Code of Virginia by failing to give to the applicants for insurance written notice of adverse underwriting decision in the form approved by the Commission, and by denying an application for insurance on the basis of a previous adverse underwriting decision without obtaining further information concerning the reason for that decision.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of five thousand dollars (\$5,000) and waived its right to a hearing.

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

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



IT IS THEREFORE 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-2004-00174  
JULY 1, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
MELINDA A. BALL,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 days an administrative action that was taken against her by the North Carolina insurance department.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of her right to a hearing before the Commission in this matter by certified letters dated May 5, 2004 and May 21, 2004, respectively, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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 her by the North Carolina insurance department.

IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00177  
DECEMBER 15, 2004**

PETITION OF  
RAYMOND AND DEBRA JANESS

For review of HOW Insurance Company, Home Warranty Corporation and Home Owners Warranty Corporation Deputy Receiver's Determination of Appeal"

**ORDER**

On December 10, 2004, the Deputy Receiver of the HOW Insurance Company, a Risk Retention Group ("HOWIC"), Home Warranty Corporation ("HWC"), and Home Owners Warranty Company ("HOW"), by counsel, and Raymond and Debra Janess ("Petitioners") caused to be filed with the Clerk of the State Corporation Commission ("Commission") a Notice of Dismissal.

The Notice of Dismissal indicated that the Deputy Receiver and Petitioners have entered into a General Release and Settlement Agreement ("Agreement") resolving all disputes existing between them.

On December 13, 2004, the Hearing Examiner assigned to this case issued his Report. Therein, the Examiner recommended that the Commission enter an order dismissing the Petition for Review ("Petition") of Petitioners with prejudice.

NOW THE COMMISSION, having considered the Notice of Dismissal and the Report of the Hearing Examiner, finds that the Deputy Receiver and Petitioners have voluntarily entered into an agreement to resolve this matter and have jointly requested that this action be dismissed.

Accordingly, IT IS ORDERED THAT:

- (1) The Petition of Raymond and Debra Janess for review of HOW, HWC, and HOW Deputy Receiver's Determination of Appeal be, and the same is hereby, DISMISSED with prejudice; and
- (2) The papers herein are passed to the filed for ended causes.

**CASE NO. INS-2004-00180  
JULY 1, 2004**

APPLICATION OF  
INVESTORS CONSOLIDATED INSURANCE COMPANY

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

**ORDER APPROVING APPLICATION**

By application filed with the Commission on June 30, 2004, Investors Consolidated Insurance Company, a New Hampshire-domiciled insurer licensed to transact the business of insurance in the Commonwealth of Virginia ("Investors Consolidated"), requested approval of an assumption reinsurance agreement pursuant to § 38.2-136 C of the Code of Virginia, whereby effective as of June 30, 2004, Investors Consolidated would assume all of the policies of Virginia Health and Accident Association, a Virginia-domiciled mutual assessment life, accident and sickness insurer licensed by the Commission pursuant to Chapter 39 of Title 38.2 of the Code of Virginia ("Virginia Health").

The assumption reinsurance agreement does not require the approval of the New Hampshire Department of Insurance, the domiciliary regulator of Investors Consolidated.

Virginia Health has waived its right to a hearing pursuant to § 38.2-136 C of the Code of Virginia, as evidenced by the letter of Charner R. Lifsey, President of Virginia Health, dated June 28, 2004, and filed with the Commission on June 30, 2004.

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 16 or Chapter 17 of Title 38.2 of the Code of Virginia, has recommended that the application be approved.

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.

THEREFORE, IT IS ORDERED THAT the application of Investors Consolidated Insurance Company for approval of the above-described assumption reinsurance agreement pursuant to § 38.2-136 C of the Code of Virginia be, and it is hereby, APPROVED.

**CASE NO. INS-2004-00183  
JULY 22, 2004**

NEW YORK LIFE INSURANCE COMPANY

Ex Parte. In re: Approval of a multi-state regulatory settlement agreement by and between New York Life Insurance Company, and the State of New York Insurance Department, for and on behalf of the State of New York, the Virginia Bureau of Insurance and the Insurance Regulators of all States in the United States and the District of Columbia

**ORDER APPROVING SETTLEMENT AGREEMENT**

ON THIS DAY came the Bureau of Insurance ("the Bureau"), by counsel, and requested (i) Commission approval and acceptance of a certain multi-state Regulatory Settlement Agreement dated June 30, 2004 ("the Regulatory Settlement Agreement"), a copy of which is attached hereto and made a part hereof, by and between the Superintendent of Insurance for the State of New York Insurance Department, for and on behalf of the State of New York, the Bureau, and the Insurance Regulators of each of the fifty states in the United States and the District of Columbia, and New York Life Insurance Company, a foreign insurer domiciled in the State of New York and licensed to transact the business of insurance in the Commonwealth of Virginia; and (ii) authority to execute any documents attendant to the Regulatory Settlement Agreement necessary to evidence the Commission's acceptance of the Regulatory Settlement Agreement;

AND THE COMMISSION, having considered the terms of the Regulatory Settlement Agreement together with the recommendation of the Bureau that the Commission approve and accept the Regulatory Settlement Agreement, is of the opinion, finds, and ORDERS that (i) the Regulatory Settlement Agreement be, and it is hereby, APPROVED AND ACCEPTED, and (ii) the Commissioner of Insurance be, and he is hereby authorized to execute any attendant documents necessary to evidence the Commission's approval and acceptance of the Regulatory Settlement Agreement.

NOTE: A copy of the "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-2004-00191  
SEPTEMBER 2, 2004**

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

v.

HARTFORD FIRE INSURANCE COMPANY,  
HARTFORD CASUALTY INSURANCE COMPANY,  
HARTFORD UNDERWRITERS INSURANCE COMPANY,

and

TWIN CITY FIRE INSURANCE COMPANY,

Defendants

**SETTLEMENT ORDER**

Based on an investigation by the Bureau of Insurance, it is alleged that Defendants, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, violated § 38.2-1906 D of the Code of Virginia by making or issuing insurance contracts or policies not in accordance with the rate and supplementary rate information filings in effect for Defendants.

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 Defendants' licenses upon a finding by the Commission, after notice and opportunity to be heard, that Defendants have committed the aforesaid alleged violations.

Defendants have been advised of their right to a hearing in this matter, whereupon Defendants, without admitting any violation of Virginia law, have made an offer of settlement to the Commission wherein Defendants, in accordance with their corrective action plan submitted to the Bureau, have agreed to refund all premiums that were charged for terrorism coverage in the Spectrum program between August 1, 2003, and March 6, 2004. Defendants have also waived their 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 Defendants pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

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

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendants in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendant cease and desist from any conduct which constitutes a violation of § 38.2-1906 D of the Code of Virginia; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2004-00193  
AUGUST 6, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
ARMANDO FLORES,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 days an administrative action that was taken against him by the Alabama insurance department.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated June 23, 2004, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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 Alabama insurance department.

IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00194  
NOVEMBER 15, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
EBONY EVON COLEMAN,  
Defendant

**ORDER TO TAKE NOTICE**

On November 9, 2004, the Bureau of Insurance, by counsel, filed a Motion for Permanent Injunction asking that Defendant be permanently enjoined from transacting the business of insurance in the Commonwealth of Virginia based on Defendant's alleged violations of §§ 38.2-1809 and 38.2-1822 of the Code of Virginia.

IT IS THEREFORE ORDERED that Defendant TAKE NOTICE that the Commission shall enter a Judgment Order permanently enjoining Defendant from transacting the business of insurance in the Commonwealth of Virginia unless on or before November 29, 2004, Defendant files with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, a responsive pleading and a request for hearing.

**CASE NO. INS-2004-00194  
DECEMBER 16, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
EBONY EVON COLEMAN,  
Defendant

**JUDGMENT ORDER**

By Order entered herein on November 15, 2004, Defendant was ordered to take notice that the Commission would enter a Judgment Order permanently enjoining Defendant from transacting the business of insurance in the Commonwealth of Virginia unless on or before November 29, 2004, Defendant filed with the Clerk of the Commission a responsive pleading and a request for a hearing.

The Order to Take Notice was entered in response to a Motion for Permanent Injunction filed by the Bureau of Insurance on November 9, 2004, wherein the Bureau alleged that Defendant violated §§ 38.2-1809 and 38.2-1822 of the Code of Virginia.

As of the date of this Order, Defendant has failed to file a responsive pleading to object to the entry of a Judgment Order, nor has Defendant requested a hearing.

THEREFORE, IT IS ORDERED THAT:

- (1) Defendant Ebony Evon Coleman be, and she is hereby, permanently enjoined from transacting the business of insurance in the Commonwealth of Virginia; and
- (2) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2004-00195  
JULY 23, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
ANITRA MICHELLE DUNSTON,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 days an administrative action that was taken against her by the Alabama insurance department.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of her right to a hearing before the Commission in this matter by certified letter dated June 24, 2004 and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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 her by the Alabama insurance department.

IT IS THEREFORE ORDERED THAT:

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

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

(4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00196  
JULY 23, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

RUSSELL JOHN DAVID GARCIA,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 days an administrative action that was taken against him by the North Carolina insurance department.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letters dated June 1, 2004 and June 24, 2004, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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 North Carolina insurance department.

IT IS THEREFORE ORDERED THAT:

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

(2) All appointments issued under said licenses be, and they are hereby, VOID;

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

(4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00197  
JULY 23, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
PATRICK MICHAEL JOCHUM,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 days an administrative action that was taken against him by the North Carolina insurance department.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letters dated May 25, 2004 and June 17, 2004, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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 North Carolina insurance department.

IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00199  
JULY 26, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
RACHEAL RENEE TARTAGLIA,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 days an administrative action that was taken against her by the North Carolina insurance department.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

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Defendant has been notified of her right to a hearing before the Commission in this matter by certified letter dated June 24, 2004, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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 her by the North Carolina insurance department.

## IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00200  
JULY 23, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
STEVEN CHRISTOPHER WILHELMSON,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 days an administrative action that was taken against him by the Florida insurance department.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated June 23, 2004, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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 Florida insurance department.

## IT IS THEREFORE ORDERED THAT:

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



(4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00201  
JULY 23, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

WILLIAM S. WEBB CO., INC.,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 days an administrative action that was taken against it by the Massachusetts insurance department.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of its right to a hearing before the Commission in this matter by certified letters dated May 21, 2004 and June 23, 2004, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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 Massachusetts insurance department.

IT IS THEREFORE ORDERED THAT:

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

(2) All appointments issued under said licenses be, and they are hereby, VOID;

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

(4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00202  
JULY 23, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
TONY LEE HARDEN,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 days an administrative action that was taken against him by the North Carolina insurance department.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated June 29, 2004, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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 North Carolina insurance department.

IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00208  
AUGUST 6, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
LIBERTY NATIONAL AUTO CLUB, INC.,  
Defendant

**ORDER TO TAKE NOTICE**

Pursuant to § 13.1-400.5 of the Code of Virginia (the "Code"), the Commission may suspend, revoke, or refuse to renew the license of an automobile club whenever the Commission finds that it has violated any law of this Commonwealth.

Section 13.1-400.3 of the Code provides that the license of an automobile club shall expire each June 30 and that a licensed automobile club may renew its license effective July 1 of each year by paying an annual license renewal fee of \$200. In addition to paying the license renewal fee, an automobile club renewing its license is required to file certain documentation with the Bureau of Insurance (the "Bureau").

Liberty National Auto Club, Inc., a foreign corporation domiciled in the State of Alabama ("Defendant"), was initially licensed by the Commission to transact the business of an automobile club in the Commonwealth of Virginia on March 31, 1997.

On July 31, 2003, Defendant's Virginia Certificate of Authority was revoked for failure to pay its annual registration fee.

In January 2004, Defendant paid the annual license renewal fee for the year July 1, 2004 through June 30, 2005; however, Defendant has failed to file the required documentation with the Bureau.

As of the date of this Order, Defendant also has failed to respond to repeated correspondence by the Bureau, and the Bureau has recommended that Defendant's license be suspended.

IT IS THEREFORE ORDERED THAT Defendant TAKE NOTICE that the Commission shall enter an order subsequent to August 20, 2004, suspending the license of Defendant to transact the business of an automobile club in the Commonwealth of Virginia unless on or before August 20, 2004, Defendant files with the Clerk of the 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 Defendant's license.

**CASE NO. INS-2004-00208  
SEPTEMBER 2, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
LIBERTY NATIONAL AUTO CLUB, INC.,  
Defendant

**ORDER SUSPENDING LICENSE**

In an order entered herein August 6, 2004, Defendant was ordered to take notice that the Commission would enter an order subsequent to August 20, 2004, suspending the license of Defendant to transact the business of an automobile club in the Commonwealth of Virginia unless on or before August 20, 2004, Defendant filed with the Clerk of the Commission a request for a hearing before the Commission to contest the proposed suspension of Defendant's license.

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

THEREFORE, IT IS ORDERED THAT:

- (1) Pursuant to § 13.1-400.5 of the Code of Virginia, the license of Defendant to transact the business of an automobile club in the Commonwealth of Virginia be, and it is hereby, **SUSPENDED**;
- (2) Defendant shall issue no new contracts in the Commonwealth of Virginia until further order of the Commission;
- (3) The appointments of Defendant's agents to act on behalf of Defendant in the Commonwealth of Virginia be, and they are hereby, **SUSPENDED**;
- (4) Defendant's agents shall transact no new business on behalf of 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 Defendant's agents appointed to act on behalf of Defendant in the Commonwealth of Virginia as notice of the suspension of such agent's appointment; and
- (6) The Bureau of Insurance shall cause notice of the suspension of Defendant's license to be published in the manner set forth in § 38.2-1043 of the Code of Virginia.

**CASE NO. INS-2004-00209  
SEPTEMBER 8, 2004**

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

**SETTLEMENT ORDER**

Based on a market conduct examination performed by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, has violated §§ 38.2-316 A, 38.2-316 B, 38.2-316 C, 38.2-502,

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38.2-503, 38.2-610, 38.2-1318 C, 38.2-1812 A, 38.2-1822 A, 38.2-1833 A 1, 38.2-1834 D, 38.2-3724 A, 38.2-3735 A 2, and 38.2-3735 C 2 of the Code of Virginia, as well as 14 VAC 5-40-40 D, 14 VAC 5-40-40 D 2, 14 VAC 5-90-60 B, and 14 VAC 5-90-130 A.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of ten thousand dollars (\$10,000) and waived its right to a hearing.

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

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

IT IS THEREFORE ORDERED THAT:

- (1) The offer of 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-2004-00211  
AUGUST 18, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
DELBERT R. HUELLE,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 days an administrative action that was taken against him by the Arizona insurance department.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated June 29, 2004 and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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 Arizona insurance department.

IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00212  
AUGUST 5, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
JOSEPH MICHAEL THOMAS,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 days an administrative action that was taken against him by the North Carolina insurance department.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letters dated June 7, 2004 and June 29, 2004, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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 North Carolina insurance department.

IT IS THEREFORE ORDERED THAT:

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

(2) All appointments issued under said licenses be, and they are hereby, VOID;

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

(4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00213  
AUGUST 5, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
BRIAN NEIL HARRIS,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 days an administrative action that was taken against him by the North Carolina insurance department.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated June 28, 2004 and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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 North Carolina insurance department.

IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00214  
AUGUST 5, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
CAPITAL BONDING CORPORATION,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 days an administrative action that was taken against it by the Florida insurance department.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Defendant has been notified of its right to a hearing before the Commission in this matter by certified letters dated June 7, 2004 and June 30, 2004, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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 Florida insurance department.

## IT IS THEREFORE ORDERED THAT:

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

(2) All appointments issued under said licenses be, and they are hereby, VOID;

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

(4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00215  
AUGUST 5, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
AMY SUE MILKOVIC,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 days an administrative action that was taken against her by the Alabama insurance department.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of her right to a hearing before the Commission in this matter by certified letter dated June 29, 2004, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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 her by the Alabama insurance department.

## IT IS THEREFORE ORDERED THAT:

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

(2) All appointments issued under said licenses be, and they are hereby, VOID;

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

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

(4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00216  
AUGUST 5, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
STEPHANIE DAWN BERSEE,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 days an administrative action that was taken against her by the North Carolina insurance department.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of her right to a hearing before the Commission in this matter by certified letter dated June 29, 2004, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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 her by the North Carolina insurance department.

IT IS THEREFORE ORDERED THAT:

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

(2) All appointments issued under said licenses be, and they are hereby, VOID;

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

(4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00217  
SEPTEMBER 8, 2004**

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

**SETTLEMENT ORDER**

Based on a market conduct examination performed by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the Commission to transact the business of a health maintenance organization in the Commonwealth of Virginia, in certain instances, has violated §§ 38.2-316 A, 38.2-316 B, 38.2-316 C, 38.2-503, 38.2-510 A 15, 38.2-1812 A, 38.2-1833 A 1, 38.2-3407.4 A, 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, 38.2-3431 C 3, 38.2-3542 C, 38.2-4306 A 2, 38.2-4306.1, and 38.2-4312 A of the Code of Virginia, as well as 14 VAC 5-90-50 B, 14 VAC 5-90-60 A 1, 14 VAC 5-90-170 A, and 14 VAC 5-210-110 A.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of thirty-one thousand dollars (\$31,000), 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 Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

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

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendant cease and desist from any conduct which constitutes a violation of §§ 38.2-316 A, 38.2-316 B, 38.2-316 C, 38.2-503, 38.2-510 A 15, 38.2-1812 A, 38.2-1833 A 1, 38.2-3407.4 A, 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, 38.2-3431 C 3, 38.2-3542 C, 38.2-4306 A 2, 38.2-4306.1, or 38.2-4312 A of the Code of Virginia or 14 VAC 5-90-50 B, 14 VAC 5-90-60 A 1, 14 VAC 5-90-170 A, or 14 VAC 5-210-110 A; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2004-00219  
AUGUST 6, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
GEORGE THOMAS KISER, JR.,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the Commission to transact the business of insurance as an insurance agent in the Commonwealth of Virginia, violated §§ 38.2-1826 B and 38.2-1831 of the Code of Virginia by failing to report to the Commission within thirty days the facts and circumstances regarding his conviction of a felony, by admitting or having been found to have committed any insurance unfair trade practices or fraud, by having been convicted of a felony, and by using fraudulent, coercive, or dishonest practices in the conduct of business in this Commonwealth or elsewhere.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated July 7, 2004, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Bureau of Insurance, upon Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 Defendant has violated §§ 38.2-1826 B and 38.2-1831 of the Code of Virginia by failing to report to the Commission within thirty days the facts and circumstances regarding his conviction of a felony, by admitting or having been found to have committed any insurance unfair trade practices or fraud, by having been convicted of a felony, and by using fraudulent, coercive, or dishonest practices in the conduct of business in this Commonwealth or elsewhere.

## IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00221  
AUGUST 19, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
AETNA HEALTH, INC.,  
Defendant

**CONSENT ORDER**

By letter filed with the Bureau of Insurance (the "Bureau"), Aetna Health, Inc. (the Defendant, hereafter referred to as "Aetna"), a foreign corporation domiciled in the State of Maryland and licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia consented, in accordance with the terms of such letter, to the issuance of an order in which Aetna agrees, effective August 16, 2004, that it will cease issuing and renewing all insurance policies or contracts in the Commonwealth of Virginia on forms which have not been approved for delivery or issuance for delivery by the Commission's Bureau of Insurance. Aetna acknowledges that this action is necessary and appropriate to resolve the matter of Aetna's having previously issued and renewed in Virginia, non-approved forms in small and large group markets with multi-jurisdictional members.

## THEREFORE, IT IS ORDERED THAT:

- (1) Aetna shall cease issuing new contracts or policies of insurance in the Commonwealth of Virginia on forms which have not been approved by the Commission for issuance or delivery in the Commonwealth;
- (2) Aetna shall cease to renew contracts or policies of insurance in the Commonwealth of Virginia on forms which have not been approved by the Commission for issuance or delivery in the Commonwealth;
- (3) The foregoing undertakings will be effective as of August 16, 2004, except with respect to quotes already made as of said date, for which Aetna will abide by the processes and procedures described in said letter; and
- (4) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2004-00223  
AUGUST 23, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
RAYMOND S. PAINLEY,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the Commission to transact the business of insurance as an insurance agent in the Commonwealth of Virginia, violated §§ 38.2-502, 38.2-503, and 38.2-1813 of the Code of Virginia by misrepresenting the benefits, advantages, conditions or terms of an insurance policy, 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 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 of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated July 15, 2004 and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 Defendant has violated §§ 38.2-502, 38.2-503, and 38.2-1813 of the Code of Virginia by misrepresenting the benefits, advantages, conditions or terms of an insurance policy, 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 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.

**IT IS THEREFORE ORDERED THAT:**

- (1) The licenses of Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00224  
AUGUST 23, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
STEVEN A. PERDUE,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 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 of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated June 9, 2004, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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 Florida.

IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00225  
AUGUST 23, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
GAIL ADALINE BRITTINGHAM,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 days an administrative action that was taken against her 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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of her right to a hearing before the Commission in this matter by certified letters dated June 17, 2004, and July 14, 2004, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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 her by the state of Washington.

IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00226  
AUGUST 23, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
JAIME ERIN CONNELLY,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 days an administrative action that was taken against her by the state of New Hampshire.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of her right to a hearing before the Commission in this matter by certified letter dated July 13, 2004, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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 her by the state of New Hampshire.

IT IS THEREFORE ORDERED THAT:

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

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

(4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00227  
AUGUST 23, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
SCOTT THOMAS HORTON,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 days administrative actions that were taken against him by the states of Washington and California.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated July 13, 2004, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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 states of Washington and California.

IT IS THEREFORE ORDERED THAT:

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

(2) All appointments issued under said licenses be, and they are hereby, VOID;

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

(4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00228  
AUGUST 23, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
JENNIFER MAY ESPINOZA,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 days an administrative action that was taken against her by the state of North Carolina.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of her right to a hearing before the Commission in this matter by certified letter dated July 14, 2004, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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 her by the state of North Carolina.

IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00233  
AUGUST 26, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
JOHN G. WEISBROT,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated July 13, 2004, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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 Pennsylvania.

## IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00234  
AUGUST 26, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
CRYSTAL LEE CHRISTIAN,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 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 of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of her right to a hearing before the Commission in this matter by certified letter dated July 21, 2004, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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 her by the State of California.

## IT IS THEREFORE ORDERED THAT:

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



(4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00235  
AUGUST 26, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
PERRY FRANCIS EVEN,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated July 14, 2004, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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.

IT IS THEREFORE ORDERED THAT:

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

(2) All appointments issued under said licenses be, and they are hereby, VOID;

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

(4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00236  
AUGUST 26, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
FELIX COLBERT HECKSTALL,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 days an administrative action that was taken against him by the State of California.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated July 14, 2004, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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 California.

IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00237  
AUGUST 26, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
JAMES DOUGLAS MCKINNEY, JR.,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 days administrative actions that were taken against him by the States of North Carolina and Wisconsin.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated July 13, 2004, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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 States of North Carolina and Wisconsin.

IT IS THEREFORE ORDERED THAT:

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

(2) All appointments issued under said licenses be, and they are hereby, VOID;

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

(4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00238  
AUGUST 26, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
NICHOLAS PATRICK MYERS,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 days an administrative action that was taken against him by the State of Maine.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated July 13, 2004, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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 Maine.

IT IS THEREFORE ORDERED THAT:

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

(2) All appointments issued under said licenses be, and they are hereby, VOID;

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

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

(4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00239  
AUGUST 26, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.  
MELISSA O. PASCHALL,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 days an administrative action that was taken against her 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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of her right to a hearing before the Commission in this matter by certified letter dated July 13, 2004, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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 her by the State of Alabama.

IT IS THEREFORE ORDERED THAT:

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

(2) All appointments issued under said licenses be, and they are hereby, VOID;

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

(4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00240  
AUGUST 26, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
CYRIL LISA MONTOYA-STOLTZ,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 days an administrative action that was taken against her by the State of North Carolina.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of her right to a hearing before the Commission in this matter by certified letter dated July 13, 2004, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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 her by the State of North Carolina.

IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00241  
AUGUST 26, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
AVIATION INSURANCE GROUP AGENCY, LTD.,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 California.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Defendant has been notified of its right to a hearing before the Commission in this matter by certified letter dated July 21, 2004, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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 California.

## IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00245  
SEPTEMBER 24, 2004**

COMMONWEALTH OF VIRGINIA

At the relation of the  
STATE CORPORATION COMMISSION

v.

VIRGINIA PROPERTY INSURANCE ASSOCIATION,  
Defendant

**SETTLEMENT ORDER**

Based on a market conduct examination performed by the Bureau of Insurance, it is alleged that Defendant, which is a residual market facility approved by the Commission to write basic property insurance, violated §§ 38.2-305 and 38.2-2703 of the Code of Virginia by failing to include the subject of the insurance in a contract of insurance, and by using rules, rates, policy forms, or endorsements prior to Commission approval.

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

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein Defendant has waived its right to a hearing and agreed to implement the changes it has outlined in its corrective action plan dated July 28, 2004.

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

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

## IT IS THEREFORE ORDERED THAT:

- (1) The offer of 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 NOS. INS-2004-00249, INS-2004-00250, INS-2004-00251,  
INS-2004-00252, INS-2004-00253, and INS-2004-00254  
OCTOBER 5, 2004**

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

v.

STARMARK TRUST – CONSTRUCTION INDUSTRY,

STARMARK TRUST – MANUFACTURING INDUSTRY,

STARMARK TRUST – WHOLESALE INDUSTRY,

STARMARK TRUST – RETAIL INDUSTRY,

STARMARK TRUST – SERVICE INDUSTRY,

and

STARMARK TRUST – TRANSPORTATION AND PUBLIC UTILITIES INDUSTRY,

Defendants

**SETTLEMENT ORDER**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendants, each of which is duly registered with the Commission as a fully insured multiple employer welfare arrangement in the Commonwealth of Virginia, in a certain instance, violated 14 VAC 5-410-40 D by failing to file timely with the Commission a 2004 annual proof of coverage and notice of any changes in information.

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

Defendants have been advised of their right to a hearing in this matter, whereupon Defendants, without admitting any violation of Virginia law, have made an offer of settlement to the Commission wherein Defendants have waived their 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 Defendants pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

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

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendants in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendants cease and desist from any conduct which constitutes a violation of 14 VAC 5-410-40 D; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2004-00257  
OCTOBER 1, 2004**

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

v.

BOSTON MUTUAL LIFE INSURANCE COMPANY,

Defendant

**SETTLEMENT ORDER**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, has violated § 38.2-3419.1 of the Code of Virginia, as well as 14 VAC 5-190-50, by failing to file timely with the Commission its annual MB-1 Report of Cost and Utilization Data Relating to Mandated Benefits and Mandated Providers.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein 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 the entry by the Commission of a cease and desist order.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

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

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

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
  - (2) Defendant cease and desist from any conduct which constitutes a violation of § 38.2-3419.1 of the Code of Virginia or 14 VAC 5-190-50;
- and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2004-00260  
SEPTEMBER 15, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
MAJOR SURPLUS, INC.,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of its right to a hearing before the Commission in this matter by certified letter dated August 9, 2004, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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 Pennsylvania.

IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00261  
SEPTEMBER 15, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
JOHN A. ROCCO,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 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 of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated August 9, 2004, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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 New Jersey.

**IT IS THEREFORE ORDERED THAT:**

- (1) The licenses of Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00261  
OCTOBER 1, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
JOHN A. ROCCO,  
Defendant

**VACATING ORDER**

GOOD CAUSE having been shown, the Order Revoking License entered herein September 15, 2004, is hereby vacated.

**CASE NO. INS-2004-00262  
SEPTEMBER 15, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
JOSEPH JOHN KNOTT, JR.,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 days an administrative action that was taken against him by the State of New York.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated August 2, 2004, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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 New York.

IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00263  
SEPTEMBER 15, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
LARRY VAN SULLIVAN,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 days an administrative action that was taken against him by the State of Michigan.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated August 2, 2004, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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 Michigan.

IT IS THEREFORE ORDERED THAT:

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

(2) All appointments issued under said licenses be, and they are hereby, VOID;

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

(4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00265  
SEPTEMBER 16, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
AMANDA AUGUSTINE,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 days an administrative action that was taken against her by the State of New York.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of her right to a hearing before the Commission in this matter by certified letter dated August 4, 2004, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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 her by the State of New York.

IT IS THEREFORE ORDERED THAT:

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

(2) All appointments issued under said licenses be, and they are hereby, VOID;

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

(4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00282  
SEPTEMBER 28, 2004**

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

**IMPAIRMENT ORDER**

York Insurance Company, a foreign corporation domiciled in the State of Illinois and licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia ("Defendant"), is required to maintain minimum capital of \$1,000,000 and minimum surplus of \$3,000,000.

Section 38.2-1036 of the Code of Virginia provides, *inter alia*, 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 its surplus exists.

The Quarterly Statement of Defendant, dated June 30, 2004, and filed with the Commission's Bureau of Insurance, indicates capital of \$3,100,000, and surplus of \$1,678,848.

THEREFORE, IT IS ORDERED THAT, on or before December 28, 2004, Defendant eliminate the impairment in its surplus and restore the same to at least \$3,000,000 and advise the Commission of the accomplishment thereof by affidavit of Defendant's president or other authorized officer.

IT IS FURTHER ORDERED THAT Defendant shall issue no new contracts or policies of insurance in the Commonwealth of Virginia while the impairment of Defendant's surplus exists and until further order of the Commission.

**CASE NO. INS-2004-00291  
OCTOBER 29, 2004**

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

**SETTLEMENT ORDER**

Based on a target market conduct examination performed by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, has violated §§ 38.2-316 A, 38.2-316 B, 38.2-316 C, 38.2-502 (1), 38.2-503, 38.2-510 A 15, 38.2-1812 A, 38.2-1833 A 1, 38.2-1834 D, 38.2-3407.1, 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 C, 38.2-5801 A, 38.2-5801 B, 38.2-5802 C, and 38.2-5805 B of the Code of Virginia, as well as 14 VAC 5-90-50 B, 14 VAC 5-90-60 B 1, 14 VAC 5-90-90 C, and 14 VAC 5-90-130.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of forty-five thousand dollars (\$45,000) and waived its right to a hearing.

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

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

IT IS THEREFORE ORDERED THAT:

- (1) The offer of 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-2004-00302  
NOVEMBER 19, 2004**

COMMONWEALTH OF VIRGINIA

At the relation of the  
STATE CORPORATION COMMISSION

v.

ANTHEM HEALTH PLANS OF VIRGINIA, INC.,  
Defendant

**SETTLEMENT ORDER**

Based on a market conduct examination performed by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, has violated §§ 38.2-316 A, 38.2-316 C, 38.2-502 (1), 38.2-503, 38.2-510 A 15, 38.2-511, 38.2-610, 38.2-1318 C, 38.2-1812 A, 38.2-1833 A, 38.2-1834 C, 38.2-3407.1, 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 6, 38.2-3407.15 B 7, 38.2-3432.3 C, 38.2-3527, 38.2-3542 C, 38.2-5802, 38.2-5804 A, and 38.2-5804 A 1 of the Code of Virginia, as well as 14 VAC 5-90-50 A, 14 VAC 5-90-60 A, 14 VAC 5-90-60 A 2, 14 VAC 5-90-90 A 1, 14 VAC 5-90-90 B 1, 14 VAC 5-90-90 C, 14 VAC 5-90-160, 14 VAC 5-170-10, 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 of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of one hundred eighty thousand dollars (\$180,000), 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 Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

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

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;

(2) Defendant cease and desist from any specifically cited conduct which constitutes a violation of §§ 38.2-316 A, 38.2-316 C, 38.2-502 (1), 38.2-503, 38.2-510 A 15, 38.2-511, 38.2-610, 38.2-1318 C, 38.2-1812 A, 38.2-1833 A, 38.2-1834 C, 38.2-3407.1, 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 6, 38.2-3407.15 B 7, 38.2-3432.3 C, 38.2-3527, 38.2-3542 C, 38.2-5802, 38.2-5804 A, or 38.2-5804 A 1 of the Code of Virginia, or 14 VAC 5-90-50 A, 14 VAC 5-90-60 A, 14 VAC 5-90-60 A 2, 14 VAC 5-90-90 A 1, 14 VAC 5-90-90 B 1, 14 VAC 5-90-90 C, 14 VAC 5-90-160, 14 VAC 5-170-10, 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, or 14 VAC 5-400-70 D; and

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

**CASE NO. INS-2004-00303  
DECEMBER 10, 2004**

COMMONWEALTH OF VIRGINIA

At the relation of the  
STATE CORPORATION COMMISSION

v.

WILLIS INSURANCE SERVICES OF CALIFORNIA, INC.,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the Commission to transact the business insurance as an insurance agent and a surplus lines broker in the Commonwealth of Virginia, violated § 38.2-1802 of the Code of Virginia by

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

procuring a contract of insurance in this Commonwealth on behalf of an insurer not licensed to transact the business of insurance in this Commonwealth prior to obtaining a surplus lines broker's license from the Commission.

The Commission is authorized by §§ 38.2-218, 38.2-219, 38.2-1831, and 38.2-1857.7 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of its right to a hearing before the Commission in this matter by certified letters dated October 13, 2004 and November 15, 2004, respectively, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of Defendant's licenses to transact the business of insurance in the Commonwealth of Virginia as an insurance agent and a surplus lines broker.

THE COMMISSION is of the opinion and finds that Defendant has violated § 38.2-1802 of the Code of Virginia by procuring contracts of insurance in this Commonwealth on behalf of an insurer not licensed to transact the business of insurance in this Commonwealth prior to obtaining a surplus lines broker's license from the Commission.

## IT IS THEREFORE ORDERED THAT:

(1) The licenses of Defendant to transact the business of insurance as an insurance agent and surplus lines broker in the Commonwealth of Virginia be, and they are hereby, REVOKED;

(2) All appointments issued under said licenses be, and they are hereby, VOID;

(3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent or a surplus lines broker;

(4) Defendant shall not apply to the Commission to be licensed as an insurance agent or a surplus lines broker in the Commonwealth of Virginia prior to five (5) years from the date of this Order;

(5) The Bureau of Insurance shall cause a copy of this Order to be sent to every insurance company for which Defendant holds an appointment to act as an insurance agent or surplus lines broker in the Commonwealth of Virginia; and

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

**CASE NO. INS-2004-00307  
OCTOBER 22, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
DANIEL R. VECCHIO,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 days an administrative action that was taken against him by the State of Illinois.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letters dated August 25, 2004 and September 21, 2004, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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 Illinois.

## IT IS THEREFORE ORDERED THAT:

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

(2) All appointments issued under said licenses be, and they are hereby, VOID;

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

(4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00310  
NOVEMBER 19, 2004**

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

v.

VIRGINIA MUTUAL INSURANCE COMPANY,

Defendant

**SETTLEMENT ORDER**

Based on a market conduct examination performed by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, violated §§ 38.2-231, 38.2-305 A, 38.2-510 A 10, 38.2-1812, 38.2-1906 D, 38.2-2114, 38.2-2202 B, and 38.2-2212 of the Code of Virginia, as well as 14 VAC 5-400-40 A 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 of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of ten thousand dollars (\$10,000), 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 Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

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

## IT IS THEREFORE ORDERED THAT:

(1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;

(2) Defendant cease and desist from any conduct which constitutes a violation of §§ 38.2-231, 38.2-305 A, 38.2-510 A 10, 38.2-1812, 38.2-1906 D, 38.2-2114, 38.2-2202 B or 38.2-2212 of the Code of Virginia, or 14 VAC 5-400-40 A or 14 VAC 5-400-70 D; and

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

**CASE NO. INS-2004-00312  
NOVEMBER 19, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
CUNA MUTUAL INSURANCE SOCIETY,  
Defendant

**CONSENT ORDER**

By letter filed with the Bureau of Insurance (the Bureau), CUNA Mutual Insurance Society, (the Defendant, hereafter referred to as "CUNA"), a mutual company domiciled in the State of Wisconsin and licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in accordance with the terms of such letter, CUNA agrees that it will not offer any credit life or credit disability insurance products on any loans with a set duration of more than ten years (120 months) in Virginia in accordance with Code of Virginia § 38.2-3717. CUNA acknowledges that this action is necessary and appropriate to resolve the matter of having previously issued credit life or credit disability insurance on loans with durations of more than ten years (120 months). CUNA agrees to contact all active Virginia credit insurance policyholders by letter on or before November 19, 2004, and will proceed to make modifications to its calculation programs to prevent premium calculations on loans which exceed the statutory requirements.

THEREFORE, IT IS ORDERED THAT:

- (1) On or before November 19, 2004, CUNA shall contact in writing its affected policyholders located in the Commonwealth of Virginia and advise them to immediately discontinue issuing credit life or credit disability insurance in the Commonwealth of Virginia on loans with a set duration of more than ten years (120 months) in accordance with Code of Virginia § 38.2-3717;
- (2) On or before November 29, 2004, CUNA shall cease issuing credit life or credit disability insurance in the Commonwealth of Virginia on loans with a set duration of more than ten years (120 months) in accordance with Code of Virginia §38.2-3717; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2004-00321  
DECEMBER 8, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
LIBERTY MUTUAL INSURANCE COMPANY,  
LIBERTY MUTUAL FIRE INSURANCE COMPANY,  
LIBERTY INSURANCE CORPORATION,  
FIRST LIBERTY INSURANCE CORPORATION,  
and  
LM INSURANCE CORPORATION,  
Defendants

**SETTLEMENT ORDER**

Based on a market conduct examination performed by the Bureau of Insurance, it is alleged that Defendants, each of which is duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, violated the Code of Virginia and the Virginia Administrative Code as follows: Liberty Mutual Insurance Company violated §§ 38.2-231, 38.2-304, 38.2-305, 38.2-317 A, 38.2-1318, 38.2-1822, 38.2-1906 D, 38.2-2124, 38.2-2204, and 38.2-2220 of the Code of Virginia, as well as 14 VAC 5-400-80 D; Liberty Mutual Fire Insurance Company violated §§ 38.2-231, 38.2-305, 38.2-1318, 38.2-1822, 38.2-1906 D, 38.2-2202, 38.2-2204, 38.2-2206, 38.2-2220, and 38.2-2223 of the Code of Virginia, as well as 14 VAC 5-400-80 D; Liberty Insurance Corporation violated §§ 38.2-304, 38.2-305, 38.2-1318, 38.2-1812, 38.2-1822, 38.2-1906 D, 38.2-2204, and 38.2-2220 of the Code of Virginia, as well as 14 VAC 5-400-80 D; First Liberty Insurance Corporation violated §§ 38.2-305, 38.2-1833, 38.2-1906 D, and 38.2-2220 of the Code of Virginia; and LM Insurance Corporation violated §§ 38.2-1906 D and 38.2-2220 of the Code of Virginia. The alleged violations all relate to policies written in the voluntary market.

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 Defendants' licenses upon a finding by the Commission, after notice and opportunity to be heard, that Defendants have committed the aforesaid alleged violations.

Defendants have been advised of their right to a hearing in this matter, whereupon Defendants, without admitting any violation of Virginia law, have made an offer of settlement to the Commission wherein Defendants have tendered to the Commonwealth of Virginia the sum of thirty-seven thousand dollars (\$37,000), waived their 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 Defendants pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.



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

## IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendants in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Liberty Mutual Insurance Company cease and desist from any conduct which constitutes a violation of §§ 38.2-231, 38.2-304, 38.2-305, 38.2-317 A, 38.2-1318, 38.2-1822, 38.2-1906 D, 38.2-2124, 38.2-2204 or 38.2-2220 of the Code of Virginia, or 14 VAC 5-400-80 D; Liberty Mutual Fire Insurance Company cease and desist from any conduct which constitutes a violation of §§ 38.2-231, 38.2-305, 38.2-1318, 38.2-1822, 38.2-1906 D, 38.2-2202, 38.2-2204, 38.2-2206, 38.2-2220 or 38.2-2223 of the Code of Virginia, or 14 VAC 5-400-80 D; Liberty Insurance Corporation cease and desist from any conduct which constitutes a violation of §§ 38.2-304, 38.2-305, 38.2-1318, 38.2-1812, 38.2-1822, 38.2-1906 D, 38.2-2204 or 38.2-2220 of the Code of Virginia, or 14 VAC 5-400-80 D; First Liberty Insurance Corporation cease and desist from any conduct which constitutes a violation of §§ 38.2-305, 38.2-1833, 38.2-1906 D or 38.2-2220 of the Code of Virginia; and LM Insurance Corporation cease and desist from any conduct which constitutes a violation of §§ 38.2-1906 D or 38.2-2220 of the Code of Virginia; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2004-00329  
DECEMBER 15, 2004**

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

v.

MARTIN FURNITURE COMPANY, INC.,

Defendant

**SETTLEMENT ORDER**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, violated §§ 38.2-1822 and 38.2-1833 of the Code of Virginia by acting as an agent of an insurer without first obtaining a license in the manner and form prescribed by the Commission, by receiving commissions from an insurer without being properly appointed, and by continuing to solicit insurance on behalf of an insurer to which Defendant was not validly appointed without having received an acknowledgment from the Commission of its appointment within forty-five days from the date of execution of the first application submitted to the insurer.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein 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 Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

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

## IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendant cease and desist from any conduct which constitutes a violation of § 38.2-1822 or § 38.2-1833 of the Code of Virginia; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2004-00332  
DECEMBER 10, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
SCHEWEL FURNITURE COMPANY, INC.,  
Defendant

**SETTLEMENT ORDER**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, violated §§ 38.2-1822 and 38.2-1833 of the Code of Virginia by acting as an agent of an insurer without first obtaining a license in the manner and form prescribed by the Commission, by receiving commissions from an insurer without being properly appointed, and by continuing to solicit insurance on behalf of an insurer to which Defendant was not validly appointed without having received an acknowledgment from the Commission of its appointment within forty-five days from the date of execution of the first application submitted to the insurer.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of ten thousand dollars (\$10,000), 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 Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

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

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendant cease and desist from any conduct which constitutes a violation of § 38.2-1822 or § 38.2-1833 of the Code of Virginia; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2004-00333  
DECEMBER 15, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
STANDARD DISTRIBUTORS, INC. T/A STANDARD FURNITURE COMPANY,  
Defendant

**SETTLEMENT ORDER**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, violated §§ 38.2-1822 and 38.2-1833 of the Code of Virginia by acting as an agent of an insurer without first obtaining a license in the manner and form prescribed by the Commission, by receiving commissions from an insurer without being properly appointed, and by continuing to solicit insurance on behalf of an insurer to which Defendant was not validly appointed without having received an acknowledgment from the Commission of its appointment within forty-five days from the date of execution of the first application submitted to the insurer.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein 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 Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

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

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendant cease and desist from any conduct which constitutes a violation of § 38.2-1822 or § 38.2-1833 of the Code of Virginia; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2004-00336  
DECEMBER 15, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
USA DISCOUNTERS LTD.,  
Defendant

**SETTLEMENT ORDER**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, violated §§ 38.2-1822 and 38.2-1833 of the Code of Virginia by acting as an agent of an insurer without first obtaining a license in the manner and form prescribed by the Commission, by receiving commissions from an insurer without being properly appointed, and by continuing to solicit insurance on behalf of an insurer to which Defendant was not validly appointed without having received an acknowledgment from the Commission of its appointment within forty-five days from the date of execution of the first application submitted to the insurer.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of ten thousand dollars (\$10,000), 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 Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

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

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendant cease and desist from any conduct which constitutes a violation of § 38.2-1822 or § 38.2-1833 of the Code of Virginia; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2004-00338  
DECEMBER 21, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
WINDSOR INSURANCE COMPANY,  
REGAL INSURANCE COMPANY,  
and  
AMERICAN DEPOSIT INSURANCE COMPANY,  
Defendants

**SETTLEMENT ORDER**

Based on a market conduct examination performed by the Bureau of Insurance, it is alleged that Defendants, each of which is duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, violated the Code of Virginia and the Virginia Administrative Code as

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

follows: Windsor Insurance Company violated §§ 38.2-305, 38.2-512 A, 38.2-1812, 38.2-1822, 38.2-1833, 38.2-1906 D, 38.2-2208, 38.2-2212, 38.2-2220, 38.2-2223, and 38.2-2230 of the Code of Virginia, as well as 14 VAC 5-400-40 A and 14 VAC 5-400-70 D; Regal Insurance Company violated §§ 38.2-305, 38.2-510 C, 38.2-512 A, 38.2-1812, 38.2-1822, 38.2-1904 E, 38.2-1906 D, 38.2-2208, 38.2-2212, 38.2-2220, and 38.2-2223 of the Code of Virginia, as well as 14 VAC 5-400-30, 14 VAC 5-400-40 A, 14 VAC 5-400-70 D, and 14 VAC 5-400-80 D; and American Deposit Insurance Company violated §§ 38.2-510 C, 38.2-512 A, 38.2-1318, 38.2-1812, 38.2-1833, 38.2-1906 D, 38.2-2206, 38.2-2208, 38.2-2220, and 38.2-2223 of the Code of Virginia, as well as 14 VAC 5-400-30, 14 VAC 5-400-40 A, 14 VAC 5-400-70 D, and 14 VAC 5-400-80 D.

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 Defendants' licenses upon a finding by the Commission, after notice and opportunity to be heard, that Defendants have committed the aforesaid alleged violations.

Defendants have been advised of their right to a hearing in this matter, whereupon Defendants, without admitting any violation of Virginia law, have made an offer of settlement to the Commission wherein Defendants have tendered to the Commonwealth of Virginia the sum of forty-three thousand dollars (\$43,000) and waived their right to a hearing.

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

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

IT IS THEREFORE ORDERED THAT:

- (1) The offer of 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-2004-00343  
DECEMBER 15, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
WILLIAM EUGENE ALEXANDER,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 days an administrative action that was taken against him by the State of California.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated November 9, 2004, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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 California.

IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00344  
DECEMBER 15, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
HENRY PRESTON DICKERSON,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 days an administrative action that was taken against him by the State of New York.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated November 2, 2004, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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 New York.

**IT IS THEREFORE ORDERED THAT:**

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

(2) All appointments issued under said licenses be, and they are hereby, VOID;

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

(4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00345  
DECEMBER 15, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
JOHN WAYNE GOFF,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated October 25, 2004, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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.

IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00347  
DECEMBER 15, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
ROBERT C. SAYRE,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 days an administrative action that was taken against him by the State of Kentucky.

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 Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated October 25, 2004, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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 Kentucky.

## IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an insurance agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) 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 cause a copy of this Order to be sent to every insurance company for which 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-2004-00348  
DECEMBER 15, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
KENNETH STOLARIK,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation conducted by the Bureau of Insurance, it is alleged that Defendant, duly licensed by the 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 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 of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letter dated October 22, 2004, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

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 Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of 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 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 North Carolina.

## IT IS THEREFORE ORDERED THAT:

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

(4) 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 cause a copy of this Order to be sent to every insurance company for which 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.



**DIVISION OF PUBLIC SERVICE TAXATION****CASE NO. PST-2002-00046  
SEPTEMBER 10, 2004**

APPLICATION OF  
GORDONSVILLE ENERGY, L.P.

Application for review and correction of assessment of the value of property subject to local taxation-Tax Year 2002

**FINAL ORDER**

Before the State Corporation Commission ("Commission") is the application of Gordonsville Energy, L.P. ("Gordonsville Energy" or the "Company"), for review and correction of the tax year 2002 assessment of the value of its property subject to local taxation. The Report of Howard P. Anderson, Jr., Hearing Examiner, of June 11, 2004 ("Report"), has been filed. The Hearing Examiner recommended that Gordonsville Energy's application be denied and that our assessments of value for 2002 remain in effect. (Report at 2.) In its response, the Company maintained that the Examiner was in error, and his recommendations should be rejected. Gordonsville Energy would have the Commission reduce its assessment of the value of property from \$151,853,164 to \$54,414,000. The Commission Staff limited its response to a comment on assessment jurisdiction and did not otherwise address the Report.

The Commission has considered the Report, the responses, and the extensive record developed at the hearing. We conclude, as did Examiner Anderson, that Gordonsville did not meet its burden of showing that the assessments of value were erroneous. Accordingly, we will deny the application.

It is settled law that the burden is upon the property owner to show that the value fixed by the Commission is excessive. Norfolk & Western Ry v. Commonwealth, 211 Va. 692, 695 (1971). The application before the Commission concerns the value of Gordonsville Energy's property subject to local taxation as of January 1, 2002. The Company closed on the sale of its plant to Virginia Electric and Power Company on November 21, 2003. At the request of Gordonsville Energy and Virginia Electric and Power Company, details of this transaction have been afforded confidential treatment. The public portions of the record do establish that the sale was negotiated by sophisticated parties who were not obligated to deal. Further, the publicly disclosed approximate sales price of \$150.8 million is very close to our assessed values for tax year 2002, \$151.8 million, and for tax year 2003, \$153.8 million. Examiner Anderson found that Gordonsville Energy did not establish that the sales price for the facility set in a reasonably contemporaneous transaction should not be considered. Based on the record in this proceeding, the Commission concludes that the sales price supports our determination of fair market value of plant and related facilities by application of a methodology, which considers original cost and useful life.

Gordonsville Energy is an electric supplier as defined in § 58.1-2600 of the Code of Virginia. The Commission first assessed the value of the property of electric suppliers, which include qualified cogeneration facilities like the Company and independent power producers, in tax year 2002. Previously, the property of Gordonsville and the other electric suppliers was assessed by the localities. In 2002 and subsequent years, the Commission has employed the same methodologies for assessing the value of electric suppliers' property subject to local taxation that has been used in assessing the incumbent electric companies' property. The Commission does not understand the property of electric suppliers to be a separate class or classification of property for valuation. The Commission endeavors to comply with Va. Const. art. X, § 1, which provides that all property taxes "shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax." We understand that this uniformity in assessment methodology was intended by the General Assembly.

Gordonsville Energy's tax bill increased significantly after the move from local assessment to central assessment in 2002. Other electric suppliers have noted increases in their property tax expense. We have recently advised the General Assembly's Electric Utility Restructuring Commission of this development.<sup>1</sup> The Commission must, however, continue to apply the law in effect for tax year 2002.

Accordingly, IT IS ORDERED THAT:

(1) The application of Gordonsville Energy for review and correction of the assessment of value of its property for tax year 2002 be denied.

(2) Case No. PST-2002-00046 be dismissed from the Commission's docket and placed in closed status in the records maintained by the Clerk of the Commission.

<sup>1</sup> State Corporation Commission, Report to the Commission on Electric Utility Restructuring of the Virginia General Assembly and the Governor of the Commonwealth of Virginia: Status of Retail Access and Competition in the Commonwealth, Part II at 59-61 (Aug. 31, 2004).

**CASE NO. PST-2002-00046  
OCTOBER 1, 2004**

APPLICATION OF  
GORDONSVILLE ENERGY, L.P.

Application for review and correction of assessment of the value of property subject to local taxation-Tax Year 2002

**ORDER**

By Final Order of September 10, 2004, entered in this proceeding, the State Corporation Commission ("Commission") denied the application of Gordonsville Energy, L.P. ("Gordonsville Energy" or the "Company"), for review and correction of the tax year 2002 assessment of the value of its property subject to local taxation. On September 30, 2004, the Company filed a Motion to Reconsider Final Order and a Motion for Suspension of Final Order.

The Commission has considered the motions. We find no grounds for reconsideration of our Final Order of September 10, 2004. Accordingly we do not suspend that Order as requested in the companion motion.

Accordingly, IT IS ORDERED THAT:

- (1) Case No. PST-2002-00046 be restored to the Commission's docket and placed in active status in the records maintained by the Clerk of the Commission.
- (2) The Company's Motion to Reconsider Final Order and Motion for Suspension of Final Order be denied.
- (3) Case No. PST-2002-00046 be dismissed from the Commission's docket and placed in closed status in the records maintained by the Clerk of the Commission.

**CASE NO. PST-2002-00046  
DECEMBER 15, 2004**

APPLICATION OF  
GORDONSVILLE ENERGY, L.P.

Application for review and correction of assessment of the value of property subject to local taxation-Tax Year 2002

**OPINION OF THE COMMISSION**

Before the State Corporation Commission ("Commission") is the application of Gordonsville Energy, L.P. ("Gordonsville Energy" or the "Company"), for review and correction of the tax year 2002 assessment of the value of its property subject to local taxation. On January 1, 2002, Gordonsville Energy was an electric supplier as defined in § 58.1-2600 of the Code of Virginia ("Code"). As required by § 58.1-2633 of the Code, the Commission assessed the value of the Company's generating equipment, vehicles, general plant equipment, and materials and supplies located in Louisa County at \$151.863 million for tax year 2002. (Ex. 10 at 1.)<sup>1</sup> In this proceeding, Gordonsville Energy maintains that the fair market value of its generating equipment was \$56,414,000; the fair market value of other equipment was \$39,000; and the fair market value of real property, including land, was \$3,347,000, for a total of \$60,000,000 (Ex. 5 at 4 and Section 15-2.)

The Commission's assessment of value cannot be compared directly with Gordonsville Energy's proposed fair market value. As required by § 58.1-2604 A of the Code, we must apply the ratios reported by the Department of Taxation in arriving at the assessed values reported to the localities. While the Commission's assessments for tax year 2002 reflect the reported ratio for Louisa County, 0.899 (Ex. 9 at 6 and Attachment 8), Gordonsville Energy's witness did not apply the ratio in arriving at fair market value. In addition, the Company's witness maintained that its real property, including leased land, had a fair market value of \$3,547,000. (Ex. 5 at 4 and Section 15-2.) The Commission interpreted § 58.1-2628 D of the Code in effect for tax year 2002 to exclude leased land from central assessment. (Ex. 9 at 2-3.) Although these valuations may not be directly compared, the magnitude is apparent. The issue before us is whether Gordonsville Energy has rebutted the presumption that our assessment of \$151.863 million is correct and established that the Commission's assessment should be reduced on the order of \$100 million.

*The Commission Proceeding*

On December 11, 2002, the Company filed pursuant to § 58.1-2670 of the Code its application for review and correction. On March 24, 2003, the Commission issued an Order for Notice and Hearing in which we found that Gordonsville Energy had made timely application. We docketed the matter; provided for notice to Louisa County; established dates for the filing of testimony and exhibits; and scheduled the matter for hearing. Neither Louisa County nor any interested person sought to participate in the proceeding. At Gordonsville Energy's request, the case was continued until Howard P. Anderson, Jr., the Commission's hearing examiner assigned to this proceeding, entered his Hearing Examiner's Ruling of July 15, 2003. The hearing examiner provided for the filing of testimony and exhibits by the Company and the Commission Staff and for a public hearing on March 16, 2004.

<sup>1</sup> The Commission assessed value of \$147,663,860 by Assessment Order of September 3, 2002, In re The Assessment of Water, Heat, Light, and Power Corporations, Electric Suppliers, and the Gas and Pipeline Distribution Corporations for 2002. (Ex. 1, GELP 1.) By Supplemental Assessment Order of March 3, 2004, In re Gordonsville Energy, L.P., Matter No. PST-2004-0000 3217, we made an additional assessment for tax year 2002 of \$4,179,248. (Ex. 10, Attachment 13.) The assessments sum to \$151,863,164.

At the hearing, proof of the notice to the affected locality required by § 58.1-2671 of the Code was admitted as Exhibit 1. In support of its application, Gordonsville Energy offered the testimony and exhibits of Ian Cuthbertson, manager of the facility, and Michael J. Remsha, an appraisal expert. The Staff offered the testimony and exhibits of Robert S. Tucker, Director of the Commission's Public Service Taxation Division ("Division"). Gordonsville Energy offered rebuttal testimony from Mr. Remsha and from Maria Rigatti, its Executive Director and a member of the Company's management committee.

On June 11, 2004, Hearing Examiner Anderson filed redacted and confidential versions of his Report, the transcript of the hearing, and the exhibits admitted at the hearing. The hearing examiner found that Gordonsville Energy had not met its burden of proving that the tax year 2002 assessment of value was excessive, and he recommended that the application be denied. (Report of Howard P. Anderson, Jr., Hearing Examiner, of June 11, 2004 (Redacted) at 9.) In a response filed in redacted and confidential versions, the Company excepted to the findings and recommendations made by the hearing examiner. The Staff filed a brief response, which addressed a technical issue of statutory language.

By Final Order of September 10, 2004, the Commission denied the application. Upon review of the record, we determined, as did the hearing examiner, that Gordonsville Energy has not established that the assessments of value were erroneous. On September 30, 2004, the Company moved for reconsideration and suspension of the Commission's Final Order. By Order of October 1, 2004, we denied the motions.

#### *The Property at Issue*

As of January 1, 2002, Gordonsville Energy operated two combined-cycle units. Each unit included a combustion turbine, a heat recovery steam generator, and a steam turbine. In addition to these principal components, the property included pollution control equipment, electric transformer and substation equipment, controls and instruments, and related equipment. The nominal design capacity of the facility was 240 megawatts per hour, and the turbines could operate on natural gas or fuel oil. The facility was located on leased land. (Ex. 5 at Sections 7-2 through 7-5.) As of January 1, 2001, Gordonsville Energy reported the total cost of the facility to be \$200,526,807.54. (Ex. 3, GELP-2.) The Commission used an original cost of \$200,249,491, as of January 1, 2002, in making its assessments. (Ex. 9, Attachment 8.) Gordonsville Energy witness Remsha testified that the reproduction cost new of the facility, as of January 1, 2002, was \$206,303,000. (Ex. 5 at Section 14-7.)

#### *Gordonsville Energy's Operations*

On January 1, 2002, Gordonsville Energy operated as a qualifying cogeneration facility under federal law. See Gordonsville Energy, L.P. - Unit I, 60 F.E.R.C. ¶ 62,137 (1992); Gordonsville Energy, L.P. - Unit II, 60 F.E.R.C. ¶ 62,136 (1992). The electricity produced at the facility was sold to Virginia Electric and Power Company (Dominion Virginia Power) pursuant to power purchase and operating agreements for Unit 1 (Ex. 7C) and Unit 2 (Ex. 8C). According to Company witness Remsha, the contracts required Dominion Virginia Power to pay in excess of January 2002 market prices for electricity generated at the facility. (Tr. at 42-43; Ex. 5 at Section 13-4.) The Company also was a party to an agreement that required it to provide steam to an adjacent wastewater treatment plant. (Ex. 5 at Sections 3-1, 13-6; Ex. 4 at A33.) The provision of steam was required by federal law for operation as a qualifying cogeneration facility. (Ex. 4 at A33; Tr. at 120, 121.)

The power purchase and operating agreements permitted Dominion Virginia Power to dispatch the facility as its system required. (Tr. at 27-28.) Dominion Virginia Power determined when Gordonsville Energy would supply electricity and the amount that would be transmitted through the utility's system. A measure of the use of an electric generating plant is its capacity factor or the ratio of the amount of electricity generated during a time period to the electricity that could have been generated during the same time period if the facility operated at its design capacity. Gordonsville Energy's facility manager, Mr. Cuthbertson, recalled that the facility operated roughly 1,000 to 1,100 hours in 2001. (Id. at 28.) For the year 2001, the capacity factor was 7.86 percent. (Ex. 5 at Section 3-1.) According to the facility manager, between 1996 and January 2002, Gordonsville Energy had an annual capacity factor of approximately 10 percent. (Tr. at 33-34.)

The facility was capable of significantly greater utilization. (Tr. at 54; Ex. 5 at Section 10-3.) The greatest number of hours of operation and the highest capacity factor were achieved in the winter months. During some months, the facility has operated at a monthly capacity factor in excess of 30 percent. (Tr. at 29-30.) Mr. Cuthbertson explained that it was necessary to use fuel oil during the winter months because natural gas shipments were curtailed. (Id. at 30-31, 32-33.)

#### *The Evidence on the Value of the Facility*

##### *Gordonsville Energy's Position*

Gordonsville Energy's witness Remsha offered an opinion on the fair market value of the facility developed through application of an income valuation approach and a cost valuation approach. The witness considered but did not apply a sales approach because he concluded that there was insufficient information on sales of comparable facilities. (Ex. 5 at Sections 2-1, 12-1; Tr. at 133-34.) As a preliminary step in his analysis, Mr. Remsha concluded that, as of January 1, 2002, the facility operated as a peaking unit with a low level of utilization. (Tr. at 52-53.) The witness determined that the facility was not economically viable as two combined-cycle units operating with an annual capacity factor of approximately ten percent. The highest and best use of the facility would be as an intermediate facility, which operated with an annual capacity factor of 30 percent. (Ex. 4 at A34; Ex. 5 at Sections 10-2 to 10-4; Tr. at 51-52.)

Mr. Remsha used a discounted cash flow model in his income approach to develop an indicated value of the facility. He assumed that the plant would operate at an annual capacity factor of 30 percent and produce 630,720,000 kilowatt hours per year. (Ex. 4 at A34; Ex. 5 at Section 13-5.) Based on projected prices for electricity in the competitive, wholesale market for 2002-2013, revenues for each year were estimated. Expenses of producing the electricity, including estimates of the cost of natural gas, various operating expenses, depreciation, and capital costs were also estimated for each year. Using these estimates of revenues and expenses, an estimated net income was calculated for each year. A discount rate was applied to arrive at an indicator of value for the generating and other equipment of \$40,259,809, including land. (Ex. 4 at A34; Ex. 5 at Sections 13-5, 13-6, 13-17.)

In his application of the cost approach, Gordonsville Energy's witness first calculated the replacement cost new of \$206,303,000 for the facility in operation on January 1, 2002. (Ex. 5 at Sections 14-6 to 14-8.) Mr. Remsha contended that a prudent investor would substitute a simple-cycle gas-fired unit for the existing combined cycle units capable of operating on gas or fuel oil. (Ex. 4 at A33, A35; Ex. 5 at Section 14-9; Tr. at 53-55, 128-29.) The cost of such a substitute unit was determined to be \$108,273,000. Subtracting the cost of the substituted simple-cycle facility from the replacement cost new of the existing facility results in an adjustment of \$98,030,000 for excess capital cost or functional obsolescence. (Ex. 5 at Sections 14-9, 14-12; Tr. at 55.) Mr.

Remsha also made an adjustment for excess operating costs related to the functional obsolescence. (Ex. 5. at Sections 14-14, 14-17; Tr. at 54.) An adjustment for physical deterioration was also calculated and applied. (Ex. 5 at Sections 14-12 to 14-14.)

In summary, Gordonsville Energy witness Remsha first calculated a replacement cost new for the facility in operation on January 1, 2002, of \$206,303,000. He made a series of adjustments to arrive at a cost approach indicator of value of \$75,218,400 for the facility plus \$256,500 for the value of land for a total value of \$75,474,900. (Id. at Section 14-16.)

The final step in deriving fair market value was a correlation of the value indicated by the income approach, \$40,259,809 (including land) and the value indicated by the cost approach, \$75,474,900 (including land). (Tr. at 125-26, 129.) Mr. Remsha arrived at a fair market value of \$60,000,000, including the value of land. (Ex. 5 at Sections 15-1 to 15-2; Tr. at 126, 130-31.)

#### *The Commission Staff's Position*

Public Service Taxation Division Director Tucker reviewed the methodology used to develop the recommended assessments of value, which the Commission adopted by its Orders of September 3, 2002, and March 3, 2004.<sup>2</sup> Mr. Tucker explained that the same methodology was used for all electric suppliers, including Gordonsville Energy, and for all electric utilities. (Ex. 9 at 2, 3; Tr. at 106.) In preparing recommended assessments of value for the Company, the Division developed percent condition factors for generating station equipment; office furniture and equipment; tools, shop, and garage equipment; and automobiles and trucks reported by Gordonsville Energy. The percent condition factors were calculated using useful life tables of 25 years and 10 years. (Ex. 9 at 4, 5, and Attachments 2 and 4.) On cross-examination, Mr. Tucker explained that an assumed life of 25 years was reasonable and was probably conservative. He noted that Gordonsville Energy witness Remsha used a life of 35 years for some generating equipment in his study. (Tr. at 90-91.) The appropriate percentages from the life tables were applied to the plant additions made each year to develop a percent condition factor for each class of property. (Ex. 9, Attachments 3, 5, 6, 7.) These percent condition factors and the Louisa County ratio reported by the Department of Taxation were applied to the original cost of the classes of plant and equipment reported by the Company. (Id. at 4, 6, and Attachment 8.)

#### *The Subject Property Sale*

In addition to explaining the methodology used to develop the assessments of value, Mr. Tucker discussed the sale of the Gordonsville Energy facility in 2003. On August 8, 2003, Dominion Virginia Power applied for Commission approval of its purchase of Gordonsville Energy's generating facilities. (Ex. 9, Attachment 9 at 1; Ex. 11 at A13.) According to Dominion Virginia Power's application, its power purchase and operating agreements with Gordonsville Energy would be terminated upon the closing of the transaction, if approved. (Ex. 9, Attachment 9 at 1; Ex. 11 at A15.) Dominion Virginia Power would record the value of generating facilities, fuel, and materials at their fair market value. The excess of purchase price over the fair market value of generating facilities, fuel, and materials would be recorded in its Purchased Power Account. (Ex. 9, Attachment 9 at 2.) The publicly announced sales price was \$150.8 million. (Ex. 9, Attachment 10 at 13.) This price was adjusted for fuel reserves, spare parts, prorated expenses, interest, and fees, but the total of these adjustments was not significant. As discussed by the hearing examiner (Report of Howard P. Anderson, Jr., Hearing Examiner of June 11, 2004 (Redacted) at 7), Dominion Virginia Power retained an appraisal expert to offer an opinion on the fair market value of Gordonsville Energy's operating equipment, fixtures and buildings, fuel, and materials as a condition of the purchase agreement.

The Commission authorized the transaction by Final Order of October 31, 2003, in Virginia Electric & Power Co., Case No. PUE-2003-00395. The transaction closed on November 21, 2003. (Ex. 11 at A12.)

Mr. Tucker also reviewed the Commission's assessment of the value of Gordonsville Energy's property as of January 1, 2003, for tax year 2003. Because of changes in the statutes governing the assessing of electric suppliers' property, the Commission assessed for tax year 2003 land and improvements as well as generating and other equipment. The Commission's assessment for tax year 2003 totaled \$160,760,414. Subtracting from the total assessment the value of land and improvements assessed at \$6,949,700 results in assessed value for generating and other equipment and materials of \$153,810,714, as of January 1, 2003. (Ex. 9 at 8-9 and Attachment 12; Ex. 10 at 1-2.) As Mr. Tucker noted, the Commission's tax year 2002 assessment, \$151.863 million, and the 2003 assessment of generating and other equipment, \$153.81 million, were clearly in line with the sales price.

Gordonsville Energy witness Remsha did not consider the sales of any comparable property when he made his studies. He concluded that there was insufficient information on sales of similar facilities. (Ex. 5 at Sections 2-1, 8-1, 12-1; Tr. at 134.) According to this witness, the 2003 sale of the subject facility was not a factor affecting his determination of fair market value. (Ex. 12 at A6.) The Gordonsville Energy-Dominion Virginia Power transaction provided for the termination of the power purchase and operating agreements. (Ex. 7C; Ex. 8C.) According to Mr. Remsha, these contracts were separate intangible assets, which should not be included in his appraisal. (Ex. 12 at A7; Tr. at 42-44.) Gordonsville Energy contended that the 2003 transaction was a sale of tangible property (i.e., the generating facility) and intangible property (i.e., the power purchase and operating agreements). (Ex. 12 at A7.)

#### *Discussion*

Our consideration of this application must be guided by the Constitution of Virginia and enabling statutes, which govern the Commission. The Constitution of Virginia mandates two principles of property taxation. As required by Va. Const. art. X, § 2, property must be assessed at its fair market value. Of equal significance is the requirement of Va. Const. art. X, § 1, which provides that all property taxes "shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax." In affirming a Commission tax decision, the Supreme Court has approved our uniformity in assessment as promoting equity in the burden of taxation. Southern Ry. v. Commonwealth, 211 Va. 210, 214 (1970).

Uniformity remains an essential element of our assessment of the value of the property of electric suppliers and electric utilities (the corporations providing heat, light, and power by means of electricity). The Commission first assessed the value of the property of electric suppliers, which include qualified cogeneration facilities like the Company and independent power producers, in tax year 2002. Previously, the value of the property of Gordonsville Energy and the other electric suppliers was assessed by the localities. In 2002 and subsequent years, the Commission employed the same methodologies for assessing the value of electric suppliers' property subject to local taxation that has been used in assessing the value of electric utilities' property. We understand that this uniformity in assessment methodology was intended by the General Assembly.

<sup>2</sup> See Footnote 1, *supra*.

It is another axiom of Virginia tax law that property be assessed at its highest and best use, and the Court has applied this principal in reviewing appeals of Commission assessments of the value of tangible property. Norfolk & W. Ry. v. Commonwealth, 211 Va. 692, 699 (1971). That principal may be extended to the assessment of the value of Gordonsville Energy's property in this case. The Company and the Staff agreed that the highest and best use of the property was as a power plant.

The original-cost-less-depreciation method was used to make the Commission's assessments of the value of Gordonsville Energy's generating equipment, other equipment, and materials. Staff witness Tucker explained how this method was applied, and he provided exhibits showing the calculations of the assessments, which the Commission adopted. (Ex. 9.) The Virginia Supreme Court has affirmed the use of this methodology for assessing the value of property other than real property. Norfolk & W., 211 Va. at 700-01.

As discussed, the Company's witness correlated the results of an income approach and a cost approach to arrive at a fair market value of the property. Virginia law recognizes both approaches for valuing personal property. 211 Va. at 697, 700-01. The Commission is not persuaded, however, that Gordonsville Energy properly applied these methodologies to arrive at the value of the generating equipment, other equipment, and materials.

In his application of the income approach, the Company's witness made assumptions about revenues and expenses that varied greatly from historical and reasonably foreseeable operations. Gordonsville Energy witness Remsha determined that value of the facility was maximized when the capacity factor was about 30 percent. (Ex. 5 at Sections 10-2 to 10-4.) At that annual capacity factor, the Company's plant would generate 630,720,000 kilowatt hours and operate for approximately 2,600 hours during the year. (Ex. 6 at Section 13-4; Tr. at 28, 66.)

While the facility in place might have been capable of such operation, historically, it had been used in another manner. Gordonsville Energy witness Rigatti testified that the facility was built to perform under the power purchase contracts with Dominion Virginia Power. (Tr. at 115.) As provided by the power purchase agreements, Dominion Virginia Power could dispatch the unit at its discretion. (Id. at 27-28.) Historically, the facility operated at an annual capacity factor of 7.86 to 14.0 percent (Ex. 5 at Section 3-1), and the factor was typically less than ten percent (Id. at Section 10-2). The 2001 capacity factor was 7.86 percent. (Id. at Section 3-1.)

In his income approach to valuation, Gordonsville Energy's witness ignored the actual operating environment. He assumed that the facility could dispatch at will and ignored any operating constraints that Dominion Virginia Power might impose. (Tr. at 67-68.) Although the witness's study showed price variation from \$40 to \$250 per megawatt hour over the year (Id. at 51, 65-67), he assumed that Gordonsville Energy would sell electricity at the highest prices.

The Supreme Court's recent analysis of an income approach to valuation has arisen in challenges to the valuation of real estate, but some principals identified by the Court apply in this case. The assessor must consider both economic rent and contract rent. Tysons Int'l Ltd. Partnership v. Board of Supervisors, 241 Va. 5, 11 (1991). In the circumstances of this case, an income approach must have a reasonable basis in actual operations. The assumption that the facility would choose to operate only when prices were high is inconsistent with its past and expected operation.

Gordonsville Energy also offered an indication of value based on cost. Like the application of the income approach, the Company's cost study includes assumptions that are contradicted by other portions of the record. Central to its application of the cost approach is the assumption that a simple cycle facility could be substituted for the existing combined cycle facility. (Ex. 4 at A33; Tr. at 54.) From this assumption followed a number of reductions to the replacement cost new of the existing facility, which resulted in the indicated value of \$75,218,400, exclusive of land. (Ex. 5 at Sections 14-6 to 14-18.)

As of January 1, 2002, Gordonsville Energy operated as a qualifying cogeneration facility, which must provide steam to a waste treatment facility. This obligation was imposed by federal law. Gordonsville Energy witness Rigatti testified that the facility might not meet its federal obligations as a qualified cogeneration facility if a simple cycle generation unit were used. (Tr. at 117.) Any valuation would have to take that obligation into account. The record does not support the assumption that a simple cycle unit could be substituted for the existing combined cycle units.

Further, Mr. Remsha never explained why the substitution principal applied to his application of the cost approach but did not apply to his application of the income approach. In his cost approach, Mr. Remsha advocated significant adjustments based on replacement of the combined cycle unit by a simple cycle unit. In his income approach, the witness assumed that the existing combined cycle unit operated at a higher capacity factor and during the most opportune hours. It appears that Gordonsville Energy's witness could have projected revenues and expenses based on the operation of a simple cycle facility to use in the cost approach. (Tr. at 54, 68, 71; Ex. 4 at A34.) He did not develop a cost approach indication of value using a simple cycle unit. If the existing combined cycle facility could yield higher revenues under more favorable operating conditions as shown in Mr. Remsha's income approach, then the adjustments of \$120 million to replacement cost new (Ex. 5 at Section 14-18) recommended in his cost approach appear excessive. Gordonsville Energy's witness appears to be selective in application of the substitution principal.

The record before us does not establish that the key aspect of the cost approach, substitution of the simple cycle unit for the existing combined cycle unit, was reasonable. Gordonsville Energy's own witness testified that operation of a simple cycle unit would make compliance with a legal requirement difficult. Further, given the results of Mr. Remsha's income approach, the adjustments to reproduction cost new for obsolescence and excess capital cost appear excessive.

As the final step in arriving at fair market value, Gordonsville Energy's witness "correlated" the values indicated by his application of the income and cost methods. From the indicated values, \$40,259,809 using the income approach and \$75,474,900 using the cost approach, Mr. Remsha arrived at a fair market value of \$60,000,000, including the value of land. (Ex. 5 at Sections 15-1 to 15-2.) Through some unexplained computations, Mr. Remsha used the results of his income approach to revise downward the results of his cost approach. (Tr. at 125-26, 129, 131-33.) Nowhere in his direct testimony, cross-examination, or prepared exhibit does the witness satisfactorily explain how he reached the figure of \$60 million. There is no discussion on any weight assigned to the income or cost approach. On cross-examination, Mr. Remsha acknowledged that he assumed the fair market value was \$60 million and then derived the allocation in his Exhibit 5, Section 15-2 and Exhibit F. (Id. at 131.) Further, the witness would not adhere to the figure of \$60 million as the fair market value. In response to questioning, Mr. Remsha stated that the value could be \$58 million or \$62 million. (Id. at 132.)

The Commission recognizes that appraisal is not an exact science, and an element of judgment is involved. Southern Ry., 211 Va. at 215. However, the Commission must require some support and explanation for the exercise of judgment. If, as Gordonsville Energy contends, the Commission should find that \$60 million is the fair market value, it must provide some satisfactory basis for that figure.

As discussed previously, the Staff also presented testimony on the Commission's assessment of the value of Gordonsville Energy's property for tax year 2003 and the sales price of the subject property in the same year. In Norfolk & Western, 211 Va. at 697-98, the Supreme Court recognized that the property assessed by the Commission rarely sold, so sales information was not usually available. The Commission should not, however, ignore sales. In cases involving the same assessment methodology used to value the Gordonsville Energy property, the Court found that the Commission was in error when it did not consider market data. Lake Monticello Serv. Co. v. Board of Supervisors, 233 Va. 111, 115 (1987); Lake Monticello Serv. Co. v. Board of Supervisors, 237 Va. 434, 438 (1989).

The sales price identified in the Dominion Virginia Power application of August 2003 was not available to the Commission when we made our assessment for tax year 2002. While the date of the assessments at issue is January 1, 2002, the record before the Commission shows that Gordonsville Energy operated in the same manner until the sale closed in November 2003. (Ex. 9, Attachment 10 at 2-3; Tr. at 23-24, 29, 30.) In the second Lake Monticello case, the Court found that the Commission's assessments of value were far above the fair market value. 237 Va. at 441. In contrast, the sales price of \$150.8 million, before adjustments, included in the Dominion Virginia Power application, was extremely close to the January 2002 \$151.8 million assessment of the Gordonsville Energy generating equipment, other equipment, and materials. In keeping with the Court's directions in the Lake Monticello cases, we should certainly consider the evidence of the sales price as we discharge the Commission's obligation to review our assessment upon application.

Gordonsville Energy offered testimony in support of its position that the 2003 sale was actually two related transactions and that the sales price must be allocated to each transaction. First, Dominion Virginia Power purchased the generating equipment and other equipment. Second, Dominion Virginia Power reached agreement with Gordonsville Energy to terminate the power purchase and operating agreements, Exhibits 7C and 8C. (Ex. 11 at A13, A14.) Consequently, Gordonsville Energy contended that there was a sale of tangible property, the generating facility, and the sale of intangible property, the power purchase and operating agreements. (Ex. 12 at A7.)

We are not persuaded that Gordonsville Energy properly characterized the transaction as having two components.<sup>3</sup> It was not conclusively established that the power purchase agreements should be viewed as separable from the facilities in place. The original developer secured the contracts through participation in Dominion Virginia Power's competitive solicitation for offers of power. (Ex. 9, Attachment 10 at 2.) Company witness Rigatti acknowledged that the facility was constructed to meet Dominion Virginia Power's conditions as specified in the power purchase and operating agreements. (Tr. at 115, 117.) She also noted that Gordonsville Energy had to satisfy the requirements for designation as a federal qualifying cogeneration facility in order to perform under the contracts. (Id. at 117.) Finally, the contracts served as the basis for financing the project. Gordonsville Energy witness Rigotti testified that negotiating an agreement for terminating the contracts and converting the facility to a merchant plant operating in the competitive market was not an attractive option for the members of the partnership. (Id. at 118.) In summary, there is evidence that Gordonsville Energy's facility was built to perform under the power purchase and operating agreements and that its value arose from its operation under the agreements.

As we noted at the commencement of this discussion on the weight accorded to the subject property sale in 2003, our assessment of value for tax year 2002 was not and could not be based on the transaction. Rather, we view the evidence on the sale as support for the 2002 assessment now under review. Even if we ignore the sale of the subject property, Gordonsville Energy has not established that the assessment is erroneous. As we discussed in detail, the application of the cost and income approaches to value are flawed.

The income approach is based on assumptions on the amount and timing of dispatch of electricity that have no basis in Gordonsville Energy's history. The Company would have the Commission assume that the facility would sell into the market at the most opportune time for the foreseeable future. Actual operating history shows that these assumptions are unsupported and that actual income would certainly be lower. Lower income streams would almost certainly lead to a capitalized value of less than the \$40.3 million calculated by Company witness Remsha.

Likewise, the core of the cost approach is the assumption that a simple-cycle unit would replace the combined cycle unit in operation. One of its witnesses testified that Gordonsville Energy would have difficulty performing under the contract if a simple-cycle unit were in place. The Commission is required to assess the value of the property in use.

Finally, Gordonsville Energy's witness Remsha never satisfactorily explained how he used the indicated value using the income approach to adjust downward the indicated values using the cost approach. Ultimately, Gordonsville Energy simply expects the Commission to accept its expert's contention that the income approach value, \$40.3 million, and the cost approach value, \$75.47 million, correlate to \$60 million or \$58 million or \$62 million. (Tr. at 132.)

The Commission finds that Gordonsville Energy did not carry its burden of establishing error in the assessment and establishing that the fair market value of its facility, as of January 1, 2002, was \$60 million. Accordingly, the application must be denied.

<sup>3</sup> There was some testimony on an appraisal of the generating facility made by a consultant to Dominion Virginia Power. As Examiner Anderson found, the study was not offered into evidence. (Report at 7.) Consequently, we cannot weigh the results of the appraisal obtained by Dominion Virginia Power as we consider the indications of value from Mr. Remsha's income approach, cost approach, and correlation of values and the methodology described by Staff witness Tucker.

**CASE NO. PST-2003-00066  
SEPTEMBER 3, 2004**

APPLICATION OF  
BUCHANAN GENERATION, LLC

For Review and Correction of the Assessment of the Value of Property for Tax Year 2003

**DISMISSAL ORDER**

Before the State Corporation Commission ("Commission") is the Report of Alexander F. Skirpan, Jr., Hearing Examiner, of July 2, 2004 ("Report"). The hearing examiner recommended that the Commission grant the motion of Buchanan Generation, LLC ("Buchanan" or "Company"), for leave to withdraw its application. The hearing examiner further recommended that the Commission grant leave to re-file an application for review and correction for tax year 2003 within four days of the date of any final order in Case No. PST-2003-00066. Respondent Buchanan County Board of Supervisors ("Buchanan County") and the Commission Staff filed responses to the Report. Buchanan County contended that Virginia law and public policy require that the application be dismissed with prejudice. The Staff stated that the Commission could dismiss the application without reaching the issue of whether Buchanan could again file for review and correction of the assessment of value identified in its application. If the issue were reached, the Staff contended that filing a subsequent application was barred by law.

The Commission's authority to review and correct assessments of the value of property subject to local taxation is conferred by § 58.1-2670 of the Code of Virginia ("Code"). The company obligated to report the property to the Commission must apply for review within three months of receipt of the assessment. At the request of the applicant taxpayer, the Commission has dismissed applications for review and correction of assessments brought under § 58.1-2670 of the Code before a hearing was held. See e.g. Dismissal Order of July 26, 2004, in XO Virginia, LLC, Case No. PST-2003-00071; and Dismissal Order of June 1, 2004, in Qwest Communications Corporation of Virginia, Case No. PST-2003-00069. Upon dismissal of an application, the Commission ceases to exercise authority, and the assessments of value remain in effect.

Buchanan Generation seeks not only dismissal of its application docketed as Case No. PST-2003-00066, but leave to file a new application for review and correction of the tax year 2003 assessment of some or all of the same property in the future. The Commission has considered the Report, the responses, and the authorities cited. In keeping with precedent, the Commission will dismiss the application, and the assessments of value will remain in effect without revision. We conclude that, as a matter of law, the Commission's authority to consider a new application for review and correction of these assessments has expired.

Our authority to review and correct assessments of taxes or, as in this case, the assessment of value of property is conferred by statute. The Supreme Court of Virginia has given guidance on the interpretation and application of these remedial statutes administered by the Commission. In an appeal of the Commission's denial of a refund of fuel tax, the Court held that

We are here dealing with a specific statute. The time within which application must be made to secure relief is set forth in the statute. Except for the statute, there is no relief. The relief to the Virginia taxpayer is a matter of grace. . . . The remedy, because it is based solely upon the statute, is also limited thereby.

Lemmon Transport Co., Inc. v. Commonwealth ex rel. State Corporation Commission, 192 Va. 416, 420-21 (1951).

In considering the Commonwealth's appeal of the Commission's decision to refund gross receipts tax in Commonwealth v. W. E. Cross, 196 Va. 375, 378 (1954), the Court held that "The application must be made within the time required by the authorizing statute and in accordance with such restrictions or conditions as may be contained therein."

The Commission acknowledges that it is applying a statute dealing with the review of the assessment of the value or property rather than review of the assessment of a tax. However, we consider the Supreme Court's guidance as applicable to tax remedial statutes generally. The three-month period for filing an application for review and correction ran well before the Company filed its Motion for Leave to Withdraw Application Without Prejudice of June 16, 2004.<sup>1</sup> After considering the Supreme Court's analysis in Lemmon Transport and Cross, the Commission concludes that it has no authority to consider a second application for review and correction of the assessments of value made by our Order of September 9, 2003, which applied to Buchanan Generation and all other electric suppliers, and our Order of November 14, 2003, which applied to Buchanan Generation. The statutory period for invoking the Commission's authority through the filing of an application pursuant to § 58.1-2670 of the Code ran three months after receipt of the assessments, and the statute confers no authority to extend that period and to accept a second application.

Accordingly, IT IS ORDERED THAT:

(1) Buchanan Generation's Motion for Leave to Withdraw Application Without Prejudice of June 16, 2004, be granted to the extent discussed and otherwise be denied.

(2) PST-2003-00066 be dismissed from the Commission's docket and placed in closed status in the records maintained by the Clerk of the Commission.

<sup>1</sup> As discussed at 1-2 & n. 1 of our Order for Notice and Hearing of January 30, 2004, entered in this case, the assessments of value made by Commission Orders of September 9, 2003, and November 14, 2003, would be considered. The record does not include the exact dates of Buchanan's receipt of either assessment, so the exact date of the running of the three-month period cannot be fixed. Buchanan Generation's Application For Review and Correction of Tax Assessment of December 5, 2003, reflected the valuations made by the Orders of September 9, 2003, and November 14, 2003. We conclude that the Company had received both assessments no later than December 5, 2004.

**CASE NOS. PST-2003-00067 and PST-2003-00068  
JUNE 1, 2004**

APPLICATION OF  
ACC TELECOMMUNICATIONS OF VIRGINIA, LLC

For review and correction of the assessment of the value of property for tax year 2003

APPLICATION OF  
ADELPHIA BUSINESS SOLUTIONS OF VIRGINIA, LLC

For review and correction of the assessment of the value of property for tax year 2003

**DISMISSAL ORDER**

By Order of March 16, 2004, in Case No. PST-2003-00067, the State Corporation Commission ("Commission") established a proceeding to consider the Commission Staff's motion to dismiss the application of ACC Telecommunications of Virginia, LLC ("ACC"). By Order of March 16, 2004, in Case No. PST-2003-00068, the Commission established a proceeding to consider the Staff's motion to dismiss the application of Adelphia Business Solutions of Virginia, LLC ("Adelphia"). In the Orders, we directed Adelphia and ACC to provide notice of this matter to localities whose revenues might be affected by any correction of the Commission's assessments of the value of property subject to local taxation. The Commission also authorized ACC, Adelphia, and any respondents to file responses to the Staff motions to dismiss. We directed the Clerk of the Commission to serve copies of our Orders of March 16, 2004, on the registered agents for ACC and Adelphia. The records maintained by the Clerk of the Commission include the proofs of mailing by certified mail and the return receipts from the registered agents for ACC and Adelphia. No responses were filed in either proceeding.

In both motions to dismiss, the Staff challenged the clarity and sufficiency of the materials filed by ACC and Adelphia. The Staff also noted that the materials submitted on behalf of both companies were not filed by counsel as contemplated by the Commission's Rules of Practice and Procedure, 5 VAC-5-20-20. We share the Staff's concerns about the proper commencement of an application filed pursuant to § 58.1-2670 of the Code of Virginia for review and correction of the Commission's assessments. The statutes and our Rules of Practice and Procedure govern these matters, and the Commission expects applicants to conform.

The Commission need not, however, reach the issue of whether ACC and Adelphia complied with the standards governing applications. Contrary to our Orders of March 16, 2004, in both proceedings, neither ACC nor Adelphia filed with the Clerk of the Commission proof of notice to affected localities. In the absence of proof of notice to affected localities, the Commission finds that this matter should be dismissed.

Accordingly, IT IS ORDERED THAT:

- (1) The application of ACC be dismissed from the Commission's docket and that Case No. PST-2003-00067 be placed in closed status in the records of the Clerk of the Commission.
- (2) The application of Adelphia be dismissed from the Commission's docket and that Case No. PST-2003-00068 be placed in closed status in the records of the Clerk of the Commission.

**CASE NO. PST-2003-00069  
JUNE 1, 2004**

APPLICATION OF  
QWEST COMMUNICATIONS CORPORATION OF VIRGINIA

For review and correction of the assessment of the value of property for tax year 2003

**DISMISSAL ORDER**

Before the State Corporation Commission ("Commission") is the Report of Alexander F. Skirpan, Hearing Examiner, of May 6, 2004. Hearing Examiner Skirpan reported that Qwest Communications Corporation of Virginia had moved to dismiss its application, and he recommended dismissal. No responses were filed. The Commission will adopt the recommendation.

Accordingly, IT IS ORDERED THAT this case be dismissed from the Commission's docket and that Case No. PST-2003-00069 be placed in closed status in the records of the Clerk of the Commission.

The Clerk of the Commission shall mail attested copies of this order to all parties on the service list for Case No. PST-2003-00069.



**CASE NO. PST-2003-00071  
JULY 26, 2004**

APPLICATION OF  
XO VIRGINIA, LLC

For review and correction of the assessment of the value of property for tax year 2003

**DISMISSAL ORDER**

Before the State Corporation Commission ("Commission") is the Report of Deborah V. Ellenberg, Chief Hearing Examiner, of July 14, 2004. The hearing examiner recommended that the Commission grant the request of XO Virginia, LLC ("Company"), for leave to withdraw its application for review and correction of the tax year 2003 assessments of the value of its property subject to local taxation. No responses to the report were filed.

Upon consideration of the Company's request, the Commission will grant leave to withdraw.

Accordingly, IT IS ORDERED that:

(1) The Company's request for leave to withdraw is granted.

(2) Case No. PST-2003-00071 is dismissed from the Commission's docket and placed in closed status in the records maintained by the Clerk of the Commission.

**CASE NO. PST-2003-00072  
AUGUST 27, 2004**

APPLICATION OF  
VERIZON VIRGINIA INC.

Application for review and correction of assessment of the value of property subject to local taxation - Tax Year 2003

**FINAL ORDER**

On December 15, 2003, Verizon Virginia Inc. ("Verizon" or "Company"), filed an application for review and correction of certain real property assessments ("Application") imposed by the State Corporation Commission ("Commission") for tax year 2003. Specifically, the Application seeks a review and correction of the assessed value of certain assets included in Account 2681.01, Capitalized Leases – Buildings. Verizon requests that the \$20,639,052 capitalized in this account be reduced to zero when determining the total assessed value of its real property for tax year 2003.

In support of its Application, Verizon states that § 58.1-2628 of the Code of Virginia ("Virginia Code") excludes the "leased real estate" of telegraph and telephone companies from the Commission's jurisdiction for assessment purposes and delegates the assessment of such property to localities. Verizon's Application further states that any Commission assessment of the amounts booked in its Capitalized Leases - Buildings account would result in a duplication of taxation on the same property.

On January 28, 2004, the Commission entered an Order for Notice and Hearing that docketed the Application; appointed a hearing examiner to conduct all further proceedings on behalf of the Commission in this matter; directed Verizon to give notice to those localities that may be affected by its Application; established a procedural schedule for the filing of pleadings, prepared testimony, and exhibits; and scheduled a hearing on the Application.

On February 20, 2004, Verizon filed proof of service in accordance with Virginia Code § 8.01-300 certifying that it had served a copy of its Application upon all counties and cities whose revenues might be affected by its Application. The Cities of Fairfax, Richmond, and Virginia Beach, and the Counties of Fairfax and Loudoun filed timely Notices of Participation as respondents.

On May 24, 2004, a hearing on the Application was convened before Deborah V. Ellenberg, Chief Hearing Examiner. James P. Downey, Esquire, appeared on behalf of Verizon, and Glenn P. Richardson, Esquire, appeared on behalf of the Commission's Division of Public Service Taxation ("Division"). No respondent entered an appearance at the hearing.

By agreement of counsel, proof of service, Verizon's Application, and all prefiled testimony and exhibits were admitted to record without causing the witnesses to take the witness stand and withstand direct and cross-examination. Counsel for Verizon and Staff indicated that the Company and Division had reached an agreement on the corrected assessed value of the real property at issue in the Application.

The prefiled testimony and exhibit of Staff witness Bobby Tucker, the Director of the Division, found the assessed value of Verizon's real property should be reduced by \$14,106,716, which represents the amount the Staff was able to verify was erroneously booked in Verizon's Capitalized Leases – Buildings account and assessed by the Commission. The Staff was unable to verify that all ten leased properties identified in Verizon's Application were improperly booked in the Company's Capitalized Leases – Buildings account. Instead, the Staff was only able to verify that six of the ten properties at issue were improperly booked by Verizon; therefore, Staff recommended that the Company's assessment be reduced by \$14,106,716. Verizon agreed to accept the proposed reduction in the Company's assessment proposed by Staff witness Tucker.

On July 29, 2004, the Chief Hearing Examiner filed her Report in this matter. The Report found that the Staff's proposed reduction of \$14,106,716 in the Commission's assessed value of Verizon's real property was reasonable and should be adopted by the Commission. Accordingly, the Chief Hearing Examiner recommended that the Commission enter an order that (i) grants Verizon's Application to review and correct its 2003 assessment as recommended by the Staff; (ii) adopts the recommendation of the Staff and Verizon to reduce the Company's 2003 assessment by \$14,106,716 to a corrected

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total 2003 assessment of \$4,162,873,228; (iii) corrects the assessed value of property for tax year 2003 as shown in Mr. Tucker's testimony and on Attachment 1 of the Hearing Examiner's Report; and (iv) passes the papers herein to the file for ended causes. Comments to the Hearing Examiner Report were due no later than August 3, 2004, and none were filed.

NOW THE COMMISSION, having considered the Hearing Examiner's Report and the record herein, is of the opinion, and finds, that the findings and recommendations of the Chief Hearing Examiner should be adopted; that Verizon's Application for review and correction of assessment of the value of property subject to local taxation for tax year 2003 should be granted; and that the assessed value of Verizon's real property should be reduced by \$14,106,716, producing a total assessed value of Verizon's real and tangible personal property of \$4,162,873,228 for tax year 2003.

Accordingly, IT IS ORDERED THAT:

- (1) The findings and recommendations of the Chief Hearing Examiner are hereby adopted by the Commission.
- (2) The Application of Verizon for review and correction of the assessed value of the Company's real property for tax year 2003 is granted.
- (3) The following corrections to the Commission's assessment of real and tangible personal property for tax year 2003, be and are hereby made; which corrections are as follows:

## FAIRFAX CITY

(Page 245 - Printed Assessment)

- Under column headed "Value of land (other than right of way) buildings and towers," strike out 10,170,096 and insert, in lieu thereof, 8,752,146.
- Under column headed "Total value of all property," strike out 76,221,881 and insert, in lieu thereof, 74,803,931.

## HAMPTON CITY

(Page 245 - Printed Assessment)

- Under column headed "Value of land (other than right of way) buildings and towers," strike out 6,591,719 and insert, in lieu thereof, 6,009,360.
- Under column headed "Total value of all property," strike out 78,962,334 and insert, in lieu thereof, 78,379,975.

## VIRGINIA BEACH CITY

(EXCL. SANDBRIDGE SPECIAL SERV. DIST.)

(Page 247 - Printed Assessment)

- Under column headed "Value of land (other than right of way) buildings and towers," strike out 24,391,236 and insert, in lieu thereof, 15,224,468.
- Under column headed "Total value of all property," strike out 182,473,193 and insert, in lieu thereof, 173,306,425.

## FAIRFAX COUNTY

HUNTER MILL SANITARY DISTRICT #5

(Page 254 - Printed Assessment)

- Under column headed "Value of land (other than right of way) buildings and towers," strike out 422,680 and insert, in lieu thereof, 29,590.
- Under column headed "Total value of all property," strike out 422,680 and insert, in lieu thereof, 29,590.

## LOUDOUN COUNTY

TOWN OF LEESBURG

(Page 259 - Printed Assessment)

- Under column headed "Value of land (other than right of way) buildings and towers," strike out 7,156,659 and insert, in lieu thereof, 4,610,110.
- Under column headed "Total value of all property," strike out 38,842,204 and insert, in lieu thereof, 36,295,655.

(4) The Commission's Division of Public Service Taxation shall mail attested copies of this Order to the commissioner of the revenue or the director of finance of the Town of Leesburg, the Cities of Fairfax, Hampton, and Virginia Beach, and the Counties of Fairfax and Loudoun.

(5) This case be dismissed from the Commission's docket of active cases and the papers herein passed to the file for ended causes.

**CASE NOS. PST-2004-00001, PST-2004-00002, and PST-2004-00003  
JULY 7, 2004**

APPLICATION OF  
COGENTRIX VIRGINIA LEASING CORPORATION

For review and correction of the assessment of the value of property for tax year 2003

APPLICATION OF  
JAMES RIVER COGENERATION COMPANY

For review and correction of the assessment of the value of property for tax year 2003

APPLICATION OF  
COGENTRIX OF RICHMOND, INC.

For review and correction of the assessment of the value of property for tax year 2003

**DISMISSAL ORDER**

By Order of May 27, 2004, in Case No. PST-2004-00001, the State Corporation Commission ("Commission") docketed a proceeding to consider the Commission Staff's motion to dismiss the application of Cogentrix Virginia Leasing Corporation. Also by Order of May 27, 2004, in Case No. PST-2004-00002, the Commission docketed a proceeding to consider the Staff's motion to dismiss the application of James River Cogeneration Company. In another Order of May 27, 2004, in Case No. PST-2004-00003, the Commission docketed a proceeding to consider the Staff's motion to dismiss the application of Cogentrix of Richmond, Inc. By motions filed on June 28, 2004, Cogentrix Virginia Leasing, James River Cogeneration, and Cogentrix of Richmond moved for leave to withdraw these matters without prejudice to applying for review and correction of assessments made in future tax years.

In light of the request, the Commission will dismiss these cases. We do not reach the issues of whether the correspondence of Cogentrix Virginia Leasing, James River Cogeneration, and Cogentrix of Richmond received by our Division of Public Service Taxation on December 15, 2003, as discussed in our Orders of May 27, 2004, constitute proper applications for review and correction filed as provided by § 58.1-2670 of the Code of Virginia.

Accordingly, IT IS ORDERED THAT:

- (1) Case No. PST-2004-00001 be dismissed from the Commission's docket and be placed in closed status in the records of the Clerk of the Commission.
- (2) Case No. PST-2004-00002 be dismissed from the Commission's docket and be placed in closed status in the records of the Clerk of the Commission.
- (3) Case No. PST-2004-00003 be dismissed from the Commission's docket and be placed in closed status in the records of the Clerk of the Commission.

## DIVISION OF PUBLIC UTILITY ACCOUNTING

### CASE NO. PUA-2000-00038 JULY 1, 2004

APPLICATION OF  
VIRGINIA-AMERICAN WATER COMPANY  
and  
AMERICAN WATER CAPITAL, CORP.

For authority to enter into a financial services arrangement

#### ORDER GRANTING MOTION FOR INTERIM AUTHORITY

By Orders dated June 23, 2000, and June 28, 2002, Virginia-American Water Company ("Virginia-American" or "Applicant") was authorized by the State Corporation Commission ("Commission") under Chapter 4 of Title 56 of the Code of Virginia to enter into a financial services agreement ("FSA") with its affiliate, American Water Capital Corp. ("AWCC") for the period ending June 30, 2004.

By motion filed July 1, 2004, Applicant requests that the Commission grant interim authority originally granted in Case No. PUA-2000-00038 until a final order is issued in Applicant's new FSA application, docketed as PUE-2004-00074. In support of its motion, Applicant states that it is necessary to extend such authority so Virginia-American retains the capability to finance its construction program and utilize comprehensive cash management services from AWCC to fulfill its public service obligation.

In a related matter, Applicant sought and received revised long-term financing authority from the Commission in Case No. PUE-2004-00019.<sup>1</sup> In that Order, we found

However, should the Company wish to continue the FSA with respect to short-term debt and cash management functions, Virginia-American shall file a new application for such authority on or before May 1, 2004.

Applicant made an initial filing for continued approval of the FSA on June 16, 2004, 47 days after the May 1 deadline. That filing was deemed incomplete by our Staff on June 23, 2004. Applicant's motion confirms these events, explains that its personnel were otherwise committed to negotiating a stipulation and settlement in its pending rate case (Case No. PUE-2003-00539), and represents that no harm has been done as a result of their oversight in filing in a timely manner. Applicant further states that the FSA has successfully met the needs of both its customers and Virginia-American since it was implemented in 2000. Applicant further states that the Commission Staff is not opposed to the request.

NOW THE COMMISSION, having considered the motion, is of the opinion and finds that granting the motion is in the public interest. According to § 56-77 of the Code of Virginia, the standard review period for a Chapter 4 application is 60 days. We find that granting interim authority for a specified time period is preferable to an open ended period of interim authority. We find it is in the public interest to extend the interim authority through August 30, 2004.

Accordingly, IT IS ORDERED THAT:

- 1) Applicant's motion requesting extension of interim authority is hereby granted for a period extending through August 30, 2004.
- 2) Applicant's authority to borrow short-term debt and receive other cash management services under the current FSA granted by our Orders dated June 23, 2000, and June 28, 2002, be and hereby is extended through August 30, 2004.
- 3) All provisions of the Orders issued on June 23, 2000, and June 28, 2002 shall remain in full force and effect.
- 4) This matter shall be continued subject to the continuing review, audit and appropriate directive of the Commission.

<sup>1</sup> Application of Virginia-American Water Company, For authority to issue debt securities to an affiliate, order dated March 29, 2004.

## DIVISION OF COMMUNICATIONS

### CASE NO. PUC-1996-00113 JULY 2, 2004

APPLICATION OF  
VERIZON VIRGINIA INC.  
and  
MCIMETRO ACCESS TRANSMISSION SERVICES OF VIRGINIA, INC.

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

#### DISMISSAL ORDER

On June 16, 1997, Verizon Virginia Inc. ("Verizon") and MCIMetro Access Transmission Services of Virginia Inc. ("MCIMetro"), filed an interconnection agreement ("agreement") entered under §§ 251 and 252 of the Telecommunications Act of 1996 (the "Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e). This agreement was approved by Order Approving Agreement dated July 16, 1997, in Case No. PUC-1996-00113.

On March 22, 2004, Verizon filed a joint application for approval of Amendment No. 1 ("Amendment") to an interconnection agreement between itself and MCIMetro, which had been approved by the Wireline Competition Bureau of the Federal Communications Commission.<sup>1</sup> This Amendment was assigned Case No. PUC-2004-00040 and approved on June 18, 2004. In a letter dated June 24, 2004, Verizon indicated that Case No. PUC-2004-00040 superseded this earlier agreement between the parties.

NOW THE COMMISSION finds that the agreement approved in Case No. PUC-1996-00113 has been replaced by the Amendment approved in Case No. PUC-2004-00040. Therefore, we find that Case No. PUC-1996-00113 should be dismissed.

Accordingly, IT IS ORDERED THAT:

- (1) The Amendment approved in Case No. PUC-2004-00040 shall supersede the agreement approved in Case No. PUC-1996-00113.
- (2) The captioned matter is hereby dismissed from the Commission's docket of active cases.

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<sup>1</sup> A copy of the agreement approved by the Federal Communications Commission was attached to the request for approval of the Amendment to that agreement.

### CASE NOS. PUC-1997-00135 and PUC-2003-00167 JANUARY 13, 2004

COMMONWEALTH OF VIRGINIA, *ex rel.*  
At the relation of the  
STATE CORPORATION COMMISSION

*Ex Parte*, in re: Implementation of Requirements of § 214(e) of the Telecommunications Act of 1996

APPLICATION OF  
COX VIRGINIA TELCOM, INC.

For designation as an eligible telecommunications carrier under 47 U.S.C. § 214(e)(2)

#### ORDER

On September 15, 1997, the State Corporation Commission ("Commission") established the docket in Case No. PUC-1997-00135 to consider the requests of local exchange carriers ("LECs") to be designated as eligible telecommunications carriers ("ETC designation") to receive universal service support pursuant to § 214(e) of the Telecommunications Act of 1996, 47 U.S.C. § 251 *et seq.* (the "Act") and associated federal regulations.<sup>1</sup> The Commission has asserted jurisdiction under § 214(e)(2) of the Act to make ETC designations.<sup>2</sup>

On November 3, 2003, Cox Virginia Telcom, Inc. ("Cox"), filed its application for ETC designation, which is docketed as Case No. PUC-2003-00167 and is consolidated with Case No. PUC-1997-00135. Cox is a Competitive Local Exchange Carrier ("CLEC") that is certificated to provide local exchange telecommunications services in Virginia pursuant to § 56-265.4:4 of the Code of Virginia and the Commission's Rules Governing the Certification

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<sup>1</sup> 47 C.F.R. § 54.201-207

<sup>2</sup> See Order Granting Waiver, issued December 17, 1997, designating listed LECs as eligible telecommunications carriers. Cox Virginia Telcom, Inc., is the first competitive local exchange carrier filing an application for ETC designation.

and Regulation of Competitive Local Exchange Carriers. 20 VAC 5-417-10 et seq. Cox is primarily a facilities-based CLEC that uses the facilities of its cable affiliates to provide interoffice and loop plant to reach customers. Cox delivers voice and data services to business and residential access lines throughout the Hampton Roads area; switched service to business customers in the Richmond Local Access and Transport Area ("LATA"); and dedicated services in the Roanoke and Washington, D.C. LATAs.

Cox requests immediate ETC designation in certain non-rural LEC exchanges identified in Exhibit A of its application.<sup>3</sup> Cox further requests ETC designation with respect to any Virginia intrastate universal service program that may be established in the future.

On December 10, 2003, the Commission entered 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 December 29, 2003, and none were received.

NOW THE COMMISSION, having considered the application, is of the opinion and finds that Cox's application requesting ETC designation to receive federal universal service support pursuant to § 214(e) of the Act and associated federal regulations should be granted. Cox has certified that all requirements of the Act for ETC designation have been met, and the Commission will accept Cox's certification and designation. However, Cox's request for ETC designation with respect to any Virginia intrastate universal service program that may be established in the future is denied. We find it would be premature to grant Cox approval to participate in any Virginia intrastate universal service program that may or may not be adopted in the future. Requests for approval to participate in any intrastate universal service support program will be entertained by the Commission only in the event an intrastate program is adopted in the future and the requirements for participation in any such program are established and met by telecommunications carriers seeking to participate.

Accordingly, IT IS ORDERED THAT:

(1) Cox's request for ETC designation to receive universal service support pursuant to § 214(e) of the Telecommunications Act of 1996 and associated federal regulations is granted.

(2) Cox's request for ETC designation with respect to any Virginia intrastate universal service program that may be established in the future is premature, and the request is therefore denied.

<sup>3</sup> ETC designation is requested for the following non-rural exchanges in Verizon Virginia Inc. territory: Hampton, Newport News, Norfolk/Virginia Beach, Peninsula, Poquoson, Portsmouth, Toano, Whaleyville, and Williamsburg. In addition, ETC designation is requested for the following non-rural exchanges in Verizon South Inc. territory: Great Bridge, Hickory, and Princess Anne.

**CASE NO. PUC-1999-00162  
MARCH 5, 2004**

APPLICATION OF  
CHOCTAW COMMUNICATION OF VIRGINIA, INC. D/B/A SMOKE SIGNAL COMMUNICATIONS

For a certificate of public convenience and necessity to provide local exchange telecommunications services

**FINAL ORDER**

By Final Order of January 18, 2000, in this matter, the State Corporation Commission ("Commission") granted Choctaw Communications of Virginia, Inc. d/b/a Smoke Signal Communications ("Choctaw" or the "Company"), a certificate of public convenience and necessity to provide local exchange telecommunications services. In its Order, the Commission directed Choctaw to provide audited financial statements to the Division of Economics and Finance no later than one (1) year from the effective date of its initial tariff in Virginia.

Before Choctaw and its parent, VarTec Telecom, Inc., could furnish audited financial statements, all of the outstanding stock of Choctaw was acquired by 1-800-RECONEX, Inc. ("Reconex"). That transfer of control was approved by the Commission in Case No. PUA-2001-00047 by Order entered on April 9, 2002.

After that acquisition and pending its approval, Reconex requested, by letter, that the requirement for Choctaw to furnish audited financial statements be satisfied by reference to the previously filed audited financial statements of Choctaw's new parent corporation, Reconex.

The Commission finds that reference to the audited financial statements to Reconex satisfies the obligation of Choctaw to furnish audited financial statements and is in the public interest.

Accordingly, IT IS ORDERED THAT, Reconex's audited financial statements having satisfied the obligation of Choctaw and there being nothing further to come before the Commission, this case is dismissed, and the papers filed herein shall be placed in the file for ended causes.

**CASE NO. PUC-2000-00027  
MARCH 16, 2004**

APPLICATION OF  
VERIZON SOUTH INC.

For approval of its Tariff Filing to Introduce Collocation Service

**FINAL ORDER APPROVING  
REVISED COLLOCATION TARIFFS**

Pursuant to Ordering Paragraph (2) of the State Corporation Commission's ("Commission") Order of December 15, 2003, Verizon South Inc. ("Verizon South" or "Company") and the settlement parties, AT&T Communications of Virginia, LLC ("AT&T"), Cavalier Telephone, LLC ("Cavalier"), Cox Virginia Telcom Inc. ("Cox"), WorldCom, Inc. ("MCI"), NTELOS Network, Inc. and R&B Networks, Inc. ("NTELOS"), and Sprint Communications Company of Virginia, Inc. ("Sprint") (collectively, together with Verizon South, the "Joint Petitioners"), submitted, on January 3, 2004, their Joint Petition for Approval of Collocation Tariff ("Petition").<sup>1</sup> The Joint Petitioners have agreed to the tariff terms and conditions set forth in Exhibits A and B to the Petition.<sup>2</sup> The revised Collocation Tariffs represent the resolution of issues arising from amendments previously filed by Verizon South to its interim collocation tariff and are a consensus resolution of pricing issues and also include the non-pricing tariff language ordered by the Commission on December 15, 2003, in this case.

The Joint Petitioners request that the Commission: (1) approve as final the interim tariff, rates, terms, and conditions and close the pricing issues in this proceeding; (2) simultaneously grandfather those tariff rates, terms, and conditions to the existing CLEC collocation arrangements (Exhibit A to the Petition); and (3) approve as final, without modification, the revised collocation tariff filed by Verizon South reflecting the rates, terms, and conditions contained in the Verizon Virginia Inc. Tariff, S.C.C. No. 218, approved by the Commission in Case No. PUC-1999-00101 (excluding references to SPOT Bay SCOPE, DCS, and associated charges), with the tariff language as specified in the Commission's Order of December 15, 2003, in this case (Exhibit B to the Petition).

Upon approval of the revised Collocation Tariffs, Verizon South proposes to file the tariffs reflecting these rates, terms, and conditions with an effective date of May 1, 2004.

Pursuant to the Order for Comment on Revised Collocation Tariffs, issued February 4, 2004, all parties were granted leave through February 18, 2004, to file comments or request a hearing on the Petition and revised Collocation Tariffs. No comments or requests for hearing were filed.

The Commission finds that the revised Collocation Tariffs should be approved.

Accordingly, IT IS ORDERED THAT:

- (1) The revised Collocation Tariffs are hereby approved, consistent with the findings above.
- (2) Verizon South is hereby ordered to file the revised Collocation Tariffs with the Division of Communications to be effective on May 1, 2004.
- (3) This matter is now closed.

<sup>1</sup> The Petition may be viewed on the Commission's website at <http://www.state.va.us/scc/caseinfo.htm>.

<sup>2</sup> Exhibit A is the interim collocation tariff to be grandfathered. Exhibit B is the revised collocation tariff (collectively "revised Collocation Tariffs").

**CASE NO. PUC-2000-00114  
JULY 2, 2004**

APPLICATION OF  
VERIZON VIRGINIA INC.

and

MCI WORLDCOM COMMUNICATIONS OF VIRGINIA, INC.

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**DISMISSAL ORDER**

On March 30, 2000, Verizon Virginia Inc. ("Verizon") and MCI WORLDCOM Communications of Virginia, Inc. ("MCI WORLDCOM"), filed an interconnection agreement ("agreement") entered under §§ 251 and 252 of the Telecommunications Act of 1996 (the "Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e). This agreement was approved by Order Approving Agreement dated April 25, 2000, in Case No. PUC-2000-00114.

On March 22, 2004, Verizon filed a joint application for approval of Amendment No. 1 ("Amendment") to an interconnection agreement between itself and MCI WORLDCOM, which had been approved by the Wireline Competition Bureau of the Federal Communications Commission.<sup>1</sup> This

<sup>1</sup> A copy of the agreement approved by the Federal Communications Commission was attached to the request for approval of the Amendment to that agreement.

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Amendment was assigned Case No. PUC-2004-00039 and approved on June 18, 2004. In a letter dated June 24, 2004, Verizon indicated that Case No. PUC-2004-00039 superseded this earlier agreement between the parties.

NOW THE COMMISSION finds that the agreement approved in Case No. PUC-2000-00114 has been replaced by the Amendment approved in Case No. PUC-2004-00039. Therefore, we find that Case No. PUC-2000-00114 should be dismissed.

Accordingly, IT IS ORDERED THAT:

- (1) The Amendment approved in Case No. PUC-2004-00039 shall supersede the agreement approved in Case No. PUC-2000-00114.
- (2) The captioned matter is hereby dismissed from the Commission's docket of active cases.

**CASE NO. PUC-2000-00224  
MARCH 4, 2004**

PETITION OF  
TIDALWAVE TELEPHONE, INC.

For an extension of time by which audited financial statements are to be provided

**ORDER CANCELLING CERTIFICATE**

In Case No. PUC-1998-00063, on July 7, 1998, the State Corporation Commission ("Commission") granted certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services in Virginia, Certificate No. T-414 and Certificate No. TT-54A, respectively, to Tidalwave Telephone, Inc. ("Tidalwave" or the "Company").

These certificates were granted subject to the condition that Tidalwave provide to the Division of Economics and Finance audited year-end 1998 financial statements on or before June 30, 1999. On July 6, 1999, upon motion filed by Tidalwave, the Commission extended the date for filing audited year-end financial statements until the later of one year from the date of filing its initial tariff, or June 30, 2000. The Commission ultimately extended the deadline for Tidalwave to provide its 1999 or more recent reviewed financial statements by October 2, 2000, and its audited year-end financial statements for the year ending December 31, 2000, on or before June 30, 2001.

To date, Tidalwave has failed to file the required financial statements. Repeated attempts by both the Division of Economics and Finance and the Office of General Counsel to contact the Company have yielded no response. The former counsel for Tidalwave has advised that the Company is no longer operating. Such counsel has further indicated that current contacts for the Company are unobtainable.

NOW UPON CONSIDERATION of the matter, the Commission finds that Tidalwave is in noncompliance with the Commission's Orders in this case and has been unresponsive to the Commission's inquiries. Therefore, Certificate No. T-414 and Certificate No. TT-54A, as well as any local exchange or interexchange telecommunications tariffs on file with the Division of Communications, should be cancelled.

Accordingly, IT IS ORDERED THAT:

- (1) Certificate No. T-414 authorizing Tidalwave Telephone, Inc., to provide local exchange telecommunications services throughout the Commonwealth is hereby cancelled.
- (2) Certificate No. TT-54A authorizing Tidalwave Telephone, Inc., to provide interexchange telecommunications services throughout the Commonwealth is hereby cancelled.
- (3) Any tariffs associated with Certificate No. T-414 and Certificate No. TT-54A on file with the Division of Communications are hereby cancelled.
- (4) There being nothing further to be done, this matter 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-2001-00153  
JULY 26, 2004**

PETITION OF  
VERIZON SOUTH INC.  
and  
VERIZON VIRGINIA INC.

For partial waiver of Commission Rules of Practice and Procedure

**FINAL ORDER**

On July 6, 2001, Verizon South Inc. ("Verizon South") and Verizon Virginia Inc. ("Verizon Virginia") (collectively, "Joint Petitioners") filed their above-captioned Petition to request a partial waiver of the State Corporation Commission's ("Commission") Rules of Practice and Procedure ("Rules of



Practice"), specifically 5 VAC 5-20-150, in connection with filing an original and 15 copies of negotiated interconnection agreements pursuant to the Commission's Procedural Rules for Implementing §§ 251 and 252 of the Telecommunications Act of 1996, 47 U.S.C. §§ 251 and 252 (formerly 20 VAC 5-400-180). On November 30, 2001, the Commission issued an Order Taking Petition Under Advisement noting that the Commission was scheduled for implementation of an enhanced electronic case management system ("CMS") that could reduce the Commission's requirements for multiple copies of interconnection agreements to be filed.

The CMS was implemented in 2002. In addition, on July 15, 2004, the Commission issued a Final Order in Case No. PUC-2003-00171, which adopted revised Procedural Rules for Implementing §§ 251 and 252 of the Telecommunications Act of 1996, 47 U.S.C. §§ 251 and 252, which are now promulgated at 20 VAC 5-419-10 et seq. ("Revised Procedural Rules"). Pursuant to the Revised Procedural Rules, parties whose interconnection agreements are arrived at through negotiation are now required to file only three copies of the negotiated agreement (20 VAC 5-419-20). Therefore, the Commission's newly promulgated Revised Procedural Rules provide relief similar to that which the Joint Petitioners were seeking in their Petition.

NOW UPON CONSIDERATION of the effect of the newly promulgated Revised Procedural Rules on the Joint Petitioners' request for partial waiver of the copy requirement of 5 VAC 5-20-150, the Commission is of the opinion and finds that their Petition is now moot and should be dismissed.

Accordingly, IT IS ORDERED THAT this case is hereby dismissed and placed in the files for ended causes.

**CASE NOS. PUC-2001-00206 and PUC-2001-00226  
MARCH 4, 2004**

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

*Ex Parte*: Establishment of Carrier Performance Standards for Verizon Virginia Inc.

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

*Ex Parte*: Establishment of a Performance Assurance Plan for Verizon Virginia Inc.

**ORDER APPROVING THE PROPOSED REVISIONS TO VA GUIDELINES AND  
THE COMBINED GUIDELINES AND COMBINED PERFORMANCE ASSURANCE PLAN**

On December 5, 2003, Verizon Virginia Inc. and Verizon South Inc. (collectively "Verizon") filed with the State Corporation Commission ("Commission") their proposed "Virginia Carrier-to-Carrier Guidelines Performance Standards and Reports for Verizon Virginia Inc. and Verizon South Inc." ("Combined VA Guidelines") in Case No. PUC-2001-00206.<sup>1</sup> The Combined VA Guidelines also include revisions to the current Virginia Carrier-to-Carrier Guidelines Performance Standards and Reports ("VA Guidelines"),<sup>2</sup> which reflect changes adopted by the New York Public Service Commission ("NYPSC") on October 29, 2003 ("October 29, 2003, NY Guidelines Changes").<sup>3</sup>

On December 5, 2003, Verizon also filed a proposed "Performance Assurance Plan for Verizon Virginia Inc. and Verizon South Inc. for Virginia" ("Combined VA PAP").

On December 19, 2003, the Commission issued a "Combined Procedural Order for Comment on the Proposed Revisions to VA Guidelines and the Combined VA Guidelines and Combined Performance Assurance Plan" ("Notice Order") asking for comments on Verizon's revisions to the current VA Guidelines and its proposed Combined VA Guidelines and Combined VA PAP by January 26, 2004. Any reply comments were to be submitted by February 13, 2004. The Notice Order was modified on January 8, 2004, to reflect that because the comments on the proposed revisions to the VA Guidelines would not be received until after 45 days had passed, these revisions would not go into effect until further Commission order.<sup>4</sup>

On January 27, 2004, Verizon and the Division of Consumer Counsel, Office of the Attorney General ("Consumer Counsel"), filed comments. Verizon's comments reiterated its support for the Combined VA Guidelines and Combined VA PAP and the October 29, 2003, NY Guidelines Changes. Verizon also stated that it was requesting one additional change to the Combined VA Guidelines not proposed in its December 5, 2003, filing. This change relates to the deletion of Appendix N. The Appendix N in NY is different than the one in the current VA Guidelines, and this was the reason initially that Verizon did not propose to delete it in Virginia even though the NYPSC ordered the NY Appendix N deleted. However, upon further review, Verizon now believes that the Appendix N in the VA Guidelines can be deleted without causing any harm to CLECs or the Commission. Appendix N relates to an "issues log" that is given to the parties to show changes to the VA Guidelines. In reality, the current process is for the parties to receive Wholesale Metric Change Controls that are similar to ones issued in NY when revisions are made, not an "issues log" as called for in the current Appendix N. Deleting Appendix N

<sup>1</sup> A copy of the December 5, 2003, filings are available at <http://www.state.va.us/scc/caseinfo.htm>.

<sup>2</sup> A copy of the December 9, 2002, Proposed VA Guidelines, subsequently approved by Commission Order of January 16, 2003, is available at <http://www.state.va.us/scc/division/puc/ccimomfiles/collab225.pdf>.

<sup>3</sup> The Combined VA Guidelines also contain revisions to Metric OR-1-08, changing "LSRC" to "ASRC," to conform the metric to a prior change in the NY Guidelines; and the references to "Segmented Orders" in the Provisioning Metrics and Glossary have been deleted because "Segmented Orders" are not used in the Verizon South states, including Virginia. In addition, a footnote concerning the transitional provision on Flow-Through measurement has been deleted, and a footnote concerning the two-year statute of limitation on PAP claims has been revised.

<sup>4</sup> In the past, revisions to the VA Guidelines that are unopposed have been allowed to go into effect 45 days after their filing with the Commission, unless otherwise ordered by the Commission.

will insure conformity to the NY Guidelines and not alter the way metric changes are currently handled in Virginia. Verizon also commits to maintaining the current process and will give advance notice to the Commission, CLECs, and other interested parties if it ever decides to change this process.

The Consumer Counsel filed comments supporting the revisions to the VA Guidelines and the creation of Combined VA Guidelines and Combined VA PAP for Verizon. No reply comments were received.

NOW THE COMMISSION, upon consideration of Verizon's proposed Combined VA Guidelines and the October 29, 2003, NY Guidelines Changes thereto, the Combined VA PAP, and the filed comments, find that Verizon's December 5, 2003, filings, the deletion of Appendix N, and its proposed implementation schedule should be approved.<sup>5</sup>

Accordingly, IT IS ORDERED THAT:

(1) The December 5, 2003, Combined VA Guidelines, including the proposed metric changes from the October 29, 2003, NY Guideline Changes and the deletion of Appendix N, the proposed Combined VA PAP, and their proposed implementation interval are hereby approved.

(2) This case is now continued.

<sup>5</sup> Verizon requested that the implementation of the Combined VA Guidelines and PAP on either the third or fourth month following approval does not include Metric OR-11-01, because of programming work which is expected to take at least eight months, as represented to the NYPSC. Verizon requests that in lieu of an implementation date ordered for this metric, it be allowed to report monthly to the Commission, beginning with the month of implementation of the other revisions (not earlier than June 1, 2004) on the status of implementation.

**CASE NO. PUC-2001-00226  
SEPTEMBER 21, 2004**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION

Ex Parte: Establishment of a Performance Assurance Plan for Verizon Virginia Inc.

**ORDER ON VERIZON VIRGINIA INC.'S PETITION FOR  
WAIVER OF CERTAIN SERVICE QUALITY RESULTS  
MEASURED UNDER THE PERFORMANCE ASSURANCE PLAN**

On November 14, 2003, Verizon Virginia Inc. ("Verizon Virginia" or "Company") filed with the State Corporation Commission ("Commission") a Petition for Waiver of Certain Service Quality Results Measured Under the Performance Assurance Plan for September 2003 and Request for a Temporary Stay of its Obligation to provide Performance Assurance Plan Bill Credits Resulting from Hurricane Isabel ("Petition").<sup>1</sup> The service performance results sought to be waived for September 2003 would otherwise be included in Verizon Virginia's calculation of monthly bill credits due to Competitive Local Exchange Carriers ("CLECs") pursuant to Verizon Virginia's Performance Assurance Plan ("VA PAP"). Verizon Virginia estimates that if its Petition is granted, the rebates due to CLECs will be reduced from approximately \$963,000 to \$221,400, as calculated in Exhibits 1 and 2 of its Petition. The Petition requested a waiver of the service results for two metrics – PR-3-10-3342 ("PR-3-10-3342") "% Completed w/6 Days (1-5 lines) Total 2 Wire xDSL Loops" and PR-4-14-3342 ("PR-4-14-3342") "% Completed on Time – 2 Wire xDSL Loops" – pursuant to Section II (J) of the VA PAP. The Petition also requested a waiver of the service results for one parity metric – PR-4-04-3113 ("PR-4-04-3113") "% Missed Appointment – VZ – Dispatch Loop – New" – pursuant to Appendix D of the VA PAP.

On November 24, 2003, the Commission issued an Order for Notice and Comment allowing interested parties the opportunity to file comments regarding Verizon Virginia's Petition. An Amending Order was issued on December 5, 2003, correcting certain factual errors in the original Order and revising the filing date for Verizon Virginia's reply comments to December 19, 2003.

On December 12, 2003, AT&T Communications of Virginia, LLC ("AT&T"), filed comments in opposition to Verizon Virginia's Petition. AT&T states that the Commission should not "lightly" waive metric results because the VA PAP's self-executing design is crucial to prevent backsliding by Verizon Virginia. AT&T does not believe that Verizon Virginia has "clearly and convincingly" demonstrated in its Petition, pursuant to Section II (J) of the VA PAP, a cause for waiver of the service results for the two benchmark metrics cited above. For the one parity metric, AT&T states that this request does not meet the *force majeure* exception allowed under the VA PAP in Section II (J) because it is a parity metric and not a benchmark metric. AT&T also states that Verizon Virginia's attempt to characterize the Hurricane Isabel event as a "clustering event," specifically a "Single Day Event," under Appendix D of the VA PAP does not fit the current circumstances in any event because the actual effect of Hurricane Isabel was 10 days, not a single day event. AT&T contends that Verizon Virginia's request for a stay is not specifically allowed in the VA PAP and is "contrary to the letter and the spirit" of the VA PAP and, therefore, should not be granted.

On December 19, 2003, Verizon Virginia filed its reply comments. Verizon Virginia states that it has met the VA PAP criteria for a waiver under Section II (J) for the two benchmark metrics and that the storm's impact also created a "clustering event" that negatively impacted one parity metric; and, therefore, it should be granted waivers on all three metrics' service results for September 2003. Verizon Virginia also points out that the Commission

<sup>1</sup> The Company also filed on December 15, 2003, a similar Petition for Waiver of Certain Service Quality Results Measured Under the Performance Assurance Plan for October 2003 and Request for a Temporary Stay of Its Obligation to Provide Performance Assurance Plan Bill Credits Resulting From Isabel ("December 15, 2003, Petition"). On January 29, 2004, the Company filed a withdrawal of the December 15, 2003, Petition, noting that its "-1 recapture provision" makes the December 15, 2003, Petition moot.

previously granted a temporary stay of Verizon Virginia's bill credit obligations under similar circumstances,<sup>2</sup> and the request in this case should also be granted.

On March 17, 2004, Verizon Virginia filed a Motion to File Additional Comments ("Additional Comments").<sup>3</sup> In its Additional Comments, Verizon Virginia reiterated its earlier positions that the waiver request was appropriate. Furthermore, Verizon Virginia claims that there are additional facts that "the Commission should be aware of prior to issuing its decision." First, although the Commission granted a temporary stay of Verizon Virginia's bill credit obligations, the stay was not issued in time for Verizon Virginia to withhold the bill credits from the January 2004 bill cycles and these had been processed and paid to the CLECs. Therefore, Verizon Virginia proposes that if its waiver request is granted, it will not offset the waived credits against bills that Verizon Virginia owes to CLECs but will wait until additional bill credits are due under the VA PAP and offset those with the waived credits. Verizon Virginia notes that the requested total waiver amount of \$741,800 has subsequently been reduced to \$599,980.

Verizon Virginia also points out that the amount at risk for the two benchmark metrics has been reduced substantially due to the recapture mechanism in Section II (C1) of the VA PAP. The original amount associated with the benchmark metric waivers was for \$141,820, but now it has been reduced to \$18,079.

In addition, Verizon Virginia provides more recent results for the parity metric, PR-4-04-3113, which show that for the four months after September 2003, it provided better service to CLECs than to its own retail customers. Finally, Verizon Virginia suggests that combining the data for September and October and omitting the western portion of the state for this parity metric is a more appropriate analysis to evaluate its performance. The outcome for PR-4-04-3113 under this revised scenario shows that the performance would have been a "-1" for the combined September and October data and subsequently would have been recaptured because the next two months showed parity results. According to Verizon Virginia, this indicates that parity was actually achieved.

On March 29, 2004, Cavalier Telephone, L.L.C. ("Cavalier"), filed comments stating that the VA PAP results should not be waived if discrimination occurred, whether the discrimination was "probable" or "in question." Cavalier does not believe that improvement in the ensuing months in the metrics' performance scores excuses out-of-parity performance during a "calamitous event" and that the VA PAP does not specifically provide for this type of treatment proposed by Verizon Virginia. Cavalier further states that the results should not now be tweaked or re-engineered while ignoring the foundations of the VA PAP established and adopted earlier in this same proceeding. Finally, Cavalier points out that "anomalies" should not affect one class of customers any more than another and that AT&T's earlier comments remain valid.

On April 21, 2004, AT&T filed additional comments. AT&T believes the evidence indicates that in September 2003 Verizon gave its own retail customers service that was superior to the service provided to wholesale customers. According to AT&T, a *force majeure* event should affect the wholesale and the retail activities to the same degree. AT&T does not dispute the ferocity of the storm; however, it argues that the VA PAP does not allow for the waiver of parity metrics. AT&T also does not quarrel with Verizon Virginia's prioritizing work assignments during a *force majeure* event - just with the fact that its prioritization was different for its retail customers than for its wholesale customers. AT&T further asserts that it is this disparity in treatment that was the root cause of the problem and not Hurricane Isabel. Finally, AT&T states that Verizon Virginia's attempts to show non-discrimination by putting two months' worth of data together on the parity metric PR-4-04-3113, while excluding some portion of the data, is irrelevant because the VA PAP does not measure the data in that way and that it still showed a questionable parity of service result, *i.e.*, "-1."

The Staff filed comments on April 21, 2004. The Staff supports granting Verizon Virginia's waiver request for the two benchmark metrics, PR-3-10-3342 and PR-4-14-3342, as it believes that Verizon Virginia has met its burden of proof that Hurricane Isabel prevented Verizon Virginia from meeting the benchmark standards. However, the Staff does not support Verizon Virginia's request for a waiver of the parity metric, PR-4-04-3113, because a waiver of a parity metric is not contemplated under Section II (J) of the VA PAP. The Staff also does not believe that Hurricane Isabel fits the criteria for waiver pursuant to Appendix D of the VA PAP.

According to the Staff, Verizon Virginia's justifications for waiver rest heavily upon the argument that the September data do not meet the statistical concept of independence, thus creating a "clustering of data." The Staff believes that the number of missed appointments both before and immediately after Hurricane Isabel are two distinct, independent variables and, therefore, can be used in statistical testing procedures. The Staff does not believe that Verizon Virginia has demonstrated that the omission of the missed retail appointments from September 2003 that were recorded in October 2003 were the cause of Verizon Virginia being out of parity on this metric. Using the data and information provided in Verizon Virginia's Petition and reply to AT&T's comments, the Staff shows that it is possible to derive the portion of missed appointments in September for the hurricane period including those recorded in October. The Staff's analysis reveals that the portion of missed appointments for CLECs during the hurricane period was nearly double those for Verizon Virginia's own customers, approximately 64% versus 32%. It is this discrepancy in relative performance during Hurricane Isabel and its aftermath that appears to be the cause for Verizon Virginia having been out of parity for metric PR-4-04-3113. According to the Staff, Verizon Virginia has offered no persuasive explanation for this departure in performance between itself and the CLECs.

The Staff also analyzed the September 2003 data for the hurricane period by the districts most affected by Hurricane Isabel and found that Verizon Virginia still had a higher rate of missed appointments for the CLECs (75%) than for its own retail customers (44%).

On May 7, 2004, Verizon Virginia filed reply comments that address the additional comments filed by Cavalier, AT&T, and the Staff. Verizon Virginia states in response to Cavalier that it should not be penalized for providing better service to CLECs in the storm's aftermath, especially when Cavalier chose not to reschedule its appointments in the face of the impending hurricane. Verizon Virginia also responded to the two examples that Cavalier identified in its comments of actual trouble reports that purported to show Verizon Virginia restoring service to its own retail customers before the CLECs' customers and rebutted that claim.

Verizon Virginia believes that the Staff's assertion that it does not meet the clustering requirements of the VA PAP for a waiver of a parity metric is "off the mark." Verizon Virginia continues to argue that its position concerning the independence of the samples is correct; and, therefore, the statistical

<sup>2</sup> The Commission's December 24, 2003, Order granted Verizon Virginia's request for a temporary stay of the September 2003 bill credits.

<sup>3</sup> On March 25, 2004, the Commission issued its Order granting Verizon Virginia's Motion to File Additional Comments. The Order also permitted all interested parties and the Staff to file additional comments.

tests are not accurate. As for the Staff's analysis of the data for certain regions, Verizon Virginia points out that the Staff's regional analysis only looks at the missed appointments for the period of September 17, 2003, through September 26, 2003, for the Newport News, Norfolk, Richmond North, and Richmond South districts while Verizon Virginia's own analysis includes all of the September and October 2003 data for the same limited area of the state and, therefore, provides a clearer picture of the storm's full impact and shows that parity has been achieved.

Verizon Virginia disputes AT&T's contention that the data shows discrimination by Verizon Virginia. While Verizon Virginia does not disagree that retail and wholesale customers should be affected the same during a *force majeure* event, Verizon Virginia contends that the September 2003 result is not a failure on Verizon Virginia's part but rather an anomaly caused by the data reporting period and its own retail activity being rescheduled into the next reporting period.

NOW THE COMMISSION, upon consideration of the Petition, comments, and reply comments finds as follows.

The request for waiver of service results under Section II (J) of the VA PAP for the two benchmark metrics - PR-3-10-3342 and PR-4-14-3342 - should be granted. Hurricane Isabel and its aftermath were extraordinary events beyond Verizon Virginia's control. In its Petition and subsequent comments, Verizon Virginia has proven "clearly and convincingly" that the events over the 10 days after Hurricane Isabel struck Virginia could not have been prevented by the Company's normal business procedures. The two benchmarks for these measures were set for typical operations. We note that in the aftermath of Hurricane Isabel, Verizon Virginia instituted its Emergency Operating Procedures, which further persuades us that the day of Hurricane Isabel and those immediately following were anything but normal operations for Verizon Virginia and that these events were beyond Verizon Virginia's control and caused it to miss the benchmark standards for the above-mentioned metrics.

The Commission finds that Verizon Virginia's request for a waiver of service results for the parity metric - PR-4-04-3113 - should be denied. A specific waiver for *force majeure* events is not appropriate for parity metrics as specified in the VA PAP because a *force majeure* event should affect both retail and wholesale operations equally. The results produced in parity metrics should not be out of parity as a result of such circumstances. In other words, if poor performance is recorded because of a *force majeure* event for the retail operations, then poor performance should also be recorded for the wholesale side; and then parity, albeit at the level of poor service, will have been achieved.

Verizon Virginia further requests an "exception" to parity metric PR-4-04-3113 pursuant to a clustering of data rule in Appendix D of the VA PAP. Appendix D states that the statistical models used in the VA PAP assume that the data are independent. Appendix D also explains that a lack of independence of the data is referred to as a clustering of data and that clustering occurs when individual items are clustered together as one single event. Accordingly, Appendix D gives Verizon Virginia the right to file an exception to the performance scores in the VA PAP if certain clustering events occur.

In support of its request for a clustering exception to parity metric PR-4-04-3113, the Company, among other things, asserts that serial correlation of the data was detected by statistical testing and that such a result was statistically significant. Verizon Virginia contends that the detection of serial correlation shows that the data are not independent and, thus, that clustering exists. However, Appendix D of the VA PAP does not provide a general exception for clustering. Rather, Appendix D lists four exclusive events under which an exception may be filed.<sup>4</sup> The Company states that the impact of Hurricane Isabel is most similar to the clustering event in Appendix D titled "Time Driven Clustering – Single Day Events." Although the impact of Hurricane Isabel may be similar to this event, Verizon Virginia has not established that the specific requirements for this clustering event have been satisfied. Specifically, this exception is expressly limited to situations where more than 30% of the CLEC activity occurs on any single day within a month; the Company has not shown that the missed appointment activity attendant to parity metric PR-4-04-3113 satisfies this express requirement. Thus, even if the Commission could view the days around Hurricane Isabel as multiple single day events, Verizon Virginia has not established that it satisfies the express requirements in Appendix D for "Time Driven Clustering – Single Day Events."

We also note that Appendix D of the VA PAP includes a clustering event titled "CLEC Actions." The express terms of this exception apply to the situation where performance for any measure is impacted by unusual CLEC behavior. The terms of this clustering event state that an example of CLEC behavior impacting performance results includes "causing excessive missed appointments." The Company asserts that Cavalier refused to reschedule appointments made during the period of Hurricane Isabel and, consequently, that these missed appointments were included in parity metric PR-4-04-3113 for September 2003. Conversely, the Company states that a large number of its retail customers that originally had appointments during the storm period were rescheduled and were not included as missed appointments for September 2003. Thus, the fact that Cavalier refused to reschedule its appointments may have resulted in an excessive number of missed appointments. In reviewing this assertion, we recalculated parity metric PR-4-04-3113 for September 2003 by including the missed appointments for Verizon Virginia that are alleged to have been rescheduled and carried over to October 2003.<sup>5</sup> As expected, this analysis lessened the out-of-parity result by increasing the number of missed appointments for the Company. However, the out-of-parity result from this recalculation resulted in the same outcome under the VA PAP; that is, even under this recalculation, the VA PAP requires the Company to provide the same total amount of bill credits to CLECs as currently required.

Accordingly, IT IS ORDERED THAT:

- (1) The December 15, 2003, Petition filed by Verizon Virginia is hereby deemed withdrawn and is moot.
- (2) The request for waiver of service results under Section II (J) of the VA PAP for the two benchmark metrics - PR-3-10-3342 "% Completed w/6 Days (1-5 lines) Total 2 Wire xDSL Loops" and PR-4-14-3342 "% Completed on Time - 2 Wire xDSL Loops" - is hereby granted.
- (3) The request for a waiver of service results for the parity metrics - PR-4-04-3113 "% Missed Appointment - VZ - Dispatch Loop - New" - is hereby denied.
- (4) The Stay granted by the Commission on December 24, 2003, is hereby dissolved.

<sup>4</sup> The four exclusive events listed in Appendix D are: (a) Event Driven Clustering - Cable Failure; (b) Location Driven Clustering - Facility Problems; (c) Time Driven Clustering - Single Day Events; and (d) CLEC Actions. Pertinent to our discussion of a clustering exception to parity metric PR-4-04-3113 are events (c) and (d).

<sup>5</sup> For purposes of this re-calculation, we used the data provided by Verizon Virginia in its filings dated November 14 and December 19, 2003.

(5) Verizon Virginia shall offset any overpayment of bill credits as a result of the waiver granted in ordering paragraph (2) above with future bill credits in accordance with its proposal in its March 17, 2004, Additional Comments.

(6) This case shall be continued.

**CASE NO. PUC-2001-00263  
JUNE 23, 2004**

IN RE:  
APPLICATION OF VIRGINIA CELLULAR LLC

For designation as an eligible telecommunications provider under 47 U.S.C. § 214(e)(2)

**FINAL ORDER**

On December 21, 2001, Virginia Cellular LLC ("Virginia Cellular") filed an application with the State Corporation Commission ("Commission") for designation as an eligible telecommunications carrier ("ETC"). This was the first application by a Commercial Mobile Radio Service ("CMRS") carrier for ETC designation.<sup>1</sup> Pursuant to the Order Requesting Comments, Objections, or Requests for Hearing, issued by the Commission on January 24, 2002, the Virginia Telecommunications Industry Association ("VTIA") and NTELOS Telephone Inc. ("NTELOS") filed their respective comments and requests for hearing on February 20, 2002. Virginia Cellular filed Reply Comments on March 6, 2002. Our Order of April 9, 2002, found that § 214(e)(6) of the Telecommunications Act of 1996 (the "Act") is applicable to Virginia Cellular's application because this Commission has not asserted jurisdiction over CMRS carriers and that Virginia Cellular should apply to the Federal Communications Commission ("FCC") for ETC designation.

Virginia Cellular filed its Petition for Designation as an Eligible Telecommunications Carrier in the State of Virginia with the FCC on April 26, 2002. On January 22, 2004, the FCC released its order designating Virginia Cellular as an ETC in specific portions of its licensed service area in the Commonwealth of Virginia subject to certain conditions ("FCC's January 22, 2004, Order").<sup>2</sup>

The FCC's January 22, 2004, Order further stated that Virginia Cellular's request to redefine the service areas of Shenandoah Telephone Company ("Shentel") and MGW Telephone Company ("MGW") in Virginia pursuant to § 214(3)(5) of the Act was granted subject to the agreement of this Commission. On March 2, 2004, the FCC filed its January 22, 2004, Order as a petition in this case.

On April 9, 2004, the Commission issued an Order Inviting Comments and/or Requests for Hearing. Comments were received from Shentel and MGW (who filed jointly), the VTIA, and Virginia Cellular. No party requested a hearing. Reply comments were jointly filed by Shentel and MGW and late-filed by Virginia Cellular. Virginia Cellular's reply comments were accompanied by a Motion for Extension of Time asking the Commission to accept its late-filed reply.<sup>3</sup> Counsel for Shentel, MGW, and the VTIA do not oppose Virginia Cellular's Motion for Extension of Time; and, finding neither undue delay to these proceedings nor prejudice to any party, we grant Virginia Cellular's motion.

In their respective comments, Shentel, MGW, and the VTIA suggest that the Commission consolidate various pending and anticipated wireless ETC redefinition petitions into one proceeding. Shentel, MGW, and the VTIA also state that the designation of Virginia Cellular as an ETC may be contrary to the public interest because, as more companies are added to the list of ETCs, Universal Service Fund monies will be diluted among the growing number of ETCs.

Virginia Cellular, in its comments, notes that the Commission's role in this matter is limited to either concurring with the FCC's redefinition of Shentel's and MGW's service areas or recommending a different redefinition to the FCC.

In their reply comments, Shentel and MGW state that because Virginia Cellular is licensed to serve only rural service area ("RSA") 6, it has no authority to serve MGW's Williamsville wire center, which is within RSA 5. Shentel and MGW also renew their request that the Commission institute a generic proceeding to deal with the various issues identified in their comments.

In its reply comments, Virginia Cellular reiterates its view that the Commission's only role in this matter is to address the FCC's redefinition of Shentel's and MGW's service areas and not to preside over a proceeding that re-litigates Virginia Cellular's designation as an ETC. Virginia Cellular also states that no party has demonstrated to the Commission that they will be harmed as a result of redefinition.

NOW THE COMMISSION, having considered the pleadings and the applicable law, is of the opinion and finds as follows:

<sup>1</sup> Virginia Cellular is a CMRS carrier as defined in 47 U.S.C. 153(27) and is authorized as the "A-band" cellular carrier for the Virginia 6 Rural Service Area, serving the counties of Rockingham, Augusta, Nelson, and Highland and the cities of Harrisonburg, Staunton, and Waynesboro.

<sup>2</sup> CC Docket No. 96-45, *In the Matter of Federal-State Joint Board on Universal Service, Virginia Cellular LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*.

<sup>3</sup> We note that Virginia Cellular, as evidenced by the certificates of service accompanying both its Reply Comments and its Motion for Extension, failed to serve counsel for Shentel and MGW and entirely failed to serve the VTIA. Rule 5 VAC 5-20-140 of the Commission's Rules of Practice and Procedure requires service of a formal pleading, brief, or other document filed with the Commission to be served upon parties to a proceeding. We are informed by our Office of General Counsel that counsel for the VTIA does not formally object to Virginia Cellular's failure to serve because Virginia Cellular's reply comments and Motion for Extension of Time have been viewed on the Commission's website. As such, the VTIA has not been prejudiced in fact by Virginia Cellular's failure to properly serve the VTIA.

Section 214(e)(5) of the Act states:

**SERVICE AREA DEFINED.** — The term "service area" means a geographic area established by a State commission (or the Commission under paragraph (6)) for the purpose of determining universal service obligations and support mechanisms. In the case of an area served by a rural telephone company, "service area" means such company's "study area" unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company.

In this instance, the FCC has determined that the service areas of Shentel and MGW, which are both rural telephone companies under the Act, should be redefined as requested by Virginia Cellular. The FCC further recognizes that the "Virginia Commission's first-hand knowledge of the rural areas in question uniquely qualifies it to determine the redefinition proposal and examine whether it should be approved."<sup>4</sup>

We find that the scope of this proceeding is to evaluate the FCC's redefinition of Shentel's and MGW's service areas, not to reassess the FCC's designation of Virginia Cellular as an ETC. Shentel, MGW, and the VTIA appear to object to Virginia Cellular's designation as an ETC but do not offer any suggestion regarding the redefinition of Shentel's and MGW's service areas. In addition, Shentel and MGW have not shown how they will be harmed by the redefinition of their respective service areas.

Finally, we find that the FCC's redefinition of Shentel's and MGW's service areas has taken into account the recommendations of the Federal-State Joint Board, and we concur with the FCC's redefinition.

Accordingly, IT IS ORDERED THAT:

- (1) Virginia Cellular's Motion for Extension of Time is granted, and its late-filed reply is accepted.
- (2) The FCC's petition for agreement to redefine Shentel's and MGW's service areas is hereby granted.
- (3) There being nothing further to come before the Commission, this case shall be dismissed, and the papers filed herein shall be placed in the file for ended causes.

<sup>4</sup> FCC's January 22, 2004, Order at ¶ 2 (citations omitted) .

**CASE NO. PUC-2002-00088  
JANUARY 28, 2004**

PETITION OF  
CAVALIER TELEPHONE, LLC

For Injunction Against Verizon Virginia Inc. for Violations of Interconnection Agreement and For Expedited Relief to Order Verizon Virginia Inc. to Provision Unbundled Network Elements in Accordance with the Telecommunications Act of 1996

**FINAL ORDER**

On April 19, 2002, Cavalier Telephone, LLC ("Cavalier"), filed the above-captioned petition with the State Corporation Commission ("Commission"). Cavalier operates in Virginia as a competitive local exchange carrier ("CLEC"). Cavalier complained of the "no facilities" policy asserted by Verizon Virginia Inc. ("Verizon") in refusing to provision certain orders for DS-1 unbundled network element ("UNE") loops.

On May 10, 2002, Verizon responded to Cavalier's petition and requested that it be dismissed. On October 28, 2002, the Commission issued an Order Directing Investigation, which denied Verizon's motion to dismiss and directed the Staff of the Commission ("Staff") to investigate Verizon's policies and practices in the provisioning of DS-1 UNE loops to Cavalier. A procedural schedule also was established.

Motions to intervene were filed by Allegiance Telecom of Virginia, Inc. ("Allegiance"), NTELOS Network Inc. and R&B Network Inc. (jointly "NTELOS"), Covad Communications Company ("Covad"), and AT&T Communications of Virginia, LLC ("AT&T"). NTELOS, in its motion, requested that the Commission expand its investigation to include Verizon's UNE provisioning practices as they relate to digital subscriber lines ("DSL") and voice grade loops.

The Commission, in our Order Granting Interventions dated November 26, 2002, granted the intervention requests of Allegiance, NTELOS, Covad, and AT&T but denied NTELOS' request to expand the investigation to include DSL and voice grade loops. The Order Granting Interventions also modified the procedural schedule originally set forth in the Commission's Order Directing Investigation of October 28, 2002.

On December 13, 2002, XO Virginia, LLC ("XO"), filed a Motion to Intervene. The Commission, in its Order of January 24, 2003, granted XO's motion.

On January 30, 2003, the Staff filed its Report as directed by the Commission.<sup>1</sup> The Staff concluded that, for all practical purposes, Verizon had changed its DS-1 UNE loop provisioning policy and practices in the mid-2001 timeframe. The Staff contended that Verizon had altered the meaning of

<sup>1</sup> The Staff Report also included a legal brief that addressed the potential preemption of the Commission's jurisdiction and authority by federal law, assessed the effect of the Federal Communications Commission's ("FCC") then-pending Triennial Review Order ("TRO"), and discussed the pertinent state law applicable to this proceeding.

what constitutes construction to include non-construction activities. Further, the Staff asserted that Verizon's DS-1 UNE loop provisioning policy conflicts with the Total Element Long Run Incremental Cost ("TELRIC") pricing assumptions adopted by the Commission in its Final Order in Case No. PUC-1997-00005 (April 15, 1999) ("UNE Pricing Order").

The possible remedies identified by the Staff include: (1) requiring Verizon to construct and rearrange DS-1 UNE loop facilities in accordance with the underlying assumptions of TELRIC; (2) if the Commission decides that Verizon is not obligated to construct new plant to fulfill DS-1 UNE loop requests, redetermining TELRIC prices to reflect the absence of that obligation; and (3) setting special access rates at TELRIC prices.

On February 13, 2003, Allegiance, AT&T, Cavalier, and Verizon each filed reply comments to the Staff's Report. Allegiance, AT&T, and Cavalier recommended that the Commission adopt the first possible remedy. AT&T opposed the second possible remedy. Verizon opposed all of the possible remedies, disputed the Staff's conclusions, asserted that the Staff's Report and legal brief were "seriously flawed," asked the Commission to dismiss Cavalier's complaint, requested an evidentiary hearing, and asked for the opportunity to brief legal issues raised by the pending TRO.

On March 25, 2003, the Commission issued an Order Establishing Hearing that, among other things, set this matter for hearing, identified specific questions to be addressed at the hearing, and permitted the participants to file testimony and exhibits relevant to such questions. On April 3, 2003, Verizon filed a Motion to Amend Order Establishing Hearing. Cavalier and AT&T filed responses on April 10, 2003, and Verizon filed a reply on April 14, 2003. On April 16, 2003, the Commission issued an Order Granting in Part, and Denying in Part, Motion to Amend Order Establishing Hearing, which further limited the scope of testimony and exhibits for the hearing and established a separate briefing schedule for certain questions.

By Order issued on May 19, 2003, the Commission granted a Motion to Intervene filed on April 7, 2003, by WorldCom, Inc. ("WorldCom").

WorldCom filed a brief on May 22, 2003. Verizon, Cavalier, and AT&T filed briefs on May 23, 2003. The Staff filed a response on June 6, 2003. Verizon, Cavalier, and AT&T filed reply briefs on June 13, 2003.

The evidentiary hearing was held on June 17 and 18, 2003. Pursuant to the schedule established at the conclusion of the hearing, Verizon filed the surrebuttal testimony of Robert W. Woltz, Jr., Howard A. Shelanski, and Gary E. Sanford on July 11, 2003. Letters were filed on July 23, 2003, by NTELOS and on July 25, 2003, by Cavalier and AT&T, not objecting to the inclusion of such testimony in the record.<sup>2</sup>

On September 29, 2003, the Commission issued an Order Scheduling Post-Hearing Briefs. The Commission stated that post-hearing briefs may address any issue raised in this proceeding, including the effects, if any, of the TRO released by the FCC on August 21, 2003.<sup>3</sup> Post-hearing briefs were filed on October 31, 2003, by Verizon, Cavalier, Allegiance, Covad, NTELOS, AT&T, and the Staff.

Verizon states that the TRO adopted new rules governing the provisioning of UNE loops. Verizon explains that it has changed its DS-1 UNE loop provisioning policy and, as required by the FCC's new rules, will perform routine network modifications upon the signing of interconnection agreement amendments implementing the new rules. Verizon asserts that its current DS-1 UNE loop rates do not compensate it for network modifications it must perform under the new FCC rules and that it is entitled to negotiate a rate. Verizon also contends that it did not assume an obligation to build new facilities on demand in Case No. PUC-1997-00005. Verizon concludes that the Commission need take no further action in this case. Verizon requests that the Commission dismiss Cavalier's petition and allow the parties to negotiate – and potentially arbitrate – an amendment to its interconnection agreements in accordance with the process set forth in the TRO.

Cavalier states that the TRO thoroughly rejected all arguments advanced by Verizon to justify its "no facilities" policy, leaving the Commission free to enforce its prior Order on this matter in Case No. PUC-1997-00005. Cavalier asserts that Verizon has continued its "no facilities" policy after the TRO by requiring an amendment to existing interconnection agreements in a purported attempt to incorporate provisions of the TRO. Cavalier states that Verizon's proposed amendment includes a \$1,000 charge for DS-1 network modifications and for unspecified time and materials charges for unidentified "other required modifications." Cavalier concludes that the Commission need not enforce the TRO. Cavalier requests that the Commission: (1) order an immediate halt to Verizon's UNE DS-1 "no facilities" policy; and (2) order Verizon to refund to all CLECs the difference between the UNE DS-1 charges that those CLECs should have paid and the special access rates that Verizon's "no facilities" policy required them to pay.

Allegiance asserts that the Commission should order Verizon to provision UNE DS-1s in a manner consistent with the TRO and to perform routine network modifications for CLECs that it performs for its own customers free of charge. Allegiance also requests that the Commission order Verizon to withdraw its demand that CLECs execute a "routine modification" amendment to its interconnection agreement and pay a \$1,200 surcharge as a condition of securing Verizon's compliance with federal law.

Covad states that the TRO fully addresses Verizon's ongoing federal legal obligation to perform for competitors the same loop modification functions that the incumbent local exchange carriers routinely perform for their own customers.<sup>4</sup> Covad asserts that Verizon has now chosen to force competitors to adopt new interconnection agreement amendments in which Verizon purports to change its provisioning practices to conform with the TRO. Covad states that the Commission should use this proceeding to enforce Verizon's compliance with its legal obligations to provision high capacity loops. For example, Covad asserts that the Commission should issue an immediate injunction requiring Verizon to rescind its "no facilities" policies and to provision UNE high capacity loops pursuant to state law and the TRO and making clear that no interconnection agreement amendments are necessary.

NTELOS states that Verizon's policies for provisioning DS-1 UNEs were rejected in the TRO. NTELOS contends that Verizon should be required to refund to CLECs the additional charges paid as a result of being forced to order special access service upon wrongful rejection of DS-1 UNE

<sup>2</sup> The surrebuttal testimony of Robert W. Woltz, Jr., Howard A. Shelanski, and Gary E. Sanford, filed on July 11, 2003, will be admitted into the record as Exhibit Nos. 22, 23, and 24, respectively.

<sup>3</sup> See In the matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01-338, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, FCC 03-36 (rel. Aug. 21, 2003).

<sup>4</sup> Covad states that this includes, but is not limited to: "rearrangement or splicing of cable; adding a doubler or repeater; adding an equipment case; adding a smart jack; installing a repeater shelf; adding a line card; and deploying a new multiplexer or reconfiguring an existing multiplexer" (citing TRO para. 634).

orders. NTELOS urges the Commission to ensure that Verizon promptly changes its DS-1 UNE provisioning policies. NTELOS objects to Verizon's proposed new charge of \$1,000 for each DS-1 UNE for "Network Modifications" and asserts that the current DS-1 UNE rates in Virginia already compensate Verizon for the routine network modifications discussed in the TRO.

AT&T states that the TRO addressed and rejected Verizon's discriminatory high capacity UNE loop practices, which are the same practices that were litigated in this proceeding. AT&T asserts that the Commission need not and should not abdicate to the FCC, because Virginia CLECs require and deserve a Virginia forum for enforcing Verizon's obligations with respect to the provisioning of high capacity UNE loops in Virginia. AT&T requests the Commission to rule that: (1) Verizon must make routine network modifications – that is, it must perform those activities that it regularly undertakes for its own retail, resale, and special access customers – consistent with the TRO; and (2) the costs of such routine network modifications are included in the TELRIC rates for high capacity UNE loops and that additional charges are not justified.

The Staff states that the TRO unequivocally declares Verizon's "no facilities" policy unlawful insofar as making routine network modifications. Staff asserts that pursuant to the Commission's UNE Pricing Order (Case No. PUC-1997-00005), TELRIC rates were determined and ordered to be applied prospectively in existing Verizon arbitrated interconnection agreements. The Staff contends that the Commission's adopted TELRIC cost study and TELRIC pricing established in the UNE Pricing Order: (1) address all of the activities required of Verizon to provision DS-1 UNE loop orders; and (2) are in full compliance with FCC pricing rules. The Staff recommends, at a minimum, that Verizon be enjoined to provision immediately all CLEC DS-1 UNE loops requiring existing network modifications in accordance with the TRO and applicable rules at TELRIC pricing.

NOW THE COMMISSION, having considered the record, the pleadings, and the applicable law, is of the opinion and finds as follows.

Cavalier filed its petition in this proceeding in opposition to the "no facilities" policy asserted by Verizon in refusing to provision certain orders for DS-1 UNE loops. The TRO, however, answers this question by rejecting Verizon's "no facilities" policy and requiring Verizon to perform routine network modifications as addressed in the TRO. The Commission need not enforce the FCC's TRO and will not issue an injunction in this proceeding.

The current interconnection agreement between Verizon and Cavalier is binding on the parties until amended or replaced by another interconnection agreement. Moreover, the TELRIC pricing established in our UNE Pricing Order remains applicable to the current interconnection agreement between Verizon and Cavalier. Verizon asserts, however, that the TELRIC rates established by the Commission in our UNE Pricing Order do not compensate Verizon for performing routine network modifications required by the TRO. Cavalier and the other participants in this case disagree with Verizon's assertion.

Based on the record before us, we find that the activities required to provision DS-1 UNE loop orders have been addressed in the TELRIC pricing established in our UNE Pricing Order. We are not, however, deciding whether current TELRIC pricing fully compensates Verizon today. Rather, we conclude that the costs for routine network modifications have been addressed in the TELRIC rates previously established by the Commission for high capacity UNE loops. Accordingly, Verizon is required to provision DS-1 UNE loops to Cavalier, pursuant to the parties' existing interconnection agreement, under existing TELRIC rates until the FCC or the Commission establishes new pricing, or until the interconnection agreement is amended or replaced.

Finally, although we conclude that Verizon violated its interconnection agreement with Cavalier by refusing to provision certain DS-1 UNE loop orders, we find no authority in this case to establish that it is appropriate for the Commission to order refunds in this proceeding.

Accordingly, IT IS HEREBY ORDERED THAT:

- (1) The surrebuttal testimony of Robert W. Woltz, Jr., Howard A. Shelanski, and Gary E. Sanford, filed on July 11, 2003, are admitted into the record as Exhibit Nos. 22, 23, and 24, respectively.
- (2) The Federal Communications Commission's Triennial Review Order, released on August 21, 2003, addresses the routine network modifications that Verizon is required to perform in provisioning DS-1 UNE loops.
- (3) Verizon is required to provision DS-1 UNE loops to Cavalier under existing TELRIC rates until the Federal Communications Commission or the State Corporation Commission establishes new pricing, or until the interconnection agreement between Verizon and Cavalier is amended or replaced.
- (4) Cavalier's request for refunds is denied.
- (5) This matter is dismissed.

**CASE NO. PUC-2002-00088  
FEBRUARY 18, 2004**

PETITION OF  
CAVALIER TELEPHONE, LLC

For Injunction Against Verizon Virginia Inc. for Violations of Interconnection Agreement and for Expedited Relief to Order Verizon Virginia Inc. to Provision Unbundled Network Elements in Accordance with the Telecommunications Act of 1996

**ORDER GRANTING RECONSIDERATION**

On January 28, 2004, the State Corporation Commission ("Commission") issued a Final Order on the above-captioned petition filed by Cavalier Telephone, LLC ("Cavalier"). Cavalier operates in Virginia as a competitive local exchange carrier ("CLEC"). Cavalier complained of the "no facilities" policy asserted by Verizon Virginia Inc. ("Verizon") in refusing to provision certain orders for DS-1 unbundled network element ("UNE") loops.



The Final Order, among other things, found that the activities required to provision DS-1 UNE loop orders have been addressed in the Total Element Long Run Incremental Cost ("TELRIC") pricing established by the Commission in Case No. PUC-1997-00005 (April 15, 1999). The Final Order also required Verizon to provision DS-1 UNE loops to Cavalier under existing TELRIC rates until this Commission or the Federal Communications Commission establishes new pricing, or until the interconnection agreement between Verizon and Cavalier is amended or replaced.

On February 17, 2004, Verizon filed a Petition for Reconsideration ("Petition"). Verizon requests that the Commission modify the Final Order and determine that Verizon is not required to place doublers and apparatus cases on demand for CLECs for no additional compensation. Specifically, Verizon asserts that "the uncontroverted evidence demonstrate[s] that there is no cost in the TELRIC rates for the cost of placing an additional doubler/apparatus case...."<sup>1</sup>

NOW THE COMMISSION, having reviewed the Petition, grants the Petition for purposes of continuing our jurisdiction over this matter and considering such Petition.

Accordingly, IT IS ORDERED THAT:

- (1) The Petition for Reconsideration filed by Verizon is hereby granted for purposes of continuing our jurisdiction over this proceeding.
- (2) This matter is continued pending further order of the Commission.

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<sup>1</sup> Petition at 3.

**CASE NO. PUC-2002-00088  
MARCH 5, 2004**

PETITION OF  
CAVALIER TELEPHONE, LLC

For Injunction Against Verizon Virginia Inc. for Violations of Interconnection Agreement and for Expedited Relief to Order Verizon Virginia Inc. to Provision Unbundled Network Elements in Accordance with the Telecommunications Act of 1996

**ORDER ON RECONSIDERATION**

On January 28, 2004, the State Corporation Commission ("Commission") issued a Final Order on the above-captioned petition filed by Cavalier Telephone, LLC ("Cavalier"). Cavalier operates in Virginia as a competitive local exchange carrier ("CLEC"). Cavalier complained of the "no facilities" policy asserted by Verizon Virginia Inc. ("Verizon") in refusing to provision certain orders for DS-1 unbundled network element ("UNE") loops.

The Final Order, among other things, found that the activities required to provision DS-1 UNE loop orders have been addressed in the Total Element Long Run Incremental Cost ("TELRIC") pricing established by the Commission in Case No. PUC-1997-00005 (April 15, 1999) ("UNE Pricing Order"). The Final Order also required Verizon to provision DS-1 UNE loops to Cavalier under existing TELRIC rates until this Commission or the Federal Communications Commission ("FCC") establishes new pricing, or until the interconnection agreement between Verizon and Cavalier is amended or replaced.

On February 17, 2004, Verizon filed a Petition for Reconsideration ("Petition"). Verizon requests that the Commission modify the Final Order and determine that Verizon is not required to place doublers and apparatus cases on demand for CLECs for no additional compensation. Specifically, Verizon asserts that "the uncontroverted evidence demonstrate[s] that there is no cost in the TELRIC rates for the cost of placing an additional doubler/apparatus case. . ."<sup>1</sup> Verizon contends that "the costs of doublers/apparatus cases were not included at all in the calculation of the TELRIC costs," and that the Commission's Staff ("Staff") agreed with this conclusion.<sup>2</sup> Verizon states that, contrary to the uncontroverted evidence, the Commission's Final Order "necessarily concluded that the placement of apparatus cases and doublers was in fact included in the Commission's TELRIC rates."<sup>3</sup> Thus, Verizon concludes that requiring it to place doublers/apparatus cases on demand for CLECs for no additional compensation "not only arbitrarily ignores the evidence, but also produces an inequitable result by any measure."<sup>4</sup>

On February 18, 2004, the Commission granted the Petition for purposes of continuing our jurisdiction over this matter and considering such Petition.

NOW THE COMMISSION, having considered the record, the pleadings, and the applicable law, is of the opinion and finds as follows. We deny the Petition. We agree with Verizon that there is evidence in this case, supported by both the Staff and Verizon, that the technology assumptions in the UNE Pricing Order did not include the specific costs of doublers/apparatus cases. This particular fact, however, is not relevant to our conclusions in the Final Order.

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<sup>1</sup> Petition at 3.

<sup>2</sup> Petition at 2 (emphasis in original).

<sup>3</sup> Petition at 2.

<sup>4</sup> Petition at 4.

The TELRIC pricing established in our UNE Pricing Order reflected forward-looking technology for provisioning DS-1 UNE loops.<sup>5</sup> This forward-looking technology specified using fiber-fed remote carrier terminals that serve to reduce the length of copper distribution cable used for the loops, thereby eliminating the need for doublers/apparatus cases.<sup>6</sup> Thus, as testified to by Staff witness Larry Cody, the technology assumptions reflected in the UNE Pricing Order's study of DS-1 UNE loops "necessarily did not include the use of 'doublers. . .'"<sup>7</sup> Indeed, the investments in central office equipment that were used to establish TELRIC rates were proposed by Verizon.<sup>8</sup> Those investments did not include doublers/apparatus cases and were not altered by the Commission in the UNE Pricing Order.<sup>9</sup>

Thus, the ratemaking methodology used by this Commission to set prices for provisioning DS-1 UNE loops was based on a necessarily forward-looking TELRIC price determination. However, the ratemaking methodology used to establish the rates for provisioning DS-1 UNE loops does not serve as a limitation on the manner or the technology that may be employed to provision such loops. Verizon's obligation to provision DS-1 UNE loops under its interconnection agreement with Cavalier at TELRIC rates established by the Commission is not obviated if Verizon chooses to use a particular technology, such as doublers/apparatus cases, that was not part of the TELRIC studies. As noted in the Final Order, Verizon is required to provision DS-1 UNE loops to Cavalier, which includes routine network modifications, pursuant to the parties' existing interconnection agreement under existing TELRIC rates until this Commission or the FCC establishes new pricing, or until the interconnection agreement is amended or replaced.

Accordingly, IT IS ORDERED THAT:

- (1) The Petition for Reconsideration filed by Verizon is hereby denied.
- (2) This matter is dismissed.

<sup>5</sup> Staff Report, Ex. 21 at 28; Cody, Ex. 20 at 7.

<sup>6</sup> Id.

<sup>7</sup> Cody, Ex. 20 at 7.

<sup>8</sup> Staff Report, Ex. 21 at 28; Cody, Ex. 20 at 16.

<sup>9</sup> Id.

**CASE NO. PUC-2002-00141  
APRIL 26, 2004**

APPLICATION OF  
TELECONEX OF VIRGINIA, INC.

For cancellation of certificate of public convenience and necessity

**ORDER**

By Order dated May 14, 2003, in this docket, the State Corporation Commission ("Commission") issued a certificate of public convenience and necessity, Certificate No. T-612, permitting the provision of local exchange telecommunications services, to TeleConex of Virginia, Inc. ("TeleConex" or "Company").

By letter application dated April 14, 2004, the Company requested the cancellation of its certificate of public convenience and necessity. TeleConex advised that it "will not be providing dial-tone service to the state of Virginia."

NOW THE COMMISSION, being sufficiently advised, will cancel Certificate No. T-612 issued herein.

Accordingly, IT IS ORDERED THAT:

- (1) Certificate No. T-612, issued to TeleConex of Virginia, Inc., is hereby cancelled.
- (2) This matter is dismissed.

**CASE NO. PUC-2003-00008  
AUGUST 12, 2004**

PETITION OF  
STICKDOG TELECOM, INC.

Regarding Notification of Disconnection from Verizon Virginia Inc.

**FINAL ORDER**

On February 18, 2003, the State Corporation Commission ("Commission") issued an Order Permitting Discontinuance, which set forth the process to be followed by Stickdog Telecom, Inc. ("Stickdog") and Verizon Virginia Inc. ("Verizon") in Stickdog's exit from the competitive marketplace for local exchange telecommunications services. Paragraph 10 of our February 18, 2003, Order requires Stickdog to file notice with the Commission when it has completed discontinuance of service to its customers. On August 2, 2004, Stickdog filed such notice with the Commission, informing us that it no longer has any remaining customers to whom it provides local exchange telecommunications services.

Accordingly, IT IS ORDERED THAT:

- (1) Stickdog's Certificate of Public Convenience and Necessity, No. T-383a, is hereby cancelled.
- (2) Any existing local exchange tariffs of Stickdog currently on file with the Commission's Division of Communications are hereby cancelled.
- (3) This case shall be closed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. PUC-2003-00036  
JUNE 2, 2004**

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

Ex Parte: In re: Investigation of revision to Verizon Virginia Inc.'s Network Service Interconnection Tariff S.C.C. VA.-No. 218

**FINAL ORDER**

On March 12, 2003, the State Corporation Commission ("Commission") initiated the above-docketed investigative proceeding, pursuant to 5 VAC 5-20-90 A, to examine revisions to the collocation tariff filed by Verizon Virginia Inc. ("Verizon Virginia") with the Division of Communications on February 11, 2003. The February 11, 2003, revisions were permitted to go into effect on an interim basis.

On March 16, 2004, final approval of Verizon South Inc.'s ("Verizon South") collocation tariff was granted in the Final Order Approving Revised Collocation Tariffs in Case No. PUC-2000-00027. Verizon Virginia filed in this case on April 29, 2004, certain amendments to its revised collocation tariff in order to mirror the tariff language in corresponding sections of Verizon South's collocation tariff approved on March 16, 2004.

On May 12, 2004, an Order for Comment was issued in this case granting leave for any party to file comments and/or requests for hearing, and indicating that if none were filed, final approval may be given to Verizon Virginia's amended and revised collocation tariff. No comments or requests for hearing were timely filed.

Accordingly, IT IS ORDERED THAT:

- (1) Verizon Virginia's amended and revised collocation tariff filed April 29, 2004, is hereby granted final approval, and Verizon Virginia's February 11, 2003, collocation tariff revisions are no longer subject to refund.
- (2) There appearing nothing more to be done in this investigation, it is hereby dismissed and the papers filed herein shall be placed in the file for ended causes.

**CASE NO. PUC-2003-00067  
JANUARY 28, 2004**

PETITION OF  
DISPUTANTA EXCHANGE CUSTOMERS

For Extended Local Service from Verizon South Inc.'s Disputanta Exchange to Verizon Virginia Inc.'s Dinwiddie Exchange

**FINAL ORDER**

On April 10, 2003, telephone customers in Verizon South Inc.'s ("Verizon South") Disputanta Exchange petitioned the State Corporation Commission ("Commission") for Extended Local Service ("ELS") to Verizon Virginia Inc.'s ("Verizon Virginia") Dinwiddie Exchange, pursuant to § 56-484.2 of the Code of Virginia.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

On May 14, 2003, the Commission issued an Order directing Verizon South to prepare a cost study to estimate the approximate change in the monthly rate for service that would result from the requested extension of local service. Verizon South was also directed to poll its customers in the Disputanta Exchange regarding their willingness to pay higher rates for local calling to the Dinwiddie Exchange. Pending a successful ballot in the Disputanta Exchange, Verizon Virginia was directed to conduct a cost study to determine the effect on rates for its Dinwiddie Exchange for ELS to the Disputanta Exchange.

Verizon South submitted the results of its Disputanta Exchange cost study to the Commission Staff on July 11, 2003, and submitted the results of its poll on September 9, 2003. The majority of those responding supported the proposal.

On September 12, 2003, Verizon Virginia submitted the cost study used to determine the monthly rates for extended local calling from the Dinwiddie Exchange to the Disputanta Exchange. Because the resulting rate increase for one-party residential customers did not exceed five percent of the existing monthly one-party residential flat rate for the Dinwiddie Exchange, a poll of these customers was not required pursuant to § 56-484.2 of the Code of Virginia.

By Order dated October 16, 2003, the Commission directed Verizon Virginia to publish notice of the proposed extension of local service to its customers in the Dinwiddie Exchange and permitted such customers to file comments and requests for hearing until December 19, 2003. Verizon Virginia filed its proof of notice on November 14, 2003. No comments or requests for hearing were filed.

On January 9, 2004, the Staff filed its Report in the above-captioned matter. In that Report, the Staff recommended that the Commission approve ELS between Verizon South's Disputanta Exchange and Verizon Virginia's Dinwiddie Exchange.

NOW THE COMMISSION, having considered the matter and applicable law, is of the opinion and finds that the above-captioned petition should be approved.

Accordingly, IT IS ORDERED THAT:

- (1) The proposed extension of local service between Verizon South's Disputanta Exchange and Verizon Virginia's Dinwiddie Exchange shall be implemented.
- (2) Verizon South and Verizon Virginia shall file the tariff revisions necessary for the proposed extensions of local service.
- (3) Since there is nothing further to come before the Commission, this case is dismissed and removed from the Commission's docket of active cases.

**CASE NO. PUC-2003-00087  
APRIL 26, 2004**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
NTELOS TELEPHONE INC.,  
ROANOKE & BOTETOURT TELEPHONE COMPANY,  
MGW TELEPHONE COMPANY,  
PEMBROKE TELEPHONE COOPERATIVE,  
and  
HIGHLAND TELEPHONE COOPERATIVE  
v.  
BARC ELECTRIC COOPERATIVE,  
SHENANDOAH VALLEY ELECTRIC COOPERATIVE,  
and  
CRAIG-BOTETOURT ELECTRIC COOPERATIVE,  
Defendants

For application of §§ 56-41.1 and 56-466.1 of the Virginia Code to the pole attachment rates of BARC Electric Cooperative, Shenandoah Valley Electric Cooperative, and Craig-Botetourt Electric Cooperative

**FINAL ORDER**

On May 2, 2003, NTELOS Telephone Inc., Roanoke & Botetourt Telephone Company, MGW Telephone Company, Pembroke Telephone Cooperative, and Highland Telephone Cooperative (collectively, the "Telephone Companies") filed a Petition with the State Corporation Commission ("Commission") pursuant to §§ 56-41.1 and 56-466.1 of the Code of Virginia. The Telephone Companies requested that the Commission impose reasonable rates and terms for their attachments to the poles of BARC Electric Cooperative, Shenandoah Valley Electric Cooperative, and Craig-Botetourt Electric Cooperative (collectively, the "Electric Cooperatives").

On June 6, 2003, the Electric Cooperatives filed an Answer, which sought dismissal of the Petition. Alternatively, the Electric Cooperatives requested the Commission to determine that their proposed rates and terms for pole attachments are reasonable.

On June 27, 2003, the Commission issued a Preliminary Order. The Preliminary Order, among other things, directed the Electric Cooperatives to file their proposed rates and terms for pole attachments, with supporting cost data, no later than August 1, 2003; assigned the matter to a Hearing Examiner; directed the Hearing Examiner to establish a procedural schedule; and directed the Commission's Staff to participate in this case.

On July 28, 2003, the Virginia Cable Telecommunications Association ("VCTA") filed a Motion for Leave to Intervene ("Motion") in which the VCTA asked for leave to intervene or, in the alternative, for the Commission to initiate a rulemaking proceeding to establish a methodology for determining terms and charges for attachments to electric cooperative poles. On August 11, 2003, the Telephone Companies and the Electric Cooperatives filed responses to the Motion in which they opposed the intervention of the VCTA and opposed initiation of a rulemaking proceeding. On August 15, 2003, the VCTA filed its reply in which it asserted its interest in this case, agreed not to enlarge the issues of the case, and withdrew its request for a rulemaking. In a Hearing Examiner's Ruling dated August 20, 2003, the Examiner granted VCTA's Motion and certified the issue to the Commission. On September 25, 2003, the Commission issued an Order Denying Motion for Leave to Intervene, which reversed the Examiner's ruling.

On September 24, 2003, the Telephone Companies filed a motion for Extension of Time to File Direct Testimony. The Telephone Companies stated the additional time was required due to the closures and disruptions caused by Hurricane Isabel. Further, the Telephone Companies represented that the Electric Cooperatives agreed to the request and required a similar extension. The Hearing Examiner granted the requested extension.<sup>1</sup>

On November 13, 2003, the Telephone Companies filed a Motion for Continuance in which additional time was requested to accommodate settlement discussions. The requested extension was granted in a Hearing Examiner's Ruling dated November 14, 2003. On January 5, 2004, the Electric Cooperatives requested a general continuance to permit the parties to conclude settlement negotiations. A general continuance was granted by the Hearing Examiner's Ruling dated January 5, 2004.

On April 2, 2004, the Telephone Companies and Electric Cooperatives filed a Joint Motion to Dismiss Proceeding Due to Settlement. In this pleading, the parties stated that they had finalized the terms of the settlement. Further, they asserted that no hearing will be necessary and that this case should be dismissed from the Commission's docket.

On April 5, 2004, the Hearing Examiner issued a Report. The Examiner found that: (1) the Telephone Companies and Electric Cooperatives have settled the issues underlying this case; and (2) because of the settlement, the Commission no longer has jurisdiction in this matter. The Examiner explained his findings as follows:

Section 56.41.1 B of the Virginia Code provides that the terms and rates for the joint use of poles by electric and telephone companies or cooperatives 'shall be by agreement between the parties.' This section limits the Commission's jurisdiction to those cases in which the interested parties are unable to reach agreement. Consequently, in this case, because the parties have reached a settlement, the Commission has no jurisdiction. Therefore, I find that the Joint Motion to Dismiss Proceeding Due to Settlement should be granted and this case should be dismissed from the Commission's docket.

(Hearing Examiner's April 5, 2004, Report at 3.) No party filed comments on the Examiner's Report.

NOW THE COMMISSION, having considered the Hearing Examiner's Report and the applicable law, adopts the findings in the Examiner's Report and dismisses this case.

Accordingly, IT IS ORDERED THAT:

- (1) The findings in the Hearing Examiner's Report of April 5, 2004, are hereby adopted.
- (2) This matter is dismissed.

<sup>1</sup> On October 23, 2003, the Cooperatives filed the direct testimony of four witnesses. On November 7, 2003, the Staff filed its Case Report in this matter.

**CASE NO. PUC-2003-00097  
FEBRUARY 25, 2004**

PETITION OF  
ONESTAR COMMUNICATIONS, LLC

For an Order Directing Verizon Virginia Inc. to Cease and Desist from Disconnecting Service

**CLOSING ORDER**

On June 3, 2003, Verizon Virginia Inc. ("Verizon") filed a letter with the Clerk of the State Corporation Commission ("Commission") pursuant to 20 VAC 5-423-80 notifying the Commission that Verizon would disconnect resale and UNE-P service to OneStar Communications, LLC ("OneStar"), on August 6, 2003 ("Notification of Disconnection"), if OneStar did not cure resale and UNE-P payment defaults of at least \$172,681.82.

As set forth in 20 VAC 5-423-80, Verizon's Notification of Disconnection provided information on: (1) the number of OneStar resale customers to be disconnected and the proposed disconnection date; (2) any proposal to notify or transfer OneStar's customers to Verizon or to other carriers; (3) a description and quantification of the service offerings to OneStar to be disconnected; (4) the amount claimed to be owed to Verizon by OneStar, including the identification of any disputed amounts; (5) a description of any efforts that Verizon and OneStar have taken to prevent disconnection or disruption of service to OneStar's customers; and (6) a copy of a written disconnection notice sent to OneStar.

On October 14, 2003, Verizon filed a letter with the Clerk of the Commission that said it suspended its service termination action when OneStar entered into a Debt Restructure Agreement and signed a secured note with Verizon requiring a cure payment for all payment defaults to be made on specified dates. OneStar failed to make the payment due on September 15, 2003. Section 9 of the Debt Restructure Agreement granted Verizon the right to terminate all service to OneStar within 5 days of default.

On October 8, 2003, Verizon notified OneStar of the initiation of suspending service and subsequent termination. OneStar has failed to cure payment defaults for undisputed resale and UNE-P charges of at least \$198,689.21. Verizon intended to disconnect these services to OneStar on November 21, 2003. Verizon stated that, according to its records, OneStar had approximately 197 resale customers and 283 UNE-P customers in Virginia.

On October 24, 2003, OneStar filed an emergency petition ("Petition") with the Commission under 5 VAC 5-20-100 B, requesting an order directing Verizon: (1) to cease and desist from terminating telecommunications services and facilities provided on a wholesale basis to OneStar pending resolution of settlement talks between carriers and pending Verizon's compliance with applicable laws and rules governing one carrier's discontinuance of service to another carrier; and (2) to terminate its embargo against OneStar's use of Verizon's Graphic User Interface ("GUI") that provides access to Verizon's operations support system. OneStar asserted that it appeared Verizon eagerly awaited OneStar's exit from the market but that, at the present time, OneStar did not desire or intend to exit the Virginia market voluntarily.

OneStar states that the amount it owes Verizon for services and facilities provided in Virginia has been reduced by approximately \$90,000 as a result of deposits paid by OneStar to Verizon. OneStar contends that Verizon's suspension of its termination action voids the effect of its 60-day notice filed on June 3, 2003, and that Verizon's letter filed on October 14, 2003, begins a new 60-day period. OneStar asserts that Verizon is violating common law by "discriminating in the provision of credit between its retail customers and its competitors" and that Verizon has failed to comply with federal requirements for the disconnection of OneStar's services. OneStar also contends that Verizon's attempt to disconnect service is anti-competitive and that, "at a bare minimum," the Commission must delay Verizon's disconnection of service to OneStar so that public safety entities (such as police and fire departments) have at least thirty (30) days in which to make other arrangements for telephone service.

On November 7, 2003, Verizon filed a Motion to Dismiss, Answer, and Affirmative Defenses. Verizon requests that the Commission deny the relief requested by OneStar in its entirety, dismiss the Petition in its entirety, and order OneStar to immediately provide notice to its customers of its pending termination of service on November 21, 2003. In the event that the Commission finds that more time is necessary for OneStar to provide adequate notice to its customers, Verizon requests that the discontinuance deadline be extended by no more than one week with a requirement that OneStar provide prepayment to Verizon in the amount of charges for all services that were and continue to be billed post-September 15, 2003 (the date of OneStar's default on the Demand Note), for services secured through the extended termination date. Finally, Verizon states that "[g]iven OneStar's flouting of the Commission's rules regarding customer notice (as other [competitive local exchange carriers ("CLECs")] have done in the past), Verizon also urges the Commission in future disconnect instances to vigilantly enforce the Commission's Rules requiring CLECs to provide notice immediately, rather than allowing CLECs to bide their time and make baseless, eleventh hour emergency requests."

On November 7, 2003, the Commission issued an Order Permitting Discontinuance ("November 7, 2003, Order") allowing Verizon to discontinue resale and UNE-P service to OneStar. This Order contained certain conditions for both Verizon and OneStar.

On January 5, 2004, pursuant to the November 7, 2003, Order, Verizon provided notice that it had completed the discontinuance of service to OneStar.

On February 10, 2004, OneStar filed notice that it had completed its discontinuance of local service in Virginia, pursuant to the November 7, 2003, Order.

NOW THE COMMISSION, being sufficiently advised, finds as follows: Verizon and OneStar have both satisfied the November 7, 2003, Order Permitting Discontinuance.

Accordingly, IT IS ORDERED THAT 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-2003-00103  
JUNE 23, 2004**

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

Ex Parte: In the matter of establishing rules governing the provision of enhanced 911 service by local exchange carriers

**ORDER ADOPTING RULES**

On August 1, 2003, the State Corporation Commission ("Commission") entered an Order for Notice and Comment or Requests for Hearing ("Order") docketing Case No. PUC-2003-00103 and providing the opportunity for comments or requests for hearing regarding proposed "Rules Governing Enhanced 911 Service" ("Proposed Rules") that seek to govern the provision of Enhanced 911 ("E-911") service by local exchange carriers. In addition, the Commission requested comments from interested parties on the following questions: (1) what are the relevant and necessary components that constitute intrastate regulated E-911 service as they are currently provisioned; (2) how should localities be precluded from being assessed duplicate charges for intrastate regulated E-911 services; and (3) for purposes of Public Service Answering Point ("PSAP") billing, how should E-911 accessible lines be counted (*i.e.*, thousand blocks, hundred blocks, or other) and by whom? The purpose of these rules, proposed by the Staff of the Commission ("Staff"), is to establish a framework that provides reliable E-911 service to the citizens of Virginia and encourages accountability in the provision of such services.

Comments or requests for hearing were to be filed by September 26, 2003. On September 24, 2003, the Commission entered an Order Extending Time for Comment or Requests for Hearing. The new deadline was set for October 10, 2003. Comments were received from the Division of Consumer Counsel, Office of the Attorney General ("Consumer Counsel"); AT&T Communications of Virginia, LLC ("AT&T"); Cavalier Telephone, LLC ("Cavalier"); the City of Covington; the City of Virginia Beach; the County of Chesterfield; Fairfax County; Cox Virginia Telecom, Inc. ("Cox"); WorldCom, Inc. ("MCI"); NTELOS Inc. ("NTELOS"); Central Telephone Company of Virginia, United Telephone-Southeast, Inc., and Sprint Communications Company of Virginia, Inc. (collectively, "Sprint"); Verizon Virginia Inc. and Verizon South Inc. (collectively, "Verizon"); the Virginia

Cable Telecommunications Association ("VCTA"); the Virginia Telecommunications Industry Association ("VTIA"); the Virginia Information Technologies Agency ("VITA"); and three private citizens. Comments were late-filed by York County.

NOW THE COMMISSION, having considered the Proposed Rules and the comments thereto, finds that we should adopt the rules appended to this Order as Attachment A, effective July 1, 2004.

The rules we adopt herein contain several modifications and clarifications to those rules originally proposed by the Staff and published in the Virginia Register of Regulations on August 25, 2003. These changes were made after our consideration of the comments by the interested parties to this proceeding and our analysis of how best to balance the interests of the general public, local governments, and service providers. We will not review each final rule in detail but will comment briefly on several of them.

Final 20 VAC 5-425-20 2 requires that a local exchange carrier ("LEC") provide access to LEC personnel to assist the relevant PSAP administrator in obtaining E-911 record-related information when processing an E-911 call. This rule is intended to facilitate communication between the LEC and PSAP when the pertinent automatic location identification ("ALI") record does not provide sufficient detail to the PSAP to dispatch correctly emergency services during an actual emergency.

Final 20 VAC 5-425-20 4 follows the National Emergency Number Association standard for database error rates and differs from the proposed rule in that the failure to meet this standard is not handled on a reported exception basis but rather upon complaints received from a PSAP.

Final 20 VAC 5-425-20 5 differs from the proposed rule in that it requires all E-911 database affecting changes to be reported to the E-911 ALI database provider within 48 hours (excluding holidays and weekends) of the LEC's receipt of such notice instead of 24 hours. Cox commented that, because it contracts with a third party to update its E-911 database, 24 hours does not provide enough time to comply with the proposed rule.

Final 20 VAC 5-425-20 6 requires a LEC to correct any incorrect ALI record within 48 hours (excluding holidays and weekends) of receiving notification of a mistake. Although the City of Covington requested the ALI records be corrected in eight (8) hours, we believe that to be too onerous a requirement. Additionally, we believe that 48 hours is enough time to satisfy the concerns expressed by both Verizon and the VTIA. We take note of NTELOS' comment that it routinely corrects E-911 database errors within 24 hours, and we commend such prompt efforts.

We clarify 20 VAC 5-425-20 7 to reflect that telephone numbers that cannot convey automatic number identification ("ANI") shall be excluded from the E-911 ALI database.

Final 20 VAC 5-425-20 9 requires a LEC to inform end-user customers of the potential for problems reaching the appropriate PSAP that may be inherent with a particular service that a customer is seeking to purchase.

Proposed 20 VAC 5-425-20 11, as set forth in the Proposed Rules, would have required LECs to provide at least seven days of "warm" (or "soft") dial tone that would continue to make available E-911 service to customers during periods of temporary suspension of local telephone service for non-payment. Cox, Verizon, and the VTIA opposed the mandatory provision of warm dial tone; AT&T raised a number of cost and operational questions regarding the proposed rule; and NTELOS, while noting that it found the requirement reasonable, suggested that companies would need ample time to implement such a requirement. Because this rule may have unintended detrimental consequences to customers, we will dispense with the requirement in our Final Rules.

Final 20 VAC 5-425-20 11, as adopted, requires a LEC to provide, upon request and no more than once every six months at no charge, detail sufficient to allow a PSAP to verify the accuracy of its E-911 bill. This differs from the proposed rule in that it no longer requires the ALI database provider to share LEC access line information that may be confidential and proprietary.

Final 20 VAC 5-425-30 A requires that a competitive local exchange carrier's ("CLEC's") rates for E-911 services shall be no higher than the lowest rate of the largest incumbent local exchange carrier ("ILEC") serving in a particular PSAP's geographic area. This clarifies for a CLEC, when it charges for E-911 services, the relevant ILEC's rate that the CLEC cannot exceed.

Final 20 VAC 5-425-30 B requires a LEC to structure its E-911 service offerings so that the LEC charges a PSAP only for the services it renders to the PSAP. While this rule may seem to state the obvious, the Commission is aware of complaints from localities claiming that they have received bills from multiple LECs for the same E-911 services rendered. Should compliance with this rule necessitate that an ILEC revise its tariffs, then we require that any tariff revisions be filed within 60 days of the effective date of these rules. Similarly affected CLECs shall file any necessary tariff revisions within 30 days of the effective date of the relevant ILEC's revised tariffs. However, should compliance with this rule *necessarily* result in (1) a change to a LEC's current regulatory classification of any component of E-911 services; (2) an increase in revenue to a LEC; or (3) an increase in any customer's rate, then the LEC shall take the appropriate action as provided for by the Code of Virginia, any applicable Alternative Regulatory Plan, and any other applicable rules and regulations. Such a LEC may request an extension of the 60-day deadline to accommodate a proceeding that results from the occurrence of any of the three conditions described above.

Accordingly, IT IS ORDERED THAT:

- (1) We hereby adopt the amended and final Rules Governing Enhanced 911 ("E-911") Service, appended hereto as Attachment A.
- (2) ILECs who currently have tariffed E-911 services shall, within sixty (60) days of the effective date of these rules, file any necessary E-911 service tariff revisions in accordance with 20 VAC 5-425-30 B, all other Commission rules and regulations, the Code of Virginia, and any applicable Alternative Regulatory Plan.
- (3) CLECs who currently have tariffed E-911 services shall, within thirty (30) days of the effective date of the relevant ILEC's new E-911 tariffs, file revised tariffs in accordance with 20 VAC 5-425-30 B, all other Commission rules and regulations, and the Code of Virginia.

- (4) A copy of this Order and the rules adopted herein shall be forwarded promptly for publication in the Virginia Register of Regulations.
- (5) This case is dismissed, and the papers filed herein shall be placed in the file for ended causes.

NOTE: A copy of Attachment A entitled "Rules Governing Enhanced 911 Service" 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-2003-00115**  
**MARCH 4, 2004**

APPLICATION OF  
ECONOMIC COMPUTER SYSTEMS, INC.

For extension of time to file audited financial statements

**FINAL ORDER**

By Final Order of May 22, 2002, in Case No. PUC-2002-00027, the State Corporation Commission ("Commission") granted Economic Computer Systems, Inc. ("ECS" or the "Company"), certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services. In its Order, the Commission directed ECS to provide audited financial statements to the Division of Economics and Finance no later than one (1) year from the effective date of its initial tariff in Virginia.

ECS' initial tariff was dated July 25, 2002; therefore, audited financial statements were due on July 25, 2003. On July 9, 2003, the Company filed a letter requesting an extension of time to file its audited financial statements until October 24, 2003. In the letter, ECS stated that it was in the final phase of selecting a Virginia accounting firm and would begin the formal audit process by mid-August.

By Order of July 24, 2003, the Commission granted ECS's requested extension until October 24, 2003. ECS submitted its audited financial statements on October 3, 2003, and this matter may now be closed.

Accordingly, IT IS ORDERED THAT, ECS having furnished its audited financial statements and there being nothing further to come before the Commission, this case is dismissed, and the papers filed herein shall be placed in the file for ended causes.

**CASE NO. PUC-2003-00118**  
**JULY 19, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of establishing rules necessary to implement Article 5.1 of Chapter 15 of Title 56 of the Code of Virginia

**FINAL ORDER**

Article 5.1 of Chapter 15 of Title 56 of the Code of Virginia ("Code") entitled "Provision of Certain Communications Services," § 56-484.7:1 et seq., addresses conditions under which certain counties, cities, towns, electric commissions or boards, industrial development authorities, or economic development authorities may offer "qualifying communications services." Section 56-484.7:1 A of the Code defines "qualifying communications service" as "a communications service, which shall include but is not limited to, high-speed data service and Internet access service, of general application. . . ." Section 56-484.7:1 E of the Code states that the State Corporation Commission ("Commission") "may promulgate rules necessary to implement this section." On August 1, 2003, the Commission issued an Order Establishing Proceeding and Inviting Comments, docketing this matter and allowing interested persons: (1) to comment on whether rules are necessary to implement § 56-484.7:1 of the Code; and (2) to propose any such rules.

Comments were received from the Alliance for Rural Broadband Infrastructure ("ARBI"); Charter Communications, Inc. ("Charter"); Central Telephone Company of Virginia, United Telephone-Southeast, Inc., and Sprint Communications Company of Virginia (collectively, "Sprint"); the Virginia Cable Telecommunications Association ("VCTA"); and the Virginia Telecommunications Industry Association ("VTIA").

ARBI stated that it is a group of Virginia cities, towns, and counties that seeks the benefits of competition in the provisioning of broadband and internet services for all residents of the Commonwealth. ARBI's constituent groups include the Virginia Municipal League and the Virginia Association of Counties. ARBI asserted that it is unnecessary for the Commission to promulgate rules because the Code is sufficiently clear. ARBI suggested that, if the Commission does indeed promulgate rules, such rules should be minimal.

Charter supported rules that would require a petitioning governmental entity to demonstrate affirmatively that it meets the statutory requirements set forth governing the provision of qualifying communications services.

Sprint supported promulgating rules and asked the Commission to clarify that "qualifying communications services" do not necessarily include the provision of local exchange service. Sprint also asked the Commission to consider a service "readily and generally . . . available" under the statute if three companies in a given area have tariffs for a qualifying communications service or if the service is in fact offered without tariff. Additionally, Sprint stated its support for proposed rules filed by the VTIA in this proceeding.



The VCTA stated its belief that rules are necessary to implement § 56-484.7:1 *et seq.*, and cited the need for clear guidelines that would assist the parties involved in a petition to provide qualifying communications services. The VCTA proposed language that would require petitioners to make specific showings regarding the availability of qualifying communications services in a particular area, the benefit to consumers of the petitioner's offering of qualifying communications services, and the pricing of such services.

The VTIA submitted proposed regulations with its comments, suggesting, in part, that: petitioners be required to demonstrate financial, managerial, and technical expertise sufficient to offer qualifying communications services; petitioners provide evidence that functionally equivalent qualifying communication services are not being provided by three nonaffiliated entities; the phrase "readily and generally . . . available" found in § 56-484.7:2 of the Code be interpreted to include tariffed and non-tariffed offerings that are capable of being provisioned by three nonaffiliated entities, even if those entities do not actually provision those services; the phrase "functionally equivalent" found in § 56-484.7:2 of the Code be interpreted from the viewpoint of potential customers; and that petitioners whose petitions are approved provide to the Commission status reports regarding the factors in § 56-484.7:2 of the Code to assist the Commission in any potential revocation of approval pursuant to § 56-484.7:4.

On March 5, 2004, the Commission issued an Order that directed the Commission's Staff ("Staff") to prepare a Report on the comments filed in this matter and include any rules proposed by the Staff. The Order also permitted interested persons to file comments on the Staff's Report.

The Staff filed its Report on May 17, 2004. The Staff concluded that rules are not necessary at this time and that the Commission is not required to adopt rules. In addition, the Staff submitted a draft set of minimal rules that the Commission could consider if it determines that rules are necessary and should be adopted at this time. The Staff stated that its proposed rules give sufficient guidance to an applicant and any opposing parties, while not making the process overly burdensome or restrictive. In addition, the Staff asserted that if the Commission believes more extensive rules are necessary, then the Staff's draft rules could be used as a starting point either for further comments from the parties or as a preliminary document to be used by a working committee of interested parties and the Staff in developing more specific rules.

The VTIA filed comments on the Staff Report on June 17, 2004. The VTIA stated that it concurs in the Staff's proposal to convene a working committee of all interested parties to work toward promulgating regulations. The VTIA believes that the ultimate drafting and promulgation of regulations consistent with the Code must be pursued diligently. The VTIA asserted, as referenced in the Staff Report, that § 56-484.7:2 of the Code does not define some important and relevant terms. In addition, the VTIA stated that the Commission's role under § 56-484.7:2 of the Code is explicit, lawful, and not limited by the type or nature of the "qualifying communications services" to be provided.

ARBI filed comments on the Staff Report on June 17, 2004. ARBI reiterated its view that there is no need for the Commission to promulgate rules given the clarity with which the General Assembly has laid out the process by which a municipality can provide "qualifying communications services." ARBI concluded that it is unnecessary for the Commission to promulgate specific rules that will merely mimic the General Assembly's directives. If the Commission promulgates rules, ARBI stated that the rules suggested by the Staff are appropriate, because they are minimal and create no barriers to thwart the clear legislative intent to encourage deployment of broadband services to underserved rural areas in the Commonwealth. ARBI also asserted that there is no need for a working committee of interested parties to consider further regulations.

NOW THE COMMISSION, having considered the pleadings and the applicable law, is of the opinion and finds as follows. We will not promulgate rules in this proceeding. Section 56-484.7:1 *et seq.*, of the Code explicitly sets forth what must be demonstrated by the petitioner and any opposing parties. We agree with ARBI that rules mimicking the statute are not necessary. We also find that terms undefined in the statute, such as "readily and generally . . . available" and "functionally equivalent for consumers," will be determined in the context of the specific proceeding in which a petitioner requests approval from the Commission to offer a particular qualifying communications service.

In addition, the Staff Report notes that the Commission previously dismissed, without prejudice, a petition from the City of Staunton requesting approval to provide certain qualifying communications services.<sup>1</sup> In the City of Staunton, we found that the petition should include evidence, under oath, to demonstrate that the proposed qualifying communications services do not meet the standards set forth in § 56-484.7:2 of the Code within the geographic area specified in the petition. We also explained that any party opposing the petition, which seeks to demonstrate that any of the standards in § 56-484.7:2 are met, also should include evidence submitted under oath. We noted that evidence in this regard, for example, could be in the form of an affidavit or of sworn pre-filed testimony. Thus, Commission precedent already establishes that a participant in a proceeding under these provisions of the Code must make an evidentiary showing, under oath, in support of the participant's position.

Finally, the Staff Report explains that, pursuant to § 56-484.7:1 A of the Code, the Commission must act on a petition in these matters within 60 days, which may be extended to a period not to exceed 120 days. The Staff concludes that this period provides a very short time to review a filed petition with all needed justifications and support, to have an opportunity for notice and hearing in the affected area, and to address any objections or interventions of other parties. We agree with the Staff's explanation that the time period will not start to run before the Staff finds that the petition is complete. In this regard, we believe that the Staff's proposed rules provide relevant guidance for developing a complete petition. Specifically, the information requirements contained in section 20 of the Staff's proposed rules accurately reflect the statute and provide a reasonable framework for the petitioner to follow in preparing a complete petition. Furthermore, section 40 of the Staff's proposed rules, which applies to parties objecting to the petition, also accurately reflects the statute and provides a reasonable framework for parties opposing the petition and seeking to provide a demonstration pursuant to § 56-484.7:2 of the Code.

Accordingly, IT IS ORDERED THAT this matter is hereby dismissed.

<sup>1</sup> Petition of the City of Staunton, For approval of authority to provide qualifying communications services pursuant to Article 5.1 to Title 56 of the Code of Virginia, Case No. PUC-2003-00065, Order Dismissing Petition (June 26, 2003) ("City of Staunton").

**CASE NO. PUC-2003-00139  
FEBRUARY 11, 2004**

APPLICATION OF  
PNG TELECOMMUNICATIONS OF VIRGINIA, LLC

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

**FINAL ORDER**

On August 28, 2003, PNG Telecommunications of Virginia, LLC ( "PNG" or "Applicant"), filed 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. 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.

By Order for Notice and Comment dated September 30, 2003, the Commission directed PNG to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. On November 7, 2003, PNG filed proof of publication and proof of service as required by the September 30, 2003, Order.

On December 18, 2003, the Staff filed its Report finding that PNG's application was in compliance with 20 VAC 5-417-10 et seq., the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers, and 20 VAC 5-411-10 et seq., the Rules Governing the Certification of Interexchange Carriers. Based upon its review of PNG's application, the Staff determined it would be appropriate to grant the Applicant certificates to provide local exchange and interexchange telecommunications services and to accept the irrevocable letter of credit by PNG in lieu of a performance or surety bond as required by 20 VAC 5-417-20 G 1 b.

NOW THE COMMISSION, having considered the application and the Staff Report, finds that PNG should be granted certificates to provide local exchange and interexchange telecommunications services. Having considered § 56-481.1, the Commission further finds that PNG may price its interexchange telecommunications services competitively.

Accordingly, IT IS ORDERED THAT:

- (1) PNG is hereby granted a certificate of public convenience and necessity, No. TT-198A, 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) PNG is hereby granted a certificate of public convenience and necessity, No. T-619, 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, PNG may price its interexchange telecommunications services competitively.
- (4) PNG shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations.
- (5) Pursuant to 20 VAC 5-417-80, the Commission waives 20 VAC 5-417-20 G 1 b, which requires a \$50,000 performance or surety bond, accepting in its place a \$50,000 irrevocable letter of credit. In the event this letter of credit is cancelled or allowed to lapse by PNG, or is cancelled by the Issuer, PNG shall provide notice to the Division of Economics and Finance of its cancellation/lapse no less than thirty (30) days prior to the cancellation/lapse. At that time, PNG shall provide the Division of Economics and Finance with a replacement bond or letter of credit.
- (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-2003-00153  
MARCH 16, 2004**

APPLICATION OF  
BALTIMORE-WASHINGTON TELEPHONE COMPANY

For a certificate of public convenience and necessity to provide local exchange telecommunications services

**ORDER**

On December 1, 2003, Baltimore-Washington Telephone Company ("BWT" or "Applicant") completed an application with the State Corporation Commission ("Commission") for a certificate of public convenience and necessity ("certificate") to provide local exchange telecommunications services in the Commonwealth of Virginia.

Its Order for Notice and Comment issued December 15, 2003, the Commission docketed BWT's application, provided for notice and comment or requests for hearing, and required the Staff of the Commission ("Staff") to investigate the reasonableness of BWT's application and present its findings in a Staff Report.

On January 22, 2004, BWT filed a Motion for an Extension of Time to Obtain a Surety Bond with the Commission requesting an extension of the procedural schedule in light of certain delays that occurred in securing the bond required pursuant to 20 VAC 5-417-20 G 1 b. The Commission, on January 30, 2004, granted BWT's motion and required that BWT submit its surety bond no later than February 23, 2004. The Commission also provided that the Staff Report be filed within 15 days of BWT filing its bond.

BWT failed to file its surety bond by February 23, 2004, and on March 8, 2004, notified the Commission that, because of its inability to timely secure a surety bond, BWT desires to withdraw its application for a certificate. BWT further states that once a bond is obtained it will refile its application.

NOW THE COMMISSION, having considered the request and applicable law, finds that BWT's request should be granted.

Accordingly, IT IS ORDERED THAT this matter 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. PUC-2003-00155  
MAY 6, 2004**

PETITION OF  
M & T CAPITAL GROUP, L.L.C.,  
and  
EZ TALK COMMUNICATIONS, L.L.C.

For approval to transfer control of a competitive local exchange carrier

**ORDER DENYING AND DISMISSING PETITION**

On December 24, 2003, M & T Capital Group, L.L.C. ("M & T"), and EZ Talk Communications, L.L.C. ("EZ Talk"), completed their petition that was delivered on October 21, 2003, to the State Corporation Commission ("Commission"). This petition requested authority pursuant to Chapter 5 of Title 56 of the Code of Virginia ("Code") to transfer control of EZ Talk to M & T.

Pursuant to § 56-88.1 of the Code, the Commission must act on the captioned petition within sixty (60) days of the filing of the petition or the petition will be deemed approved by operation of law. In addition, § 56-88.1 of the Code allows the Commission to extend "[t]he sixty-day period [for review] . . . for a period not to exceed an additional 120 days." On February 17, 2004, the Commission extended the time to review the captioned petition through April 22, 2004. On April 9, 2004, the Commission again extended the period for review of the captioned petition through June 21, 2004 (hereafter referred to as the "April 9, 2004, Order").

On April 6, 2004, the Staff filed a Motion to Deny and Dismiss Petition ("Motion") in this docket. That Motion requested that the instant petition be denied because neither M & T nor EZ Talk have responded to Staff data requests concerning the petition. According to Staff, insufficient facts have been provided by either M & T or EZ Talk that would support approval of the petition.

The April 9, 2004, Order directed M & T and EZ Talk to file their response, if any, to the Staff Motion with the Clerk of the Commission in this docket on or before April 27, 2004, and continued the case pending further order of the Commission.

No response to the Staff Motion was filed by either M & T or EZ Talk.

NOW, UPON CONSIDERATION of the foregoing, the Commission is of the opinion and finds that the Staff's Motion should be granted; the captioned Petition should be denied; and this case should be dismissed without prejudice to M & T and EZ Talk to file another petition. The information provided in the captioned petition is insufficient for us to conclude, as required by § 56-90 of the Code, that adequate service at just and reasonable rates will not be impaired or jeopardized by the grant of the petition.

Accordingly, IT IS ORDERED THAT:

- (1) The Staff Motion is hereby granted.
- (2) The captioned petition is hereby denied.
- (3) The captioned case shall be dismissed without prejudice to M & T and EZ Talk to file an appropriately supported petition addressing the requirements of Chapter 5 of Title 56 of the Code of Virginia as well as the issues raised in the Staff Motion.

**CASE NO. PUC-2003-00156  
MARCH 17, 2004**

APPLICATION OF  
POTOMAC FIBER, LLC, FORMERLY KNOWN AS POTOMAC BROADBAND, LLC

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

**FINAL ORDER**

On December 11, 2003, Potomac Fiber, LLC ("Potomac Fiber" or the "Company"),<sup>1</sup> 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. 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.

By Order for Notice and Comment dated December 23, 2003, the Commission directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. On February 17, 2004, the Company filed proof of publication and proof of service as required by the December 23, 2003, Order. No comments or requests for hearing were filed in this case.

On February 27, 2004, the Staff filed its Report finding that Potomac Fiber's application was in compliance with 20 VAC 5-417-10 *et seq.*, the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers and 20 VAC 5-411-10 *et seq.*, the Rules Governing the Certification of Interexchange Carriers. Based upon its review of Potomac Fiber'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: Potomac Fiber should notify the Division of Economics 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. Staff recommended that this requirement be maintained until such time as the Staff or 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, the Commission further finds that the Company may price its interexchange telecommunications services competitively.

Accordingly, IT IS ORDERED THAT:

- (1) Potomac Fiber is hereby granted a certificate of public convenience and necessity, No. TT-201A, 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) Potomac Fiber is hereby granted a certificate of public convenience and necessity, No. T-622, 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 Company may price its interexchange telecommunications services competitively.
- (4) The Company shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations.
- (5) The Company shall notify the Division of Economics 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 Staff or Commission determine it is no longer necessary.
- (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.

<sup>1</sup> Potomac Broadband, LLC ("Potomac Broadband") delivered the captioned application to the State Corporation Commission on October 22, 2003. The Company subsequently changed its name to Potomac Fiber, LLC, and amended and supplemented its application on December 11, 2003, to reflect this name change.

**CASE NO. PUC-2003-00158  
APRIL 23, 2004**

APPLICATION OF  
INSITE FIBER OF VIRGINIA, INC.

For a certificate of public convenience and necessity to provide interexchange telecommunications services

**ORDER GRANTING CERTIFICATE**

On November 10, 2003, InSITE Fiber of Virginia, Inc. ("InSITE" or "Applicant"), completed an application with the State Corporation Commission ("Commission") for a certificate of public convenience and necessity ("certificate") to provide interexchange telecommunications services throughout the Commonwealth of Virginia. 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.

On December 15, 2003, the Commission entered its Order for Notice and Comment directing the Applicant to give notice to the public of its application, providing an opportunity for interested parties to comment and request a hearing, and directing the Commission Staff to investigate the reasonableness of the application and present its findings in a Staff Report. That Order established time deadlines for the accomplishment of the prescribed tasks.

By letter dated February 3, 2004, and filed February 6, 2004, InSITE advised the Commission that it had provided a copy of the required notice to local and interexchange carriers, but it had not performed the requisite newspaper publication. InSITE requested that the Commission amend or revise the Order for Notice and Comment to include a revised procedural schedule for the newspaper publication.

By Order entered February 13, 2004, the Commission established a schedule for the publication of notice, for the filing of comments or requests for hearing, and for the submission of a Staff Report and any Company response to that Report.

No comments or requests for hearing were received. The Company filed its proofs of notice and publication on February 9, 2004, and March 25, 2004, respectively.

On April 1, 2004, the Staff filed its Report finding that InSITE's application was in compliance with the Rules Governing the Certification of Interexchange Carriers. Based upon its review of the application, the Staff determined it would be appropriate to grant the Company a certificate to provide interexchange telecommunications services.

Having considered the application, the lack of objection, and the Staff Report, the Commission finds that the application should be granted.

Accordingly, IT IS ORDERED THAT:

- (1) InSITE Fiber of Virginia, Inc., is hereby granted a certificate of public convenience and necessity, No. TT-203A, 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) The Company shall provide tariffs to the Division of Communications that conform with all applicable rules and regulations.
- (3) Pursuant to § 56-481.1 of the Code of Virginia, the Company may price its interexchange telecommunications services competitively.
- (4) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein shall be placed in the file for ended causes.

**CASE NO. PUC-2003-00160  
FEBRUARY 18, 2004**

PETITION OF  
WILTEL COMMUNICATIONS OF VIRGINIA, INC.

For approval of transfer of control

**ORDER GRANTING APPROVAL**

On October 24, 2003, WilTel Communications of Virginia, Inc. ("WilTel-Virginia" or "Company"),<sup>1</sup> filed a petition with the State Corporation Commission ("Commission") requesting approval of the acquisition of additional common stock of WilTel Communications Group, Inc. ("WilTel Group"), which is the direct owner of WilTel Communications LLC ("WCL"), the parent of WilTel-Virginia, by Leucadia National Corporation ("Leucadia"), pursuant to Chapter 5 of Title 56 of the Code of Virginia ("Code").

By Order Granting Approval dated April 9, 2003, in Case No. PUC-2002-00230, the Commission approved the acquisition of 47.4% of the common stock of WilTel Group by Leucadia, the indirect parent of WCL, the parent of WilTel-Virginia. Leucadia now proposes to increase its ownership of common stock of WilTel Group from 47.4% to at least 70%, and up to 100%. The additional common stock ownership is subject to Commission approval pursuant to § 56-88.1 of the Code.

WilTel-Virginia provides wholesale telecommunications services, related incidental retail services, and video transmission services in Virginia. Under its previous corporate name, WilTel-Virginia holds certificates of public convenience and necessity ("CPCN") Nos. TT-42B and T-473 and provides intrastate interexchange telecommunications services in Virginia.

By Order Granting Approval dated April 9, 2003, in Case No. PUC-2002-00230, the Commission approved the acquisition of 47.4% of the common stock of WilTel Group by Leucadia, resulting in the indirect control of WilTel-Virginia by Leucadia.

Leucadia is a publicly traded, diversified financial services holding company. Leucadia, through its subsidiaries, is engaged in a variety of businesses, including commercial and personal lines of property and casualty insurance, banking and lending, manufacturing, winery operations, real estate activities, and precious metals mining. Leucadia's investment in WilTel Group was its first investment in the telecommunications industry.

<sup>1</sup> Williams Communications of Virginia, Inc. ("Williams-Virginia"), changed its name to WilTel-Virginia on January 31, 2003. Williams-Virginia did not file to update its certificates with the Commission until February 5, 2004. That request is currently pending as Case No. PUC-2004-00019. Therefore, at this time, the entity certificated to provide telecommunications services in Virginia and its tariffs remains in the name of Williams-Virginia.

The Company reported that on November 6, 2003, Leucadia accepted for exchange 23,547,423 shares of WilTel Group common stock that were tendered into an exchange offer and, as a result, Leucadia became the owner of approximately 94.5% of the outstanding shares of WilTel Group common stock. The merger allowed Leucadia to acquire the remaining shares of WilTel Group common stock that were not tendered into the exchange offer. As a result of these transactions, WilTel Group is now a wholly owned subsidiary of Leucadia.

The petition asserts that the acquisition of additional common stock of WilTel Group by Leucadia will not impair or jeopardize WilTel-Virginia's provision of service to the public, and it will have no effect on its rates or terms and conditions of service. WilTel-Virginia will continue to provide the same telecommunications services under the same rates, terms, and conditions as in the previously accepted tariffs on file with the Commission.

THE COMMISSION, upon consideration of the application, representations of the Company, and having been advised by its Staff, is of the opinion and finds that the acquisition of additional common stock of WilTel Group and, therefore, ownership of WilTel-Virginia, as described herein, 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 of Virginia, approval is hereby granted for the acquisition of additional common stock in WilTel Group by Leucadia and thereby indirect control of WilTel-Virginia, from 47.4% up to 100% common stock ownership.
- 2) The effective date of this approval shall be the effective date of the Order entered completing WilTel-Virginia's name change on its CPCNs from Williams-Virginia to WilTel-Virginia.
- 3) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUC-2003-00170  
SEPTEMBER 17, 2004**

APPLICATION OF  
VERIZON VIRGINIA INC.  
and  
VERIZON SOUTH INC.

For authority to cease providing unbundled switching in certain markets and unbundled dedicated transport on certain routes as unbundled network elements under 47 U.S.C. § 251(c)(3)

**ORDER OF DISMISSAL**

On November 5, 2003, Verizon Virginia Inc. and Verizon South Inc. (collectively, "Verizon"), filed an application with the State Corporation Commission ("Commission") requesting that the Commission grant Verizon authority to discontinue providing the unbundled switching element for mass market customers in limited geographic areas, as well as the bundled dedicated transport element on certain enumerated routes as unbundled network elements under 47 U.S.C. § 251(c)(3). Verizon asks the Commission to find that carriers are not impaired without access to unbundled switching in the markets listed in Verizon's testimony and that carriers are not impaired without access to unbundled dedicated transport for the routes enumerated in Verizon's testimony.

Verizon states that the Federal Communications Commission's ("FCC") Triennial Review Order<sup>1</sup> ("TRO") assigned to state commissions the task of the targeted, granular unbundling analysis using the FCC's federal guidelines to make impairment determinations for certain network elements. Verizon asserts that its application and accompanying testimony demonstrate that the FCC's non-impairment standards have been satisfied for unbundled switching and dedicated transport in the identified markets and along the designated routes.

On December 3, 2003, we issued a Preliminary Order that, among other things, required publication of notice, permitted interested persons to file notices of participation, and invited initial and reply briefs on certain preliminary questions pertinent to the Commission's authority in this matter.

Pursuant to the December 3, 2003, Preliminary Order, interested parties submitted initial briefs on January 9, 2004, and reply briefs on January 23, 2004, addressing four jurisdictional questions set out in the text of that Order. The first of those four concerns was whether the FCC's delegation of authority to the Commission was lawful. The FCC had delegated to the state commissions certain fact-finding duties pertinent to its unbundling rules. For the two elements from which Verizon sought relief in this docket, the FCC's rules spelled out specific market-based criteria. Under those rules, if the Commission were to find that the criteria had been satisfied, Verizon would not be obligated to continue supplying those elements to competitive local exchange carriers ("CLECs") and, after a transitional period, could withdraw them. See, TRO at ¶¶ 394-418 and 486-532.

After considering the briefs and reply briefs submitted by the parties, the Commission entered its Order of January 30, 2004, in which it decided to "... defer acting on Verizon's request on its application until it is established that the Commission has jurisdiction under the Act to perform the actions delegated by the FCC in the TRO." Subsequent events indicate that the Commission lacks jurisdiction to perform the delegated tasks.

On March 2, 2004, the U.S. Circuit Court of Appeals for the District of Columbia issued its decision vacating the FCC's delegation of authority to state commissions, *United States Telecom Ass'n v. FCC*, 359 F.3d 554 (D.C. Cir.2004) ("*USTA II*"). The Court later granted a stay of its mandate through

<sup>1</sup> *Review of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01-338; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98; Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98-147, FCC 03-36 (rel. August 21, 2003) ("TRO" or "Triennial Review Order").*

June 15, 2004. On June 16, 2004, the Court's mandate was issued. Various parties are seeking review of the decision by the U.S. Supreme Court by petitioning for a writ of certiorari. The Court is not obligated to grant such an appeal and, if granted, might affirm the D.C. Circuit's *USTA II* decision.

On August 13, 2004, Verizon filed its Notice of Withdrawal of Application, requesting that this matter be dismissed without prejudice because *USTA II* had vacated the FCC's rules that had delegated impairment analyses to the states.

Based upon *USTA II* and Verizon's request for withdrawal, the Commission has determined that this matter should be dismissed without prejudice.

Accordingly, IT IS ORDERED THAT this matter is dismissed without prejudice, and the papers filed herein shall be placed in the file for ended causes.

**CASE NO. PUC-2003-00171  
JULY 15, 2004**

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

Ex Parte: In the matter of revising the rules governing the filing of interconnection agreements

**FINAL ORDER**

On November 20, 2003, the State Corporation Commission ("Commission") issued an Order for Notice and Comment or Requests for Hearing regarding the Staff's proposed revisions to 20 VAC 5-419-10 *et seq.*, Procedural Rules for Implementing §§ 251 and 252 of the Telecommunications Act of 1996, 47 U.S.C. §§ 251 and 252 ("Proposed Rules"). Interested parties were given an opportunity to comment or request a hearing on the Proposed Rules no later than January 5, 2004.

Comments were received from the following five interested parties: Allegiance Telecom of Virginia, Inc. ("Allegiance"); Cox Virginia Telecom, Inc. ("Cox"); WorldCom, Inc. ("MCI"); Central Telephone Company and United Telephone-Southeast, Inc. (collectively, "Sprint"); and Verizon Virginia Inc. and Verizon South Inc. (collectively, "Verizon"). No one requested a hearing on the Proposed Rules.

In its comments, Allegiance suggests that agreements "adopted" pursuant to 47 U.S.C. § 252(i) be reviewed by the Commission and approved on an expedited basis if no person filed any comment or request for hearing regarding such "opt-in" agreements.

Cox recommends that: (1) language be added to proposed 20 VAC 5-419-10 requiring that any request for arbitration separate the issues into two categories, *i.e.*, those issues that have been resolved through negotiation and those issues that have not been resolved; (2) the Commission act to approve negotiated agreements within 60 days of the filing of the agreement if asked to do so by a party to the agreement; (3) language be added reflecting a state commission's duty to conclude arbitrations within nine months of the request for interconnection, pursuant to 47 U.S.C. § 252(b)(4)(C); and (4) language be added creating a procedure for the adoption of previously approved negotiated agreements pursuant to 47 U.S.C. § 252(i).

MCI states that it agrees, for the most part, with the Proposed Rules; however, it expresses concern that the wording of proposed 20 VAC 5-419-20 appears to deal not only with negotiated agreements but might be read to include the adoption of previously approved interconnection agreements. MCI requests that the Commission clarify that previously approved interconnection agreements are not included within the ambit of the Proposed Rules.

Sprint, in its comments, supports the Staff's Proposed Rules.

Verizon suggests three changes to the Proposed Rules: (1) remove the requirement that negotiated agreements be jointly filed because it would be burdensome to require joint filings; (2) delete the word "adoption" from proposed 20 VAC 5-419-20 1 because the word creates confusion by being capable of being read to include opt-in agreements made pursuant to 47 U.S.C. § 252(i); and (3) permit notification of the termination of an interconnection agreement to be submitted to the Staff of the Commission instead of being filed through the Office of the Clerk of the Commission.

NOW UPON CONSIDERATION of the comments filed herein, we find that we should adopt the amended rules appended to this Order as Attachment A effective upon filing with the Virginia Registrar of Regulations. We briefly summarize changes made to the Proposed Rules below.

We reject Allegiance's suggestions that the Commission approve opt-in agreements made pursuant to 47 U.S.C. § 252(i) and that the Commission approve these opt-in agreements on an expedited basis in some cases. Furthermore, we reject Cox's proposed language that would create a process for handling opt-in agreements by this Commission. We also reject Verizon's suggestion that "adoption" be struck from proposed 20 VAC 5-419-20 1.<sup>1</sup>

We agree with Cox's suggestion that requests for arbitration separately list those issues resolved and not resolved through negotiation and amend proposed 20 VAC 5-419-10 B to reflect that change. We find that such a requirement promotes efficiency.

<sup>1</sup> Both Verizon and MCI admit to some confusion regarding inclusion of the word "adoption" in proposed 20 VAC 5-419-20 1, suggesting that the word might be read to include agreements opted into pursuant to 47 U.S.C. § 252(i). We note that proposed 20 VAC 5-419-20 explicitly mentions only agreements made pursuant to 47 U.S.C. § 252(a)(1). Furthermore, the word "adopt" and its brethren appear nowhere in 47 U.S.C. § 252(i), but the word "adoption" does appear in 47 U.S.C. § 252(e)(1) to describe agreements entered into through negotiation or arbitration that may be submitted to a state commission. We are, therefore, of the opinion that Congress contemplated that state commissions would only accept agreements entered into through negotiation or arbitration under 47 U.S.C. § 252(a) or § 252(b). We take this opportunity to clarify that proposed 20 VAC 5-419-20 does not encompass opt-in agreements made pursuant to 47 U.S.C. § 252(i).

We reject Cox's suggestion that the Commission act to approve negotiated agreements on an expedited basis if requested to do so by a party. Pursuant to 20 VAC 5-419-20 4, except when otherwise acted upon by the Commission, negotiated agreements shall be deemed approved pursuant to 47 U.S.C. § 252(e)(4) 90 days after the agreement is filed with the Commission. We find that allowing negotiated agreements not otherwise acted upon by the Commission to be approved pursuant to federal law promotes efficiency.

We reject Cox's suggestion that language be added reflecting a state commission's obligation to conclude its arbitration within nine months of the date the request for interconnection has been received by a local exchange carrier ("LEC"). We find that inclusion of such language is redundant of the requirement found at 47 U.S.C. § 252(b)(4)(c).

We accept Verizon's suggestion that parties to a negotiated agreement not be required to file jointly the agreement with the Commission. We find that such a requirement would be inefficient because of the delay it introduces to the process. We note, however, that we do not expect the filing of an agreement to be unilateral.

We reject Verizon's suggestion that notice of the termination of a negotiated agreement be filed with the Staff and not with the Clerk of the Commission. We find that such a provision is inconsistent with the administration of the Rules because it would create inconsistent filing requirements, requiring the Division of Communications to update the Clerk's files.

Additionally, we amend proposed 20 VAC 5-419-20 6 to reflect that an amendment, replacement, or notice of termination of an interconnection agreement shall be timely filed.

Accordingly, IT IS ORDERED THAT:

(1) We hereby adopt the revised Procedural Rules for Implementing §§ 251 and 252 of the Telecommunications Act of 1996, 47 U.S.C. §§ 251 and 252, appended hereto as Attachment A.

(2) A copy of this Order and the rules adopted herein shall be forwarded forthwith for publication in the Virginia Register of Regulations.

(3) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

NOTE: A copy of Attachment A entitled "Procedural Rules for Implementing §§ 251 and 252 of the Telecommunications Act of 1996, 47 U.S.C. §§ 251 and 252" 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-2003-00173  
MARCH 5, 2004**

APPLICATION OF  
GLOBAL COMMUNICATIONS INTEGRATORS, L.L.C.

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

**FINAL ORDER**

On November 10, 2003, Global Communications Integrators, L.L.C. ("GCI" or the "Company"), filed 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. 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.

By Order for Notice and Comment dated December 15, 2003, the Commission directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. On January 20, 2004, the Company filed proof of publication and proof of service as required by the December 15, 2003, Order.

On February 4, 2004, the Staff filed its Report finding that GCI's application was in compliance with 20 VAC 5-417-10 et seq., the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers and 20 VAC 5-411-10 et seq., the Rules Governing the Certification of Interexchange Carriers. Based upon its review of GCI's application, the Staff determined it would be appropriate to grant the Company certificates to provide local exchange and interexchange telecommunications services and to accept the irrevocable standby letter of credit provided by GCI in lieu of a performance or surety bond as required by 20 VAC 5-417-20 G 1 b. The Staff also recommended the following condition: should the \$50,000 letter of credit provided by GCI, in lieu of a surety bond, be cancelled or allowed to lapse by GCI, or be cancelled by the Issuer, the Company should provide notice to the Division of Economics and Finance of its cancellation/lapse no less than 30 days prior to the cancellation/lapse and should provide a replacement bond or letter of credit.

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, the Commission further finds that the Company may price its interexchange telecommunications services competitively.



## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Accordingly, IT IS ORDERED THAT:

(1) Global Communications Integrators, L.L.C., is hereby granted a certificate of public convenience and necessity, No. TT-199A, 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) Global Communications Integrators, L.L.C., is hereby granted a certificate of public convenience and necessity, No. T-620, 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 Company may price its interexchange telecommunications services competitively.

(4) The Company shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations.

(5) Pursuant to 20 VAC 5-417-80, the Commission waives 20 VAC 5-417-20 G 1 b, which requires a performance or surety bond, accepting in its place a \$50,000 irrevocable standby letter of credit. In the event this \$50,000 letter of credit provided by GCI in lieu of a surety bond be cancelled or allowed to lapse by GCI, or be cancelled by the Issuer, the Company shall provide notice to the Division of Economics and Finance of its cancellation/lapse no less than (30) days prior to the cancellation/lapse and shall provide a replacement bond or letter of credit. This requirement shall be maintained until such time as the Staff or the Commission determine it is no longer necessary.

(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-2003-00174  
MARCH 5, 2004**

APPLICATION OF  
CITYNET VIRGINIA, LLC

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

**FINAL ORDER**

On November 21, 2003, Citynet Virginia, LLC ("Citynet" or the "Company"), 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. 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.

By Order for Notice and Comment dated December 15, 2003, the Commission directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. On January 20, 2004, the Company filed proof of publication and proof of service as required by the December 15, 2003, Order.

On February 11, 2004, the Staff filed its Report finding that Citynet's application was in compliance with 20 VAC 5-417-10 et seq., the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers, and 20 VAC 5-411-10 et seq., the Rules Governing the Certification of Interexchange Carriers. Based upon its review of Citynet'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: that Citynet notify the Division of Economics and Finance no less than 30 days prior to cancellation or lapse of its bond and should provide a replacement bond at that time.

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, the Commission further finds that the Company may price its interexchange telecommunications services competitively.

Accordingly, IT IS ORDERED THAT:

(1) Citynet is hereby granted a certificate of public convenience and necessity, No. TT-200A, 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) Citynet is hereby granted a certificate of public convenience and necessity, No. T-621, 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 Company may price its interexchange telecommunications services competitively.

(4) The Company shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations.

(5) The Company shall notify the Division of Economics 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 Staff or the Commission determine it is no longer necessary.

(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-2003-00175  
FEBRUARY 4, 2004**

APPLICATION OF  
AMELIA TELEPHONE CORPORATION,  
NEW CASTLE TELEPHONE COMPANY,  
VIRGINIA TELEPHONE COMPANY,  
TELEPHONE AND DATA SYSTEMS, INC.,  
and  
TDS TELECOMMUNICATIONS CORPORATION

For approval of Master Affiliate Transaction Agreement pursuant to the Affiliates Act

**ORDER GRANTING APPROVAL**

On November 12, 2003, Amelia Telephone Corporation ("Amelia"), New Castle Telephone Company ("New Castle"), Virginia Telephone Company ("Virginia Telephone"), Telephone and Data Systems, Inc. ("TDS"), and TDS Telecommunications Corporation ("TDS Telecom") (collectively, the "Applicants") filed an application with the State Corporation Commission ("Commission") under Chapter 4 of Title 56 of the Code of Virginia ("Code") for approval of a Master Affiliate Transaction Agreement (the "Agreement").

TDS is a Delaware corporation and the parent company of TDS Telecom, also a Delaware corporation. Amelia, New Castle, and Virginia Telephone (collectively, the "TDS Virginia Telcos") hold certificates of public convenience and necessity and provide telecommunications services in Virginia. The TDS Virginia Telcos are wholly owned subsidiaries of TDS Telecom.

The proposed Agreement governs all transactions for goods and services between the Applicants and its other affiliates (Applicants and other affiliates referred to collectively as the "Participants") and the compensation for such transactions. The Agreement changes the form and updates the current agreements among the Participants. The Agreement also consolidates all prior agreements between the individual TDS Virginia Telcos into one formal agreement. The Applicants represent that the Agreement will not change the manner in which the various TDS affiliated entities operate or the manner in which goods and services are provided. In addition, the way in which costs are allocated to affiliates will not change from current practices but will provide more operating efficiency between the Applicants. New parties may opt into and out of the Agreement without requiring the Agreement to be revised for other Participants. To become a Participant, a new affiliated entity will only need to seek any necessary regulatory approvals.

The goods and services covered by the Agreement include technical assistance; network operations; acquisition of assets through sales, transfer, purchase, and leasing; information systems and billing; accounting and financial reporting; state and federal regulatory affairs, including tariff services; customer services and sales; securities and finances; employee pensions and benefits; human resources; insurance; corporate services; and taxes. Compensation for such transactions is in accordance with Part 32.27 of the Federal Communications Commission Rules, which provides for pricing goods and services at the prevailing price if the provider qualifies for prevailing price.

THE COMMISSION, upon consideration of the application and representations of the Applicants and having been advised by its Staff, is of the opinion and finds that the proposed Agreement is in the public interest provided that, for all services received by the TDS Virginia Telcos from non-regulated affiliates, the TDS Virginia Telcos pay the lower of cost or market. Pricing at prevailing price is inconsistent with past approvals, and we believe that pricing at the lower of cost or market for services received by the TDS Virginia Telcos from non-regulated affiliates is necessary to ensure that the Agreement is in the public interest.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to § 56-77 of the Code, the TDS Virginia Telcos are hereby granted approval to enter into the Master Affiliate Transaction Agreement under the terms and conditions and for the purposes as described herein provided that the TDS Virginia Telcos pay the lower of cost or market for services received from non-regulated affiliates.

(2) Commission approval shall be required for any changes in the terms and conditions of the Agreement, including assignments of obligations, from those contained herein.

(3) The approval granted herein shall not be deemed to include any approvals other than for the specific services contained in the Master Affiliate Transaction Agreement approved herein.

(4) The approval granted herein shall have no ratemaking implications.

(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 TDS Virginia Telcos shall bear the burden of proving that the above-referenced pricing restriction was followed.

(7) 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 otherwise regulates such affiliate.

(8) The TDS Virginia Telcos shall submit by May 1 of each year beginning May 1, 2005, subject to administrative extension by the Director of Public Utility Accounting, to the Division of Public Utility Accounting an Annual Report of Affiliate Transactions. Such report shall cover affiliate

transactions for the preceding calendar year and shall include a description of affiliate transactions and the associated costs incurred and/or payments received for all affiliate agreements broken down by direct charged and allocated costs.

(9) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUC-2003-00176  
JULY 13, 2004**

APPLICATION OF  
VOLO COMMUNICATIONS OF VIRGINIA, INC.

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

**FINAL ORDER**

On March 5, 2004, Volo Communications of Virginia, Inc. ("Volo" or the "Company"), 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. 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.

By Order for Notice and Comment dated April 27, 2004, the Commission directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. On June 14, 2004, the Company filed proof of publication and proof of service as required by the April 27, 2004, Order.

On June 29, 2004, the Staff filed its Report finding that Volo's application was in compliance with 20 VAC 5-417-10 *et seq.*, the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers and 20 VAC 5-411-10 *et seq.*, the Rules Governing the Certification of Interexchange Carriers. Based upon its review of Volo'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: Volo should notify the Division of Economics 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 Staff or 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, the Commission further finds that the Company may price its interexchange telecommunications services competitively.

Accordingly, IT IS ORDERED THAT:

(1) Volo is hereby granted a certificate of public convenience and necessity, No. TT-205A, 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) Volo is hereby granted a certificate of public convenience and necessity, No. T-628, 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 Company may price its interexchange telecommunications services competitively.

(4) The Company shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations.

(5) Volo shall notify the Division of Economics 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 Staff or the Commission determines it is no longer necessary.

(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 NOS. PUC-2003-00178 and PUC-1999-00150  
FEBRUARY 11, 2004**

APPLICATION OF  
UNITED TELEPHONE-SOUTHEAST, INC. AND  
CENTRAL TELEPHONE COMPANY OF VIRGINIA  
and  
ACC TELECOMMUNICATIONS OF VIRGINIA, LLC

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

APPLICATION OF  
UNITED TELEPHONE-SOUTHEAST, INC. AND  
CENTRAL TELEPHONE COMPANY OF VIRGINIA  
and  
HYPERION COMMUNICATIONS OF VIRGINIA, LLC

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**ORDER APPROVING AGREEMENT  
AND DISMISSING EARLIER PROCEEDING**

On November 24, 2003, United Telephone-Southeast, Inc. and Central Telephone Company of Virginia ("Sprint Companies") and ACC Telecommunications of Virginia, LLC ("ACC"), filed an interconnection agreement ("Agreement") entered under §§ 251 and 252 of the Telecommunications Act of 1996 (the "Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e). The Agreement is a product of ACC's adoption, pursuant to § 252(i) of the Act, of the Sprint Companies' agreement with NTELOS Network Inc.

This Agreement establishes the terms, conditions, and prices for the mutual exchange and termination of traffic originating on each party's network; the purchase by ACC of unbundled network elements from the Sprint Companies; the purchase by ACC of certain telecommunications services from the Sprint Companies for resale; and the provision of certain ancillary services.

On December 22, 2003, the Sprint Companies and ACC filed Amendment One to the Agreement. Amendment One would adopt transport rates for the Sprint Companies in Virginia and would include terms and conditions from the Federal Communications Commission's Triennial Review Order, In the Matter of the Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, FCC 03-36, CC Docket No. 01-338 (released August 21, 2003).

Counsel for the Sprint Companies indicated that notice of the Agreement and notice of Amendment One were served on the modified service list in this case as defined in the Commission's Procedural Rules for Implementing §§ 251 and 252 of the Act, 20 VAC 5-419-10 *et seq.* ("Procedural Rules"). Comments on the Agreement were to be filed on or before December 15, 2003, and comments on Amendment One were to be filed on or before January 13, 2004. No comments were received.

Whether the Commission is authorizing alternative forms of regulation or certifying competitive providers, it must assure the continuation of quality local exchange telecommunications services and protect the public interest. The Commission has a duty under the Constitution of Virginia and the Code of Virginia to regulate the operations of telecommunications public service companies to assure conformance to the public interest. See Va. Const. art. IX, § 2, and § 56-35, § 56-265.4:4, and Chapter 15 of Title 56 of the Code of Virginia. Our action approving the interconnection agreement and the amendment negotiated between the Sprint Companies and ACC is taken pursuant to that authority.

Notwithstanding their negotiated agreement, the Sprint Companies, ACC, and all other providers of local exchange telecommunications services must comply with all statutory standards and Commission rules and regulations. As required by 20 VAC 5-419-20.2 of the Procedural Rules, we have reviewed the negotiated Agreement and its Amendment One. We find no reason to reject this Agreement or Amendment One. They should not, however, be viewed as Commission precedent for other agreements. The Agreement and Amendment One are directly binding only on the Sprint Companies and ACC.

Additionally, according to the accompanying cover letter, the Agreement supersedes an earlier agreement between the parties approved by the Commission on November 29, 1999, in Case No. PUC-1999-00150. The parties have requested that the earlier agreement between the Sprint Companies and Hyperion Communications of Virginia, LLC, be dismissed.

Accordingly, IT IS THEREFORE ORDERED THAT:

- (1) Pursuant to the Commission's authority to regulate public service companies as authorized by the Virginia Constitution, art. IX, § 2, and § 56-35 of the Code of Virginia, the Agreement and Amendment One submitted by the Sprint Companies and ACC hereby are approved.
- (2) A copy of this Agreement and Amendment One shall be kept on file in the Commission's Division of Communications for inspection by the public.
- (3) This matter, Case No. PUC-2003-00178, is continued generally for the consideration of any subsequent revisions or amendments to the Agreement.
- (4) The earlier proceeding between the Sprint Companies and Hyperion Communications of Virginia, LLC, Case No. PUC-1999-00150, is hereby dismissed and the papers therein shall be placed in the file for ended causes.

**CASE NO. PUC-2003-00183  
JANUARY 14, 2004**

JOINT PETITION OF  
WORLDCom, INC.,  
MCIMETRO ACCESS TRANSMISSION SERVICES OF VIRGINIA, INC.,  
INSTITUTIONAL COMMUNICATIONS COMPANY-VIRGINIA,  
MCI WORLDCom COMMUNICATIONS OF VIRGINIA, INC.,  
INTERMEDIA COMMUNICATIONS OF VIRGINIA, INC.,  
and  
VIRGINIA METROTEL, INC.,

For approval of transfer of control and cancellation of certificate

**ORDER GRANTING APPROVAL OF TRANSFER OF CONTROL**

On December 17, 2003, WorldCom, Inc. ("WorldCom"), MCImetro Access Transmission Services of Virginia, Inc. ("MCImetro VA"), Institutional Communications Company - Virginia ("ICC VA"), MCI WorldCom Communications of Virginia, Inc. ("MCI WorldCom VA"), Intermedia Communications of Virginia, Inc. ("ICI VA"), and Virginia Metrotel, Inc. (collectively the "Petitioners"), filed a joint petition with the State Corporation Commission ("Commission") requesting approval, pursuant to Chapter 5 of Title 56 of the Code of Virginia ("Code"), to consummate a series of transactions through which direct and indirect control of various Virginia subsidiaries of WorldCom will be transferred to MCI, Inc., a yet-to-be formed Delaware corporation. Petitioners also request authority for cancellation of certificate and to discontinue telecommunications services.

WorldCom is a publicly traded Georgia corporation with its principal offices located in Ashburn, Virginia. Through its various subsidiaries, WorldCom is authorized to offer domestic interstate, intrastate, local, and international telecommunications services in each of the fifty (50) states and the District of Columbia, which includes intrastate telecommunications services within Virginia.

MCImetro VA is a Virginia public service corporation and is certificated to provide intrastate interexchange and competitive local exchange telecommunications services in Virginia. MCImetro VA is a wholly owned subsidiary of MCImetro Access Transmission Services, LLC ("MCImetro LLC"). MCImetro VA has both local and interexchange tariffs on file with the Commission's Division of Communications.

ICC VA is a public service corporation that is certificated to provide intrastate interexchange telecommunications services in Virginia. ICC VA does not have tariffs on file with the Division of Communications.

MCI WorldCom VA<sup>1</sup> is a Virginia public service corporation certificated to provide competitive local exchange and intrastate interexchange telecommunications services in Virginia. MCI WorldCom VA has both local and interexchange tariffs on file with the Division of Communications.

ICI VA<sup>2</sup> is a public service corporation certificated to provide intrastate interexchange and competitive local exchange telecommunications services in Virginia. ICI VA has both local and interexchange tariffs on file with the Division of Communications. ICI VA is a wholly owned subsidiary of Intermedia Communications, Inc., a publicly traded Delaware corporation.

Virginia Metrotel, Inc.,<sup>3</sup> is a public service corporation certificated to provide interexchange telecommunications services in Virginia but does not have tariffs on file with the Division of Communications.

More specifically, the Petitioners request approval to consummate a series of transactions through which Virginia Metrotel, Inc., will be merged into MCImetro VA. MCI WorldCom VA will transfer assets including, without limitation, contracts and executory contracts and unexpired leases to MCImetro VA. However, since only its local exchange operations will be merged into MCImetro VA, approval is not required under Chapter 5, Title 56 of the Code for this transfer. ICC VA will be merged into MCImetro VA. ICI will be merged into a wholly owned subsidiary of New MCI, Inc.

The purpose of the proposed transactions is to implement a restructuring plan that would allow WorldCom to emerge from Chapter 11 bankruptcy protection. The Petitioners represent that they will achieve some operating efficiencies, cost savings, and administrative benefits. The Petitioners represent that the new structure will reduce duplication of effort and confusion in WorldCom's dealings with regulators, other government agencies, vendors, and customers.

The proposed transactions are not expected to involve any change in the way Virginia customers are served other than the transfer of certain customers to another WorldCom Virginia entity, and telecommunications services will continue to be provided to customers in Virginia under the same rates, terms, and conditions. The Petitioners represent that the proposed transactions will be transparent to affected customers of WorldCom's Virginia operations besides a name change in certain instances. Also, the Petitioners represent that end-use customers have been notified in writing of the impending changes.

<sup>1</sup> Certificates of public convenience and necessity reflect the corporate name as MCI WORLDCom Communications of Virginia, Inc.

<sup>2</sup> The Virginia entity that holds certificates of public convenience and necessity is Intermedia Communications, Inc. It appears that the name Intermedia Communications, Inc. was changed on February 23, 1999, to Intermedia Communications of Virginia, Inc., but a request was never made to update its certificates of public convenience and necessity to reflect the new corporate name. WorldCom, et al. have been made aware of this during the review process. It has been confirmed that a request will be made to update the certificates of public convenience and necessity and tariffs to reflect the new corporate name, Intermedia Communications of Virginia, Inc.

<sup>3</sup> Certificate of public convenience and necessity reflects the corporate name as Virginia MetroTel, Inc.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

THE COMMISSION, upon consideration of the joint petition and representations of the Petitioners and having been advised by its Staff, is of the opinion and finds that the above-described transfers of control will neither impair nor jeopardize the provision of adequate services to the public at just and reasonable rates and should, therefore, be approved. We also find that the Petitioners' request for cancellation of certificate should be continued until further order of the Commission.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to §§ 56-88.1 and 56-90 of the Code, the Petitioners are hereby granted approval to consummate the transactions as described herein to allow for the transfers of control.
- (2) The approval granted herein shall not be deemed to include any other approvals other than for the transfer of control described herein.
- (3) The Petitioners' request for cancellation of certificate and the resulting discontinuance of service shall be continued until further order by the Commission.
- (4) The Petitioners shall submit a report of the action taken pursuant to the approval granted herein to the Commission's Director of Public Utility Accounting within thirty (30) days of consummation of the transactions, subject to administrative extension by the Director of Public Utility Accounting. Such report shall include the date transactions took place.
- (5) This matter shall be continued until further order of the Commission.

**CASE NO. PUC-2003-00183  
OCTOBER 19, 2004**

JOINT PETITION OF  
WORLDCOM, INC., MCIMETRO ACCESS TRANSMISSION SERVICES OF VIRGINIA, INC.,  
INSTITUTIONAL COMMUNICATIONS COMPANY-VIRGINIA, MCI WORLDCOM COMMUNICATIONS  
OF VIRGINIA, INC., INTERMEDIA COMMUNICATIONS OF VIRGINIA, INC.,  
and  
VIRGINIA METROTEL, INC.

For approval of transfer of control and cancellation of certificates

**FINAL ORDER**

On December 17, 2003, WorldCom, Inc. ("WorldCom"), MCI Metro Access Transmission Services of Virginia, Inc. ("MCI Metro VA"), Institutional Communications Company – Virginia ("ICC VA"), MCI WORLDCOM Communications of Virginia, Inc. ("MCI WORLDCOM VA"), Intermedia Communications of Virginia, Inc. ("ICI VA"), and Virginia Metrotel, Inc. ("VA Metrotel") (collectively the "Petitioners"), filed a petition with the State Corporation Commission ("Commission") under Chapter 5 (§ 56-88 *et seq.*) of Title 56 of the Code of Virginia (the "Utility Transfers Act"), requesting approval to transfer control of several WorldCom subsidiaries operating in Virginia to MCI, Inc., a new corporation formed in the State of Delaware as a part of WorldCom's plan of reorganization filed in the United States Bankruptcy Court for the Southern District of New York.

Under the plan of reorganization filed with the Bankruptcy Court, WorldCom proposed to reincorporate in Delaware by forming a new subsidiary in Delaware, to merge WorldCom into its newly formed subsidiary with the Delaware corporation being the surviving corporation, and to change WorldCom's name to MCI, Inc. The plan of reorganization further proposed to streamline WorldCom's operations through various mergers and corporate dissolutions in order to achieve operating efficiencies, cost savings and administrative benefits that would allow WorldCom to emerge from bankruptcy and continue its national and international telecommunications operations.

Several WorldCom subsidiaries that provide telecommunications services in Virginia were affected by the proposed mergers and dissolutions in WorldCom's plan of reorganization. Specifically, the Petitioners requested, among other things, Commission approval of the following transactions under the Utility Transfers Act in order to implement WorldCom's plan of reorganization as it relates to WorldCom's Virginia operations:

- (1) A proposed merger of Virginia Metrotel into MCI Metro VA and the cancellation of Virginia MetroTel's certificate of public convenience and necessity as an interexchange telecommunications carrier;
- (2) A proposed merger of ICC VA into MCI Metro VA and the cancellation of ICC VA's certificate of public convenience and necessity as an interexchange telecommunications carrier;
- (3) A proposed transfer of MCI WORLDCOM VA's competitive local exchange carrier operations to MCI Metro VA and the cancellation of MCI WORLDCOM VA's certificate of public convenience and necessity as a local exchange carrier. However, under the plan of reorganization, MCI WORLDCOM VA would retain its certificate of public convenience and necessity as an interexchange telecommunications carrier and continue providing interexchange telecommunications services in Virginia; and
- (4) A proposed merger of ICI VA into a newly formed, wholly owned subsidiary of MCI, Inc. when WorldCom emerges from bankruptcy.

On January 14, 2004, the Commission entered an Order granting the Petitioners authority to consummate the transactions described in their petition. The Petitioners were further directed to submit a report of action notifying the Commission's Division of Public Utility Accounting when the transactions affecting the companies' operations in Virginia took place. The Commission finally ordered that this proceeding be continued generally so the Petitioners and Commission Staff could address several customer migration and tariff related issues associated with the transfers of control authorized by the

Commission. This action was taken to ensure that all customer migration and tariff issues were resolved prior to the cancellation of any certificates of public convenience and necessity authorizing interexchange or local exchange telecommunications services in Virginia.

On September 29, 2004, the Petitioners filed a Motion and Supplement to Joint Petition. In their Motion, the Petitioners state that the companies have emerged from Chapter 11 bankruptcy protection in accordance with the plan of reorganization approved by the Bankruptcy Court. WorldCom has been reincorporated as MCI, Inc., and the company is in the process of completing and finalizing all business transactions necessary to carry out the plan of reorganization approved by the Bankruptcy Court. In order to complete and finalize the plan of reorganization for their operations in Virginia, the Petitioners request: (i) the cancellation of certain certificates of public convenience and necessity held by the Petitioners; (ii) the reissuance of local exchange and interexchange certificates to reflect the correct corporate name of Intermedia Communications of Virginia, Inc., as the entity providing local exchange and interexchange telecommunications services in Virginia; (iii) that the current case be closed; and (iv) such further relief as is appropriate.

NOW THE COMMISSION, having considered the Joint Petition and the Motion and Supplement to Joint Petition, is of the opinion, and finds, that the Petitioners' Motion should be granted, that the certificates of public convenience and necessity described in the Motion should be cancelled, that local exchange certificate No. T-384 and interexchange certificate No. TT-37A should be cancelled and reissued in the name of Intermedia Communications of Virginia, Inc. and that this case should be closed and the papers passed to the file for ended causes.

Accordingly, IT IS ORDERED THAT:

- (1) Petitioners' Motion and Supplement to Joint Petition is hereby granted.
- (2) Certificate of public convenience and necessity, No. TT-13A, issued to Institutional Communications Company – Virginia is hereby cancelled.
- (3) Certificate of public convenience and necessity, No. TT-2B, issued to SouthernNet of Virginia, Inc., is hereby cancelled.
- (4) Certificate of public convenience and necessity, No. TT-20A, issued to Virginia MetroTel, Inc., is hereby cancelled.
- (5) Certificate of public convenience and necessity, No. T-359b, issued to MCI WORLDCOM Communications of Virginia, Inc., is hereby cancelled.
- (6) Certificate of public convenience and necessity, No. TT-37A, issued to Intermedia Communications, Inc., is hereby cancelled.
- (7) Certificate of public convenience and necessity, No. TT-37B, is hereby issued to Intermedia Communications of Virginia, Inc., authorizing it to provide interexchange telecommunications services subject to all restrictions and conditions previously imposed in Certificate No. TT-37A, the restrictions set forth in the Commission's Rules Governing the Certification of Interexchange Carriers (codified in 20 VAC 5-411-10 *et seq.*), and § 56-265.4:4 of the Code of Virginia.
- (8) Certificate of public convenience and necessity, No. T-384, issued to Intermedia Communications, Inc., is hereby cancelled.
- (9) Certificate of public convenience and necessity, No. T-384a, is hereby issued to Intermedia Communications of Virginia, Inc., authorizing it to provide local exchange telecommunications services subject to all restrictions imposed in Certificate No. T-384, the restrictions set forth in the Commission's Rules Governing the Offering of Competitive Local Exchange Telephone Service (codified in 20 VAC 5-417-10 *et seq.*), and § 56-265.4:4 of the Code of Virginia.
- (10) Intermedia Communications of Virginia, Inc., shall submit revised tariffs no later than sixty (60) days from the date of this Order to the Commission's Division of Communications that conform with all applicable Commission rules and regulations and which use Intermedia Communications of Virginia, Inc.'s name rather than that of Intermedia Communications, Inc.
- (11) 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.

**CASE NO. PUC-2003-00184  
FEBRUARY 26, 2004**

APPLICATION OF  
ADELPHIA BUSINESS SOLUTIONS OF VIRGINIA, LLC d/b/a TELCOVE  
and  
ADELPHIA BUSINESS SOLUTIONS, INC. d/b/a TELCOVE

For authority to transfer control

**ORDER GRANTING APPROVAL**

On December 19, 2003, Adelpia Business Solutions of Virginia, LLC d/b/a TelCove ("Adelpia of Virginia"), and Adelpia Business Solutions, Inc. d/b/a TelCove ("ABIZ, Inc.") (collectively, "Applicants"), filed an application with the State Corporation Commission ("Commission") requesting authority pursuant to Chapter 5 of Title 56 of the Code of Virginia ("Code") to transfer control of ABIZ, Inc., and, therefore, Adelpia of Virginia.

ABIZ, Inc., is the ultimate parent company of Adelpia of Virginia. ABIZ, Inc., filed Chapter 11 bankruptcy in the Bankruptcy Court for the Southern District of New York ("Bankruptcy Court") on March 27, 2002.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Adelphia of Virginia filed Chapter 11 bankruptcy in the Bankruptcy Court on June 18, 2003. Both the case filed by ABIZ, Inc., and the case filed by Adelphia of Virginia are being administered jointly by the Bankruptcy Court. Adelphia of Virginia is authorized to provide local exchange and interexchange telecommunications services in Virginia. Its principal offices are located in Coudersport, Pennsylvania.

Adelphia Business Solutions Operations, Inc. d/b/a TelCove, a wholly owned subsidiary of ABIZ, Inc., owns 100% of Adelphia of Virginia. In an effort to emerge from bankruptcy, ABIZ, Inc., has proposed a reorganization plan that would include, among other transactions, the issuance of ten million shares of new common stock.

The Applicants propose a reorganization plan to allow the Applicants to emerge from bankruptcy. The reorganization plan proposes to: (1) authorize the issuance by ABIZ, Inc., of ten million shares of new common stock with a par value of \$.10; (2) extinguish the current equity interest in ABIZ, Inc., which is the interest of any holder of an equity security of ABIZ, Inc., represented by any issued and outstanding shares of common or preferred stock or other instrument evidencing a present ownership interest in ABIZ, Inc.; (3) permit holders of certain secured note claims to elect to receive a proportionate share of either new common stock or a cash recovery; (4) permit holders of general unsecured claims to elect to receive new common stock, warrants, or cash; and (5) allow ABIZ, Inc., to emerge from Chapter 11 and permit Adelphia of Virginia to continue to operate as a competitive local exchange carrier. ABIZ, Inc., will continue to hold the stock of its subsidiaries, including Adelphia of Virginia, as it does now.

The issuance of stock, including warrants to purchase such stock, will go to holders of unsatisfied claims against ABIZ, Inc., or certain of its affiliates. ABIZ, Inc., will also issue warrants to members of its new management team. Some of the claim holders have significant claims such that they might acquire, directly or indirectly, sufficient stock or by the exercise of warrants, ten percent or more of the voting securities of ABIZ, Inc. Upon the reorganization's effective date, the Applicants anticipate that Bay Harbour Management, LC, a limited corporation organized under the laws of the State of Florida, will acquire ten percent or more of ABIZ, Inc.'s voting securities. While it is not anticipated that any single member of ABIZ Inc.'s new management team will acquire ten percent or more of the voting securities of ABIZ, Inc., the possibility does exist.

Because of the possibility that Bay Harbour Management, LC, could own 25% of the voting securities of ABIZ, Inc., and that ABIZ, Inc., will have a completely new management team upon reorganization, a transfer of control of ABIZ, Inc., and, thereby, Adelphia of Virginia will take place, which requires approval under Chapter 5 of Title 56 of the Code.

The Applicants represent that the transfer of control will be transparent to customers of Adelphia of Virginia and that, even though the management team of ABIZ, Inc., will change, Adelphia of Virginia's management team will remain the same. Adelphia of Virginia will continue to offer telecommunications services to its customers in Virginia under the same rates, terms, and conditions.

THE COMMISSION, upon consideration of the application and representations of the Applicants and having been advised by its Staff, is of the opinion and finds that the above-described transfer of control 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 Applicants are hereby granted authority to transfer control of Adelphia Business Solutions of Virginia, LLC d/b/a TelCove 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 consummation of the transaction, subject to administrative extension by the Director of Public Utility Accounting. Such report shall include the date the transfer of control took place.

(3) There appearing nothing further to be done in this matter, it hereby is dismissed.



**CASE NOS. PUC-2003-00185, PUC-1999-00056, and PUC-1999-00061  
MARCH 3, 2004**

APPLICATION OF  
UNITED TELEPHONE -SOUTHEAST, INC. AND CENTRAL TELEPHONE COMPANY OF VIRGINIA  
and  
dPi TELECONNECT, L.L.C.

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

APPLICATION OF  
CENTRAL TELEPHONE COMPANY OF VIRGINIA  
and  
dPi TELECONNECT, L.L.C.

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

APPLICATION OF  
UNITED TELEPHONE-SOUTHEAST, INC.  
and  
dPi TELECONNECT, L.L.C.

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**ORDER APPROVING AGREEMENT AND  
DISMISSING TWO EARLIER PROCEEDINGS**

On December 22, 2003, United Telephone-Southeast, Inc. and Central Telephone Company of Virginia ("Sprint Companies"), and dPi Teleconnect, L.L.C. ("dPi"), filed an interconnection agreement ("Agreement"), entered under §§ 251 and 252 of the Telecommunications Act of 1996 (the "Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e).

This Agreement establishes the terms, conditions, and prices for the mutual exchange and termination of traffic originating on each party's network; the purchase by dPi of unbundled network elements from the Sprint Companies; the purchase by dPi of certain telecommunications services from the Sprint Companies for resale; and the provision of certain ancillary services.

Counsel for the Sprint Companies indicated that notice of the Agreement was served on the modified service list in this case as defined in the Commission's Procedural Rules for Implementing §§ 251 and 252 of the Act, 20 VAC 5-419-10 *et seq.* ("Procedural Rules"). Comments were to be filed on or before January 12, 2004, and none were received.

Whether the Commission is authorizing alternative forms of regulation or certifying competitive providers, it must assure the continuation of quality local exchange telecommunications services and protect the public interest. The Commission has a duty under the Constitution of Virginia and the Code of Virginia to regulate the operations of telecommunications public service companies to assure conformance to the public interest. *See* Va. Const. art. IX, § 2, and § 56-35, § 56-265.4:4, and Chapter 15 of Title 56 of the Code of Virginia. Our action approving the interconnection agreement negotiated between the Sprint Companies and dPi is taken pursuant to that authority.

Notwithstanding their negotiated agreement, the Sprint Companies, dPi, and all other providers of local exchange telecommunications services must comply with all statutory standards and Commission rules and regulations. As required by 20 VAC 5-419-20.2 of the Procedural Rules, we have reviewed the negotiated Agreement. We find no reason to reject this Agreement. It should not, however, be viewed as Commission precedent for other agreements. The Agreement is directly binding only on the Sprint Companies and dPi.

Additionally, according to the accompanying cover letter, the Agreement replaces two earlier agreements between the parties approved by the Commission on June 2, 1999, in Case No. PUC-1999-00056 and on July 14, 1999, in Case No. PUC-1999-00061. Those dockets approving the two earlier agreements will be dismissed.

Accordingly, IT IS THEREFORE ORDERED THAT:

- (1) Pursuant to the Commission's authority to regulate public service companies as authorized by the Virginia Constitution, art. IX, § 2, and § 56-35 of the Code of Virginia, the Agreement submitted by the Sprint Companies and dPi hereby is approved.
- (2) A copy of this Agreement shall be kept on file in the Commission's Division of Communications for inspection by the public.
- (3) This matter, Case No. PUC-2003-00185, is continued generally for the consideration of any subsequent revisions or amendments to the Agreement.
- (4) The earlier proceedings between the Sprint Companies and dPi Teleconnect, L.L.C., Case Nos. PUC-1999-00056 and PUC-1999-00061, are hereby dismissed and the papers therein shall be placed in the file for ended causes.

**CASE NO. PUC-2003-00186  
FEBRUARY 25, 2004**

JOINT PETITION OF  
LIGHTYEAR COMMUNICATIONS OF VIRGINIA, INC.,  
and  
LIGHTYEAR NETWORK SOLUTIONS, LLC

For approval to transfer assets and control

**ORDER GRANTING APPROVAL**

On December 23, 2003, Lightyear Communications of Virginia, Inc. ("Lightyear of Virginia"), and Lightyear Network Solutions, LLC ("New Lightyear") (collectively, the "Petitioners"), filed a joint petition with the State Corporation Commission ("Commission") requesting approval pursuant to Chapter 5 of Title 56 of the Code of Virginia ("Code") to transfer substantially all of the assets of Lightyear of Virginia to New Lightyear.

Lightyear of Virginia is a corporation organized under the laws of the Commonwealth of Virginia. Its principal business office is located in Louisville, Kentucky. Lightyear of Virginia was granted certificate of public convenience and necessity No. T-462 to provide local exchange telecommunications services in Virginia on October 5, 1999, in Case No. PUC-1999-00025. Lightyear of Virginia has been operating under the protection of the United States Bankruptcy Code in a case pending in the Bankruptcy Court for the Western District of Kentucky ("Bankruptcy Court").

New Lightyear is a newly created limited liability company organized and existing under the laws of the State of Kentucky. New Lightyear's offices are also located in Louisville, Kentucky. New Lightyear is a wholly owned subsidiary of LY Acquisition, LLC ("Acquisition"), a Kentucky limited liability company also located in Louisville, Kentucky. Acquisition, in turn, is owned by a series of new investors, including LANJK, LLC ("LANJK"); SullivanLY, LLC ("SullivanLY"); and Rice-LY Ventures, LLC ("Rice-LY").

LANJK owns 50% of Acquisition. LANJK is a newly created company formed as an investment vehicle for the specific purpose of investing in New Lightyear and its proposed acquisition of the telecommunications assets of Lightyear of Virginia and its affiliated companies. LANJK is located in Louisville, Kentucky, and its principal business is telecommunications investment. Its major shareholder is J. Sherman Henderson, III, who currently is President and Chief Executive Officer of Lightyear Holdings, Inc., the ultimate parent of Lightyear of Virginia.

Rice-LY is located in Lexington, Kentucky, and its principal business also is telecommunications investment. Its major shareholder is W. Brent Rice of Lexington, Kentucky, whose principal business is legal services.

SullivanLY is located in Las Vegas, Nevada, and its principal business is telecommunications investment. Its major shareholder is Tony Grappo of Las Vegas, Nevada, whose principal business is telecommunications investment.

The Petitioners request approval to consummate a series of transactions through which Lightyear of Virginia will emerge from bankruptcy through the transfer of substantially all of the assets of Lightyear of Virginia to New Lightyear. Additionally, New Lightyear will engage in a financial transaction whereby it will obtain additional operating capital for future operations concurrent with the transfer of assets to New Lightyear. Immediately after regulatory approval and completion of the transaction, New Lightyear will begin providing telecommunications services to the current customers of Lightyear of Virginia under the name Lightyear Network Solutions, LLC. New Lightyear filed an application with the Commission for a certificate of public convenience and necessity to provide local exchange telecommunications services in Case No. PUC-2004-00013. Because the transaction is part of a larger proceeding conducted under the supervision of the Bankruptcy Court, Lightyear of Virginia does not anticipate that the transaction will change the rates, terms, or conditions of service currently offered by Lightyear of Virginia.

The proposed transactions will allow a reorganization of Lightyear of Virginia and its affiliated companies by transferring substantially all of the assets of Lightyear of Virginia and its affiliated companies to New Lightyear, under the control of a new set of investors, LANJK, SullivanLY, and Rice-LY with access to the capital required to allow New Lightyear to continue operating after completion of the reorganization.

The proposed sale of the assets has been approved pursuant to an auction conducted under the supervision of the Bankruptcy Court on October 28, 2003. Pursuant to the terms of the Asset Purchase Agreement executed by Acquisition and Lightyear of Virginia and its affiliates, Acquisition agreed to an estimated purchase price of \$33.5 million through a combination of cash payment and debt assumption to satisfy the creditors of Lightyear of Virginia and its affiliates. At the time of closing, Acquisition will transfer Lightyear of Virginia immediately to New Lightyear. New Lightyear will then provide telecommunications services to all current Lightyear of Virginia customers. New Lightyear will continue to conduct its operations in substantially the same manner in which Lightyear of Virginia currently conducts them. Lightyear of Virginia currently provides only resale long distance telecommunications services to customers in Virginia. Lightyear of Virginia does not provide any local exchange telecommunications services in Virginia and does not have accepted tariffs on file with the Division of Communications.

THE COMMISSION, upon consideration of the joint petition and representations of the Petitioners and having been advised by its Staff, is of the opinion and finds that the above-described transfer of assets and control 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 to consummate the transactions as described herein to allow for the transfer of assets and control of Lightyear of Virginia to New Lightyear.

(2) The approval granted herein shall not be deemed to include any other approvals other than for the transfer of assets and control described herein.

(3) The Petitioners shall file a report of the action taken pursuant to the approval granted herein within thirty (30) days of consummation of the transaction, subject to administrative extension by the Director of Public Utility Accounting. Such report shall include the date the transaction took place.

(4) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUC-2004-00001  
MAY 26, 2004**

APPLICATION OF  
COMTECH 21, LLC

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

**ORDER GRANTING MOTION TO WITHDRAW AND DISMISSING CASE**

On May 21, 2004, Comtech 21, LLC ("Comtech 21" or the "Applicant"), filed a Motion to Withdraw Application with the State Corporation Commission ("Commission") requesting that the Commission grant its motion and allow the Applicant to withdraw the above-captioned application.

NOW THE COMMISSION, having considered the request, finds that such request is reasonable and should be granted, and the above-captioned case should be dismissed without prejudice.

Accordingly, IT IS ORDERED THAT Comtech 21's motion to withdraw the above-referenced application is hereby granted, and this case is dismissed without prejudice from the Commission's docket of active cases.

**CASE NO. PUC-2004-00002  
MARCH 1, 2004**

PETITION OF  
YTV, INC.

For approval of transfers of control

**ORDER GRANTING APPROVAL**

On January 12, 2004, YTV, Inc. ("YTV"), filed a petition with the State Corporation Commission ("Commission") requesting approval of a series of financing transactions whereby the ownership interest of up to two of the current minority shareholders of YTV's ultimate parent, Yipes Holdings, Inc. ("Yipes Holdings"), would increase to a level exceeding 25% ownership.

On February 28, 2003, in Case No. PUC-2002-00228, the Commission authorized Yipes Enterprise Services, Inc. ("YES"), a wholly owned subsidiary of Yipes Holdings, to acquire YTV in connection with the emergence of Yipes Holdings and its affiliated companies from the protection of the Bankruptcy Court for the Northern District of California pursuant to Chapter 11 of the Bankruptcy Code. YTV, Yipes Holdings, and YES are collectively referred to herein as "Yipes Companies."

YTV is a public service company organized and existing under the laws of Virginia. YTV holds certificate of public convenience and necessity No. T-5 16a to provide local exchange telecommunications services in Virginia. Pursuant to that authority, YTV maintains telecommunications facilities in Herndon and Vienna, Virginia, and has other physical assets located in Virginia, which are used to provide telecommunications services in the Commonwealth.

Both YES and Yipes Holdings are corporations organized and existing under the laws of Delaware, with offices located in San Francisco, California. Yipes Companies provide scalable Gigabit Ethernet services to customers in ten major metropolitan markets across the country, including the Washington D.C. area, and provide area networking and high-speed Internet access services.

As stated in the petition, Yipes Holdings is anticipating new financing of \$10 million, but no new investors will be involved. One of the existing investors, New Enterprise Associates, with more than 10% ownership, has indicated it does not expect to participate in the new financing. The other existing investors who currently hold more than 10% ownership in Yipes Holdings include Norwest Venture Partners ("Norwest"), Sprout Capital ("Sprout"), and J.P. Morgan ("Morgan"). They have all agreed to participate in the new financing. Accordingly, their ownership interests will likely increase by approximately five to six percent each. Norwest's ownership level already exceeds 25%. Sprout's interest in Yipes Holdings will increase from below 25% to above 25%, resulting in an indirect "controlling" interest in YTV. There is also a possibility that Morgan's ownership interest could exceed 25% as a result of its participation in the new financing program. The final level of participation by these three investors has not been determined.

The petition asserts that approval of the transactions will serve the public interest by increasing competition in the Virginia telecommunications market by reinforcing YTV's status as a viable competitor in Virginia. Furthermore, the transactions will occur at the holding company level and will not affect the rates, terms, and conditions under which YTV provides telecommunications services in Virginia.

THE COMMISSION, upon consideration of the petition and representations of YTV and having been advised by its Staff, is of the opinion and finds that the transactions described herein, involving increased stock ownership by existing minority stockholders in Yipes Holdings, the ultimate parent of YTV, will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates. The petition should, therefore, be approved.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to §§ 56-88.1 and 56-90 of the Code of Virginia, approval is hereby granted for increased stock ownership by two minority stockholders in Yipes Holdings, the ultimate parent of YTV, resulting in a transfer of control of YTV, as described herein.
- 2) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUC-2004-00004  
JANUARY 28, 2004**

APPLICATION OF  
CABLE & WIRELESS USA OF VIRGINIA, INC.

For cancellation of a certificate of public convenience and necessity to provide local exchange telecommunications services

**ORDER**

On January 14, 2004, Cable & Wireless USA of Virginia, Inc. ("Cable & Wireless" or the "Company"),<sup>1</sup> filed with the State Corporation Commission ("Commission") a letter application for cancellation of a certificate of public convenience and necessity ("CPCN") to provide local exchange telecommunications services.<sup>2</sup> Certificate No. T-380a was granted to the Company by the Commission by Order dated April 10, 2003, in Case No. PUC-2003-00042.

In its application, Cable & Wireless advises the Commission that the Company has revised its business plan and has decided to withdraw from the local exchange market. The Company further states that it has no current or former local exchange telecommunications services customers in the Commonwealth.

NOW UPON CONSIDERATION of the matter, the Commission finds that Cable & Wireless' certificate should be cancelled.

Accordingly, IT IS ORDERED THAT:

- (1) Certificate No. T-380a authorizing Cable & Wireless to provide local exchange telecommunications services throughout the Commonwealth is hereby cancelled.
- (2) Any local exchange tariffs for Cable & Wireless on file with the Commission are cancelled.
- (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.

<sup>1</sup> The letter application was filed in the name of Cable & Wireless of Virginia, Inc. Cable & Wireless of Virginia, Inc., however, changed its name to Cable & Wireless USA of Virginia, Inc., on April 10, 2003, in Case No. PUC-2003-00042.

<sup>2</sup> The Company also holds an interexchange CPCN, Certificate No. TT-5C. The instant filing does not request any action regarding this CPCN.

**CASE NO. PUC-2004-00007  
MARCH 5, 2004**

JOINT PETITION OF  
ALLEGIANCE TELECOM, INC., DEBTOR-IN-POSSESSION, ASSIGNOR  
and  
QWEST COMMUNICATIONS INTERNATIONAL INC., ASSIGNEE

For approval of assignment of assets

**DISMISSAL ORDER**

On February 3, 2004, Allegiance Telecom, Inc., Debtor-in-Possession ("ATI"), and Qwest Communications International Inc. ("QCII") (collectively, "Joint Petitioners") completed a joint petition originally filed with the State Corporation Commission ("Commission") on January 21, 2004, for approval of the proposed assignment from ATI's Virginia subsidiary, Allegiance Telecom of Virginia, Inc., Debtor-in-Possession ("Allegiance Virginia"), to Qwest Communications Corporation and, in turn, to Qwest Communications Corporation of Virginia of substantially all of Allegiance Virginia's assets used in the provision of intrastate telecommunications services.

On February 23, 2004, counsel for Joint Petitioners filed a letter requesting dismissal without prejudice of the joint petition. In the February 23, 2004, letter, Joint Petitioners state that the joint petition was in furtherance of the reorganization of ATI under Chapter 11 of the U.S. Bankruptcy Code. Joint Petitioners further state that, on February 12, 2004, ATI commenced an auction for the sale of its assets pursuant to procedures adopted by the U.S. Bankruptcy Court for the Southern District of New York ("the Bankruptcy Court"). On February 13, 2004, ATI announced that XO Communications Inc.

("XO") had submitted the highest bid in the auction, and the Bankruptcy Court confirmed XO as the winner. Accordingly, the proposed assignment of assets between ATI and QCH will be terminated.

NOW THE COMMISSION, upon consideration of the joint petition and Joint Petitioners' request to withdraw their joint petition and having been advised by its Staff, is of the opinion and finds that the Joint Petitioners' request for dismissal without prejudice should be granted.

Accordingly, IT IS ORDERED THAT there appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUC-2004-00009  
JUNE 16, 2004**

APPLICATION OF  
NEXTG NETWORKS ATLANTIC, INC.

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

**FINAL ORDER**

On February 4, 2004, NextG Networks Atlantic, Inc. ("NextG" or "Company"), 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. 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.

By Order for Notice and Comment dated March 3, 2004, the Commission directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. On April 14, 2004, the Company filed proof of publication and proof of service as required by the Commission's Order of March 3, 2004.

On April 5, 2004, NextG, by counsel, filed a letter requesting additional time to file its performance or surety bond as required by 20 VAC 5-417-20 G of the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers ("CLEC Rules"). By Order dated April 23, 2004, the Commission granted NextG's request and ordered that the Company file a performance bond or surety bond in the amount of \$50,000 on or before May 20, 2004.

As required by Ordering Paragraph (7) of the Commission's March 3, 2004, Order, the Staff investigated NextG's application to determine compliance with the Commission's CLEC Rules and Rules Governing the Certification of Interexchange Carriers (IXC Rules) 20 VAC 5-411-10 *et seq.* The Staff's investigation found that the Company will initially be providing radiofrequency transport and backhaul service to commercial mobile radio service ("CMRS") providers throughout the Commonwealth of Virginia. Voice services will be provided sometime in the future.

Based upon its review, the Staff found that NextG's application currently meets all the requirements imposed by the Commission except Rules 20 VAC 5-417-20 and 20 VAC 5-417-30 of the CLEC Rules. Rule 20 VAC 5-417-20 G requires new entrants to file a \$50,000 performance or surety bond to demonstrate its financial ability to render local exchange telecommunications services. NextG requested that the Commission waive the bond requirement and accept a \$50,000 letter of credit drawn on the Silicon Valley Bank as evidence of its financial ability to provide service. While Rule 20 VAC 5-417-20 G requires that a performance or surety bond be filed by new entrants, the Staff Report found that NextG substantially complied with the intent of the CLEC Rules and therefore recommended that its letter of credit be accepted as appropriate surety in lieu of a performance or surety bond.

Rule 20 VAC 5-417-30 of the CLEC Rules further requires new entrants to provide access to 911 and E911 services; white page directory listings; access to telephone relay services; access to directory assistance; and numerous other services when a new entrant begins to provide local exchange telecommunications services. The Staff Report noted that NextG will not provide these services immediately upon issuance of a local exchange certificate. NextG plans to limit its services to the provision of radiofrequency transport and backhaul service to CMRS providers for the immediate future and will not, at least initially, be providing voice services. However, the Company has committed to comply with Rule 20 VAC 5-417-30 of the CLEC Rules when it expands its service and begins offering voice services.

The Staff Report concluded by recommending that NextG be granted certificates to provide local exchange and interexchange telecommunications services subject to the following conditions:

- (1) NextG should notify the Division of Economics and Finance no less than thirty (30) days prior to the cancellation or lapse of its letter of credit and should provide a replacement bond or letter of credit at that time. This requirement should be maintained until such time as the Staff or the Commission determines it is no longer necessary; and
- (2) At such time as voice services are initiated by NextG, the Company should comply with all the requirements of 20 VAC 5-417-30 of the CLEC Rules.

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, the Commission further finds that the Company may price its interexchange telecommunications services competitively.

Accordingly, IT IS ORDERED THAT:

- (1) NextG is hereby granted a certificate of public convenience and necessity, No. TT-204A, 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) NextG is hereby granted a certificate of public convenience and necessity, No. T-627, 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 Company may price its interexchange telecommunications services competitively.
- (4) The Company shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations.
- (5) The local exchange certificate issued pursuant to Ordering Paragraph (2) above shall be issued subject to the following conditions:
  - (i) The holder of this certificate shall notify the Division of Economics and Finance no less than thirty (30) days prior to the cancellation or lapse of its letter of credit and shall provide a replacement bond or letter of credit at that time. This requirement shall be maintained until such time as the Staff or the Commission determines it is no longer necessary; and
  - (ii) At such time as local exchange voice telecommunications services are initiated under this certificate the holder shall comply with all the requirements of 20 VAC 5-417-30 of the CLEC Rules.
- (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-2004-00010  
APRIL 23, 2004**

APPLICATION OF  
KINEX TELECOM, INC.

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

**FINAL ORDER**

On January 22, 2004, Kinex Telecom, Inc. ("Kinex" or "Company"), filed 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. 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.

By Order for Notice and Comment dated February 4, 2004, the Commission directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. On March 12, 2004, the Company filed proof of publication and proof of service as required by the Commission's Order of February 4, 2004.

As required by ordering paragraph (7) of the Order, the Staff investigated Kinex's application to determine compliance with 20 VAC 5-417-10 *et seq.*, of the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers ("CLEC Rules") and 20 VAC 5-411-10 *et seq.*, of the Rules Governing the Certification of Interexchange Carriers ("IXC Rules"). The Staff Report indicates that Kinex is currently an Internet service provider that seeks to expand its business in Virginia and offer both voice and data telecommunications services in the future. Based upon its review, the Staff found that Kinex's application currently meets all of the requirements imposed by the Commission except Rules 20 VAC 5-417-20 and 20 VAC 5-417-30 of the CLEC Rules.

Rule 20 VAC 5-417-20 requires new entrants to file a \$50,000 bond to demonstrate its financial responsibility within thirty (30) days after the issuance of an Order of Notice and Comment by the Commission. By letter dated March 4, 2002, Kinex requested that the bond requirement be waived temporarily by the Commission, pursuant to Rule 20 VAC 5-417-80, until such time as the Company begins to provide local exchange telecommunications services to the general public. The Staff did not oppose the Company's request for a temporary waiver of the bond requirement but recommended that a condition be attached to Kinex's local exchange certificate requiring the Company to provide a \$50,000 bond when it files a proposed tariff for review and acceptance by the Division of Communications.

Rule 20 VAC 5-417-30 of the CLEC Rules further requires new entrants to provide access to 911 and E911 services, white page directory listings, access to telephone relay services, access to directory assistance, and numerous other services when a new entrant begins to provide local exchange telecommunications services. The Staff Report noted that Kinex will not provide these services immediately upon issuance of a local exchange certificate. Kinex plans to continue to limit its services to the provision of high speed Internet access and data services for the immediate future. However, the Company has committed to comply with Rule 20 VAC 5-417-30 of the CLEC Rules when it expands its service and begins offering voice service.

The Staff Report recommended that the Commission grant Kinex certificates to provide local exchange and interexchange telecommunications services subject to the following conditions:

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

- (1) At such time as Kinex files a Virginia tariff for review and acceptance to provide local exchange telecommunications services, Kinex should also provide a \$50,000 bond to the Division of Economics and Finance.
- (2) Kinex should notify the Division of Economics 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 Staff or the Commission determines it is no longer necessary.
- (3) At such time as voice services are initiated by Kinex, the Company should comply with all requirements of 20 VAC 5-417-30 of the CLEC Rules.

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, the Commission further finds that the Company may price its interexchange telecommunications services competitively.

Accordingly, IT IS ORDERED THAT:

(1) Kinex is hereby granted a certificate of public convenience and necessity, No. TT-202A, 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) Kinex is hereby granted a certificate of public convenience and necessity, No. T-623, 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 Company may price its interexchange telecommunications services competitively.

(4) The Company shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations.

(5) The local exchange certificate issued pursuant to ordering paragraph (2) above shall be issued subject to the following conditions:

- (i) No local exchange telecommunications services shall be provided under this certificate until such time as the holder has an accepted Virginia tariff on file with the Commission's Division of Communications and a \$50,000 bond on file with the Division of Economics and Finance;
- (ii) The holder of this certificate shall notify the Division of Economics 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 or the Staff determines it is no longer necessary; and
- (iii) No local exchange voice telecommunications services shall be provided under this certificate until the holder complies with all the requirements of 20 VAC 5-417-30 of the CLEC Rules.

(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-2004-00011  
FEBRUARY 11, 2004**

APPLICATION OF  
C3 NETWORKS & COMMUNICATIONS LIMITED PARTNERSHIP

For cancellation of certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

**ORDER**

On January 22, 2004, C3 Networks & Communications Limited Partnership ("C3" or the "Company") filed an application with the State Corporation Commission ("Commission") requesting cancellation of its certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services in the Commonwealth. Certificate No. TT-175A granting interexchange telecommunications authority and Certificate No. T-582 granting local exchange telecommunications authority were granted to the Company by Commission Order dated May 2, 2002, in Case No. PUC-2001-00227.

In its application, C3 states that due to changes in its business plan the Company does not intend to provide either local exchange or interexchange telecommunications services in Virginia. The Company further represents that it is not currently serving any customers in Virginia

NOW UPON CONSIDERATION of the matter, the Commission finds that the certificates of public convenience and necessity granted to C3 should be cancelled. The Commission further finds that any tariffs on file with the Division of Communications in the name of C3 should be cancelled.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed and assigned Case No. PUC-2004-00011.
- (2) Certificate Nos. TT-175A granting interexchange authority and T-582 granting local exchange authority to C3 Networks & Communications Limited Partnership are hereby cancelled.
- (3) Any tariffs associated with Certificate Nos. TT-175A and T-582 on file with the Division of Communications are hereby cancelled.
- (4) There being nothing further to come before the Commission, this case is hereby closed.

**CASE NO. PUC-2004-00013  
MAY 13, 2004**

APPLICATION OF  
LIGHTYEAR NETWORK SOLUTIONS, LLC

For a certificate of public convenience and necessity to provide local exchange telecommunications services

**FINAL ORDER**

On February 9, 2004, Lightyear Network Solutions, LLC ("Lightyear" or the "Company"), completed an application for a certificate of public convenience and necessity with the State Corporation Commission ("Commission") to provide local exchange telecommunications services throughout the Commonwealth of Virginia.

By Order for Notice and Comment dated February 23, 2004, the Commission directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. On April 16, 2004, the Company filed proof of publication and proof of service as required by the February 23, 2004, Order.

On April 23, 2004, the Staff filed its Report finding that Lightyear's application was in compliance with 20 VAC 5-417-10 et seq., the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers. Based upon its review of Lightyear's application, the Staff determined it would be appropriate to grant the Company a certificate to provide local exchange telecommunications services subject to the following conditions:

- (1) At such time as Lightyear files a Virginia tariff for review and acceptance with the Division of Communications, Lightyear should provide a \$50,000 bond to the Division of Economics and Finance as specified by the Staff.
- (2) Lightyear should notify the Division of Economics and Finance no less than 30 days prior to the cancellation or lapse of its bond and shall provide a replacement bond at that time. This requirement should be maintained until such time as the Staff or 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 a certificate to provide local exchange telecommunications services.

Accordingly, IT IS ORDERED THAT:

- (1) Lightyear Network Solutions, LLC, is hereby granted a certificate of public convenience and necessity, No. T-624, 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) The Company shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations.
- (3) At such time as the Company files a Virginia tariff for review and acceptance with the Division of Communications, the Company shall provide a \$50,000 bond to the Division of Economics and Finance as specified by the Staff.
- (4) The Company shall notify the Division of Economics 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 Staff or the Commission determines it is no longer necessary.
- (5) 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-2004-00014  
FEBRUARY 11, 2004**

APPLICATION OF  
TOUCH AMERICA, INC.-VIRGINIA

For cancellation of a certificate of public convenience and necessity to provide interexchange telecommunications services

**ORDER CANCELLING CERTIFICATE**

On January 30, 2004, Touch America, Inc.-Virginia ("Touch America VA" or the "Company"), filed a letter application with the State Corporation Commission ("Commission") requesting cancellation of a certificate of public convenience and necessity ("Certificate") to provide interexchange telecommunications services.<sup>1</sup> The Commission granted Certificate No. TT-145A to Touch America VA in Case No. PUC-2000-00273 on April 2, 2001.

In its application, Touch America VA states that as of January 31, 2004, the Company does not have any Virginia customers subscribed to any of its intrastate, regulated telecommunications services. Touch America VA requests that the Commission cancel the Certificate and cancel and withdraw the Company's tariffs.

NOW UPON CONSIDERATION of the matter, the Commission finds that the Certificate granted to Touch America VA should be cancelled. The Commission further finds that any interexchange telecommunications tariff on file with the Division of Communications should be cancelled.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed and assigned Case No. PUC-2004-00014.
- (2) Certificate No. TT-145A authorizing Touch America, Inc.-Virginia to provide interexchange telecommunications services throughout the Commonwealth is hereby cancelled.
- (3) Any tariffs associated with Certificate No. TT-145A on file with the Division of Communications are hereby cancelled.
- (4) There being nothing further to be done, this matter shall be dismissed from the Commission docket of active cases and the papers filed herein placed in the Commission's file for ended causes.

<sup>1</sup> The application to cancel CPCN TT-145A was filed by Touch America, Inc. The Virginia entity that holds CPCN TT-145A, however, is Touch America, Inc.-Virginia.

**CASE NO. PUC-2004-00016  
SEPTEMBER 16, 2004**

APPLICATION OF  
SYNIVERSE NETWORKS OF VIRGINIA, INC.

For a certificate of public convenience and necessity to provide local exchange telecommunications services

**FINAL ORDER**

On April 29, 2004, Syniverse Networks of Virginia, Inc. ("Syniverse" or the "Company"), completed an application for a certificate of public convenience and necessity with the State Corporation Commission ("Commission") to provide local exchange telecommunications services throughout the Commonwealth of Virginia.<sup>1</sup> By Order dated May 20, 2004, the Commission directed the Company to provide notice to the public of its application; granted interested persons the opportunity to file comments or request a hearing on the application; and directed the Commission's Staff to investigate the application and present its findings in a Staff Report.

On July 19, 2004, the Commission entered an Order requiring the Company to republish notice of its application. That Order also extended the procedural schedule for the filing of comments and requests for hearing by interested persons; the filing date for the Staff Report; and the filing date for any Company responses to the Staff Report and any comments or requests for hearing filed by interested persons.

The Company filed proof of publication and proof of service as required by the Commission's Orders of May 20, 2004, and July 19, 2004. No comments or requests for hearing were filed by interested persons.

On August 30, 2004, the Staff filed its Report finding that Syniverse's application was in compliance with 20 VAC 5-417-10 *et seq.*, the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers ("CLEC Rules"). Based upon its review of Syniverse's application, the

<sup>1</sup> This application was filed initially by TSI Telecommunication Network Services, Inc. ("TSI"). However, the application was not deemed "complete" by the Commission's Staff because TSI was a foreign corporation and, consequently, not organized under the laws of Virginia as a public service company as required by 20 VAC 5-417-20 D of the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers ("CLEC Rules"). Syniverse Networks of Virginia, Inc. was later formed as a Virginia public service corporation to comply with the CLEC Rules.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Staff determined it would be appropriate to grant the Company a certificate to provide local exchange telecommunications services subject to the following conditions:

- (1) Syniverse should notify the Division of Economics 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 Staff or the Commission determines it is no longer necessary.
- (2) At such time as voice services are initiated by Syniverse, the Company should comply with all the requirements of 20 VAC 5-417-30 of the CLEC Rules.

NOW THE COMMISSION, having considered the application and the Staff Report, finds that the Company should be granted a certificate to provide local exchange telecommunications services. The Commission further finds that the certificate granted to the Company herein should be subject to the conditions recommended by the Staff in its Report.

Accordingly, IT IS ORDERED THAT:

(1) Syniverse is hereby granted a certificate of public convenience and necessity, No. T-631, 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) The Company shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations.

(3) The local exchange certificate issued pursuant to Ordering Paragraph (1) above shall be issued subject to the following conditions:

- (i) Syniverse shall notify the Division of Economics 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 Staff or the Commission determines it is no longer necessary; and
- (ii) At such time as voice services are initiated by Syniverse, the Company shall comply with all requirements of 20 VAC 5-417-30 of the CLEC Rules.

(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.

**CASE NO. PUC-2004-00017  
MAY 28, 2004**

APPLICATION OF  
FRANCE TELECOM CORPORATE SOLUTIONS L.L.C.

For a certificate of public convenience and necessity to provide local exchange telecommunications services

**FINAL ORDER**

On February 6, 2004, France Telecom Corporate Solutions L.L.C. ("France Telecom" or the "Company") filed an application for a certificate of public convenience and necessity with the State Corporation Commission ("Commission") to provide local exchange telecommunications services throughout the Commonwealth of Virginia.

By Order for Notice and Comment dated March 5, 2004, the Commission directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. On April 14, 2004, the Company filed proof of publication and proof of service as required by the March 5, 2004, Order.

On May 6, 2004, the Staff filed its Report finding that France Telecom's application was in compliance with 20 VAC 5-417-10 *et seq.*, the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers. Based upon its review of France Telecom's application, the Staff determined it would be appropriate to grant the Company a certificate to provide local exchange telecommunications services subject to the following condition: France Telecom should notify the Division of Economics 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 and that this requirement should be maintained until such time as the Staff or 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 a certificate to provide local exchange telecommunications services.

Accordingly, IT IS ORDERED THAT:

(1) France Telecom Corporate Solutions L.L.C. is hereby granted a certificate of public convenience and necessity No. T-625 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) The Company shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations.

(3) The Company shall notify the Division of Economics 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 Staff or the Commission determines it is no longer necessary.

(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.

**CASE NO. PUC-2004-00019**  
**FEBRUARY 24, 2004**

APPLICATION OF  
WILLIAMS COMMUNICATIONS OF VIRGINIA, INC.

To cancel existing certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services and to reissue certificates reflecting new name

**FINAL ORDER**

By letter application filed February 6, 2004, Williams Communications of Virginia, Inc. ("Williams"), informed the State Corporation Commission ("Commission") that it had changed its corporate name to WilTel Communications of Virginia, Inc. ("WilTel").

In its notice, Williams stated that it had filed Articles of Amendment with the Commission to change its name and that on January 31, 2003, the Commission issued a Certificate of Amendment changing the corporate name from Williams to WilTel. Although Williams failed to request cancellation of its certificates of public convenience and necessity ("certificates") issued in its name and the reissuance of certificates reflecting its new name, we take notice that this should be done.

NOW, UPON CONSIDERATION of the foregoing, the Commission is of the opinion and finds that certificates of public convenience and necessity No. TT-42B and No. T-473, issued to Williams, should be cancelled, and certificates of public convenience and necessity should be reissued to WilTel reflecting its new name.

Accordingly, IT IS THEREFORE ORDERED THAT:

- (1) This matter is hereby docketed and assigned Case No PUC-2004-00019.
- (2) Certificate of public convenience and necessity, No. TT-42B, issued to Williams is hereby cancelled.
- (3) Certificate of public convenience and necessity, No. TT-42C, is hereby issued to WilTel Communications of Virginia, Inc., authorizing it to provide interexchange telecommunications services, subject to the restrictions set forth in the Commission's Rules Governing the Certification of Interexchange Carriers (codified in 20 VAC 5-411-10 *et seq.*), § 56-265.4:4 of the Code of Virginia, and the provisions previously set out in the Commission's January 7, 2000, Final Order entered in Case No. PUC-1999-00222.
- (4) Certificate of public convenience and necessity, No. T-473, issued to Williams is hereby cancelled.
- (5) Certificate of public convenience and necessity, No. T-473a, is hereby issued to WilTel Communications of Virginia, Inc., authorizing it to provide local exchange telecommunications services, subject to the restrictions set forth in the Commission's Rules Governing the Offering of Competitive Local Exchange Telephone Service (codified in 20 VAC 5-417-10 *et seq.*), § 56- 265.4:4 of the Code of Virginia, and the provisions previously set out in the Commission's December 21, 1999, Final Order entered in Case No. PUC-1999-00155.
- (6) WilTel Communications of Virginia, Inc., shall file revised tariffs no later than sixty (60) days from the date of this Order with the Commission's Division of Communications that conform with all applicable Commission rules and regulations and which use WilTel Communications of Virginia, Inc.'s name rather than that of Williams.
- (7) 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.

**CASE NOS. PUC-2004-00020 and PUC-2002-00114  
APRIL 29, 2004**

APPLICATION OF  
NTELOS TELEPHONE INC.  
and  
VIRGINIA CELLULAR LLC d/b/a CELLULAR ONE

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

APPLICATION OF  
NTELOS TELEPHONE INC.  
and  
VIRGINIA CELLULAR LLC d/b/a CELLULAR ONE

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**ORDER APPROVING AGREEMENT  
AND DISMISSING EARLIER PROCEEDING**

On February 6, 2004, NTELOS Telephone Inc. ("NTELOS") and Virginia Cellular LLC d/b/a Cellular One ("Virginia Cellular") filed a commercial mobile radio service ("CMRS") interconnection agreement ("Agreement"), entered into under §§ 251 and 252 of the Telecommunications Act of 1996 (the "Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e).

The Agreement establishes the terms, conditions, and prices for the mutual exchange and termination of traffic originating on each party's network.

NTELOS has indicated that notice of the Agreement was served on the modified service list in this case as defined in the Commission's Procedural Rules for Implementing §§ 251 and 252 of the Act, 20 VAC 5-419-10 *et seq.* ("Procedural Rules"). Comments were to be filed on or before April 21, 2004, and none were received.

Whether the Commission is authorizing alternative forms of regulation or certifying competitive providers, it must assure the continuation of quality local exchange telecommunications services and protect the public interest. The Commission has a duty under the Constitution of Virginia and the Code of Virginia to regulate the operations of telecommunications public service companies to assure conformance to the public interest. *See* Va. Const. art. IX, § 2, and § 56-35, § 56-265.4:4, and Chapter 15 of Title 56 of the Code of Virginia. Our action approving the interconnection agreement negotiated between NTELOS and Virginia Cellular is taken pursuant to that authority.

Notwithstanding their negotiated agreement, NTELOS, Virginia Cellular, and all other providers of local exchange telecommunications services must comply with all statutory standards and Commission rules and regulations. As required by 20 VAC 5-419-20.2 of the Procedural Rules, we have reviewed the negotiated Agreement. We find no reason to reject this Agreement. It should not, however, be viewed as Commission precedent for other agreements. The Agreement is directly binding only on NTELOS and Virginia Cellular.

Additionally, according to the cover letter accompanying the Agreement, the Agreement supersedes an earlier agreement between the parties approved by the Commission on June 19, 2002, in Case No. PUC-2002-00114. The parties have requested that the earlier agreement between NTELOS and Virginia Cellular be dismissed.

Accordingly, IT IS THEREFORE ORDERED THAT:

- (1) Pursuant to the Commission's authority to regulate public service companies as authorized by the Virginia Constitution, art. IX, § 2, and § 56-35 of the Code of Virginia, the interconnection agreement submitted by NTELOS and Virginia Cellular hereby is approved.
- (2) A copy of this Agreement shall be kept on file in the Commission's Division of Communications for inspection by the public.
- (3) This matter, Case No. PUC-2004-00020, is continued generally for the consideration of any subsequent revisions or amendments to the Agreement.
- (4) The earlier proceeding between NTELOS and Virginia Cellular, Case No. PUC-2002-00114, is hereby dismissed and the papers therein shall be placed in the file for ended causes.

**CASE NO. PUC-2004-00021  
MARCH 5, 2004**

APPLICATION OF  
PLAN B COMMUNICATIONS OF VIRGINIA, INC.

For cancellation of certificates of public convenience and necessity

**ORDER**

By Order dated December 12, 2002, in Case No. PUC-2002-00145, the State Corporation Commission ("Commission") granted Plan B Communications of Virginia, Inc. ("Plan B" or the "Company"), Certificate No. TT-185A to provide interexchange telecommunications services in Virginia and Certificate No. T-599 to provide local exchange telecommunications services.

By letter application ("application") filed February 18, 2004, Plan B requested that the Commission cancel its Certificate No. TT-185A to provide interexchange telecommunications services. The Company states in the application that it will not be providing its interexchange telecommunications services on a facilities basis but will be providing its interexchange telecommunications services as a reseller. The Company also stated in the application that it will continue to provide its local exchange telecommunications services under Certificate No. T-599.

NOW THE COMMISSION, having considered the matter, is of the opinion that Plan B's interexchange certificate to provide telecommunications services should be cancelled.

Accordingly, IT IS ORDERED THAT:

- (1) This matter shall be docketed and assigned Case No. PUC-2004-00021.
- (2) Certificate No. TT-185A is hereby cancelled.
- (3) Any existing interexchange tariffs of the Company currently on file with the Commission's Division of Communications are hereby cancelled.
- (4) This matter is hereby dismissed.

**CASE NO. PUC-2004-00022  
JUNE 10, 2004**

APPLICATION OF  
ACN COMMUNICATION SERVICES VIRGINIA, LLC

For a certificate of public convenience and necessity to provide local exchange telecommunications services

**FINAL ORDER**

On February 19, 2004, and as amended on February 26, 2004, ACN Communication Services Virginia, LLC ("ACN Virginia" or the "Company"), filed an application for a certificate of public convenience and necessity with the State Corporation Commission ("Commission") to provide local exchange telecommunications services throughout the Commonwealth of Virginia.

By Order for Notice and Comment dated March 4, 2004, the Commission directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. On April 5, 2004, the Company filed proof of publication and proof of service as required by the March 4, 2004, Order.

On May 6, 2004, the Staff filed its Report finding that ACN Virginia's application was in compliance with 20 VAC 5-417-10 *et seq.*, the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers. Based upon its review of ACN Virginia's application, the Staff determined it would be appropriate to grant the Company a certificate to provide local exchange telecommunications services subject to the following condition: ACN Virginia should notify the Division of Economics 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 and that this requirement should be maintained until such time as the Staff or 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 a certificate to provide local exchange telecommunications services.

Accordingly, IT IS ORDERED THAT:

- (1) ACN Communication Services Virginia, LLC, is hereby granted a certificate of public convenience and necessity, No. T-626, 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) The Company shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations.

(3) The Company shall notify the Division of Economics 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 Staff or the Commission determines it is no longer necessary.

(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.

**CASE NO. PUC-2004-00024  
APRIL 9, 2004**

JOINT PETITION OF  
ALLEGIANCE TELECOM, INC., DEBTOR-IN-POSSESSION  
and  
XO COMMUNICATIONS, INC.

For approval of a change in ownership and control

**ORDER GRANTING APPROVAL**

On February 23, 2004, Allegiance Telecom, Inc., Debtor-in-Possession ("ATI"), and XO Communications, Inc. ("XO") (collectively, "Petitioners"), filed a joint petition with the State Corporation Commission ("Commission") requesting authority pursuant to Chapter 5 of Title 56 of the Code of Virginia ("Code") to transfer control of ATI's Virginia subsidiary, Allegiance Telecom of Virginia, Inc., Debtor-in-Possession ("Allegiance Virginia"), to XO.

ATI is the ultimate parent company of Allegiance Virginia. ATI and its subsidiaries, including Allegiance Virginia, filed Chapter 11 bankruptcy in the Bankruptcy Court for the Southern District of New York ("Bankruptcy Court") on May 14, 2003. Allegiance Virginia holds certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services in Virginia. Its principal offices are in Dallas, Texas.

XO is a Delaware corporation whose principal office and place of business is located in Reston, Virginia. XO is a facilities-based provider of broadband telecommunications services. XO is the parent company of XO Virginia, LLC ("XO Virginia"), which holds certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services in Virginia.

Petitioners request that the Commission grant approval to permit Petitioners to consummate a series of transactions through which the transfer of control of ATI and, therefore, Allegiance Virginia will allow XO to acquire substantially all of the assets of ATI, including the stock of Allegiance Virginia. As a result of such transactions, Allegiance Virginia will become a direct wholly owned subsidiary of XO. Following this transaction, ATI will be absorbed by XO, and ATI will no longer exist. More specifically, Petitioners seek approval of their proposed transaction whereby XO will acquire the assets of ATI by delivering to ATI approximately \$311 million in cash and approximately 45.38 million shares of XO common stock.

The proposed transactions will allow Allegiance Virginia to emerge from bankruptcy and to ensure that its existing customers will continue to receive telecommunications services. XO will gain full ownership of ATI's assets, including stock ownership in Allegiance Virginia. Petitioners represent that none of the transactions will have an adverse impact on the provision of adequate service to the public at just and reasonable rates. Petitioners represent that the proposed transactions will be transparent to customers of Allegiance Virginia. In particular, because it is a stock transaction, the transfer of control of Allegiance Virginia will not result in a change of carrier for any of Allegiance Virginia's customers. Petitioners further represent that XO holds the technical, financial, and managerial qualifications to acquire control of Allegiance Virginia.

THE COMMISSION, upon consideration of the joint petition and representations of Petitioners and having been advised by its Staff, is of the opinion and finds that the above-described transfer of control 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 to consummate the transactions as described herein to allow XO Communications, Inc., to acquire direct control of Allegiance Telecom of Virginia, Inc.

(2) The Petitioners shall file a report of the action taken pursuant to the approval granted herein within thirty (30) days of consummation of the transaction, subject to administrative extension by the Director of Public Utility Accounting. Such report shall include the date the transactions took place.

(3) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUC-2004-00027  
JULY 26, 2004**

PETITION OF  
PEOPLES MUTUAL TELEPHONE COMPANY

To modify requirement to institute local number portability pursuant to Section 251(f) of the Telecommunications Act of 1996

**ORDER GRANTING PETITION**

On March 4, 2004, Peoples Mutual Telephone Company ("Peoples Mutual" or "Company") filed a petition pursuant to § 251(f)(2) of the Telecommunications Act of 1996 (the "Act"), 47 U.S.C. § 251(f)(2) *et seq.*, requesting that the State Corporation Commission ("Commission") modify the Federal Communications Commission's ("FCC") wireline-to-wireless number porting requirement ("intermodal porting") and grant Peoples Mutual an additional 12 months, or until May 24, 2005, to implement intermodal porting. According to the petition, the FCC requires Peoples Mutual to implement intermodal porting by May 24, 2004,<sup>1</sup> unless the Commission suspends or modifies the intermodal porting requirement pursuant to the authority granted State commissions in § 251(f)(2) of the Act.

On March 16, 2004, the Commission entered an Order for Notice and Comment directing Peoples Mutual to provide public notice of its petition and giving interested persons the opportunity to file comments. On April 21, 2004, Nextel Communications, Inc. ("Nextel"), filed comments opposing Peoples Mutual's petition. Peoples Mutual filed reply comments on April 26, 2004. The Commission Staff filed comments on May 3, 2004, addressing the jurisdiction of the Commission to consider Peoples Mutual's petition under § 251(f)(2) of the Act.

On May 20, 2004, the Commission entered an Order Directing the Filing of Supplemental Financial Information and Extending Time for Review. In that Order, the Commission held that Peoples Mutual failed to provide sufficient financial information to allow the Commission to determine whether a delay in implementing intermodal porting is necessary to avoid imposing a requirement on Peoples Mutual and its customers that is unduly economically burdensome. Accordingly, the Commission ordered the Company to supplement its petition with additional financial information so the Commission could determine whether implementing intermodal porting would be unduly economically burdensome. That Order also suspended the Company's intermodal porting obligation until August 31, 2004, to allow the Commission sufficient time to review the petition. Nextel and the Commission's Staff were also given an opportunity to file comments on Peoples Mutual's supplemental filing.

On June 11, 2004, Peoples Mutual filed additional financial information in support of its petition with the Commission. The supplemental filing provided detailed financial information, along with a supporting affidavit, containing an estimate of the capital costs and expenses, both recurring and non-recurring, that must be incurred by Peoples Mutual to implement intermodal porting. Given the significant costs that Peoples Mutual must incur to implement intermodal porting and the lack of any current customer demand to port telephone numbers to wireless carriers, the Company requests the Commission to delay the implementation of intermodal porting until May 24, 2005.<sup>2</sup>

On June 30, 2004, Nextel filed comments in response to Peoples Mutual's supplemental filing and once again opposed any delay in implementing intermodal porting. On July 1, 2004, the Staff filed comments recommending that Peoples Mutual be granted a 6-month delay to implement intermodal porting.

Nextel opposes Peoples Mutual's request to delay intermodal porting for several reasons. First, Nextel argues that the Commission lacks jurisdiction to entertain the petition because the FCC has exclusive jurisdiction over requests for waiver of the intermodal porting requirement. According to Nextel, Peoples Mutual should have filed its petition with the FCC and sought relief at the federal level rather than filing its petition with the Commission.

Second, Nextel argues that even assuming the Commission has jurisdiction to entertain the petition, the Commission should defer to the FCC as a matter of comity. According to Nextel, it would be an inefficient use of the Commission's time and resources to proceed in a Virginia forum when the FCC is clarifying and resolving all pending issues surrounding intermodal porting.

Finally, Nextel argues that Peoples Mutual's claim that implementing intermodal porting will be unduly economically burdensome on the Company and its customers is totally unsubstantiated and not supported by any relevant data or competent evidence. Nextel argues that in order for Peoples Mutual to show that its costs are unduly economically burdensome, it must show that its costs are more burdensome than those costs typically incurred by other telecommunications carriers implementing intermodal porting and associated with efficient competitive entry. Having failed to meet this burden of proof, Nextel argues that Peoples Mutual's petition should be denied.

The comments of the Commission Staff focus on two issues: the Commission's jurisdiction to entertain the petition and the costs that Peoples Mutual must incur to implement intermodal porting. According to the Staff, both the Commission and the FCC have concurrent jurisdiction over requests by small local exchange carriers, such as Peoples Mutual, to modify the FCC's intermodal porting requirements. Section 251(f)(2) of the Act expressly grants State commissions the authority to entertain petitions to modify any FCC porting requirements imposed on small local exchange carriers with less than two percent of the subscriber lines installed nationwide. The Staff, therefore, maintains that Peoples Mutual's petition is properly before the Commission.

The Commission Staff also analyzed the total costs that Peoples Mutual must incur to implement intermodal porting; identified the financial savings the Company would realize by delaying the implementation of intermodal porting; and calculated the monthly surcharge that Peoples Mutual's customers would have to pay to implement intermodal porting. Given the costs of implementing intermodal porting and the general lack of any current

<sup>1</sup> *In the Matter of Telephone Number Portability; CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues*, CC Docket No. 95-116, *Memorandum Opinion and Order and Further Notice of Proposed Rulemaking*, 18 FCC Rcd 23697 (2003), ¶ 29 ("Intermodal Porting Order").

<sup>2</sup> According to Peoples Mutual, it has received only two requests for intermodal porting, and these requests were made by commercial mobile radio service providers. In a letter filed with the Commission on May 14, 2004, Peoples Mutual indicated it had received requests from Sprint on May 23, 2003, and from Verizon Wireless on November 18, 2003, asking that Peoples Mutual be technically ready to implement intermodal porting by May 24, 2004.

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customer demand to port telephone numbers to wireless carriers, the Staff recommends that Peoples Mutual be required to implement intermodal porting no later than 6 months from the date of the Commission's final order in this proceeding.

NOW THE COMMISSION, having reviewed the petition and comments in this case, is of the opinion and finds that the petition filed by Peoples Mutual is properly before the Commission. Under § 251(f)(2) of the Act, local exchange carriers with less than two percent of the Nation's subscriber lines installed in the aggregate nationwide can petition State commissions for a suspension or modification of any number porting requirement imposed by the Act and implemented by the FCC. This section further provides that:

[t]he State commission shall grant such petition to the extent that, and for such duration as, the State commission determines that such suspension or modification—

- (A) is necessary—
  - (i) to avoid a significant adverse economic impact on users of telecommunications services generally;
  - (ii) to avoid imposing a requirement that is unduly economically burdensome; or
  - (iii) to avoid imposing a requirement that is technically infeasible; and
- (B) is consistent with the public interest, convenience, and necessity.

We, therefore, find the Commission has ample authority to entertain Peoples Mutual's petition under the Act.

We further find that Peoples Mutual's petition to delay the implementation of intermodal porting for 12 months, or until May 24, 2005, should be granted. Attachment 1 of the Staff's July 1, 2004, comments shows the total estimated costs that Peoples Mutual must incur to implement intermodal porting; the monetary savings Peoples Mutual will realize by delaying the implementation of intermodal porting until May 24, 2005; and the monthly surcharge that must be applied to a customer's bill to recover the costs associated with implementing intermodal porting. We believe the costs identified by the Staff are significant for a small local exchange carrier such as Peoples Mutual, and the recovery of such costs will have an adverse impact on customers given the small customer base of Peoples Mutual. Therefore, we find the costs to implement intermodal porting are unduly economically burdensome to Peoples Mutual and its customers at the present time, particularly since there is little, if any, customer demand to port telephone numbers to wireless carriers.

We further find that granting Peoples Mutual a 12-month delay to implement intermodal porting is consistent with the public interest, convenience, and necessity. While we believe the FCC's requirement to implement intermodal porting as a means to promote competition is a worthy goal and one that the Commission supports, we do not believe it is consistent with the public interest, convenience, and necessity to require the customers of small rural carriers, such as Peoples Mutual, to incur these costs well in advance of any significant demand for intermodal porting. A 12-month delay in implementing intermodal porting will allow Peoples Mutual to realize some savings that will reduce its total costs associated with intermodal porting and will, consistent with the public interest, convenience, and necessity, delay the cost impact on customers at a time when there is little, if any, customer demand for intermodal porting. The delay will also allow wireless carriers, such as Nextel, to aggressively market their services in Peoples Mutual's service territory in an attempt to increase customer demand for intermodal porting. We find the public interest, convenience, and necessity is best promoted when a local exchange carrier can reduce its total costs for a new service offering mandated by the FCC and when a deployment schedule can be developed that more closely matches customer demand with the incurrence of costs to implement a new service offering such as intermodal porting.

Accordingly, IT IS ORDERED THAT:

- (1) Peoples Mutual's petition for a 12-month delay, or until May 24, 2005, to implement intermodal porting is hereby granted.
- (2) On or before May 24, 2005, Peoples Mutual shall implement intermodal porting.
- (3) The papers herein shall be filed in the Commission's file for ended causes.

**CASE NO. PUC-2004-00028  
MARCH 25, 2004**

JOINT PETITION OF  
NEWSOUTH HOLDINGS, INC.,  
NEWSOUTH COMMUNICATIONS OF VIRGINIA, INC.,  
and  
NUVOX, INC.

For approval of transfer of control

**ORDER GRANTING APPROVAL**

On March 5, 2004, NewSouth Holdings, Inc. ("NewSouth Holdings"), NewSouth Communications of Virginia, Inc. ("NewSouth-Virginia"), and NuVox, Inc. ("NuVox" collectively referred to herein as "Petitioners," filed a joint petition with the State Corporation Commission ("Commission"), requesting approval of a proposed merger between NewSouth Holdings and NuVox. As proposed, NewSouth Holdings will survive and become a direct, wholly owned subsidiary of NuVox. NewSouth Communications, Inc., the direct parent of NewSouth-Virginia, will survive as a direct, wholly owned subsidiary of NewSouth Holdings. NuVox will become the new ultimate parent of NewSouth-Virginia.

Under the proposal, NuVox will issue additional shares of its stock to the shareholders of NewSouth Holdings that will constitute approximately 50% of the outstanding voting and equity interests of NuVox.

NewSouth-Virginia is a Virginia public service company and holds a certificate of public convenience and necessity ("CPCN"), No. TT-118A, to provide intrastate interexchange telecommunications services in Virginia, granted by Commission Order in Case No. PUC-2000-00178, entered



December 15, 2000. NewSouth-Virginia has no intrastate interexchange tariffs on file with the Commission and represents that it has no physical presence in Virginia (i.e., no collocations, switches, sales offices, etc.).

NewSouth Holdings and NuVox are corporations organized and existing under the laws of Delaware. They provide telecommunications services to small and medium-sized business customers. NewSouth Holdings provides telecommunications services in the southeastern United States. NuVox provides telecommunications services in the Midwest and the Southeast. NewSouth Holdings is headquartered in Greenville, South Carolina, while NuVox is headquartered in Chesterfield, Missouri (St. Louis area). The combined company will have its headquarters in Greenville, South Carolina, but will continue to maintain a presence in Chesterfield, Missouri.

The Petitioners assert that the proposed transaction serves the public interest. The combined company will benefit from increased economies of scale that will permit it to operate more efficiently, and it will also benefit from a blended management team that includes experienced professionals of both companies, thereby enabling the combined company to compete more effectively in the highly competitive market for telecommunications services.

THE COMMISSION, upon consideration of the joint petition and representations of the Petitioners and having been advised by its Staff, is of the opinion and finds that the transactions described herein, involving the merger of NewSouth Holdings and NuVox, will neither impair nor jeopardize the provision of telecommunications services by NewSouth-Virginia. NewSouth-Virginia has no tariff on file with the Commission nor any customers in Virginia. The joint petition should, therefore, be approved.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to §§ 56-88.1 and 56-90 of the Code of Virginia, approval is hereby granted for the proposed merger of NewSouth Holdings and NuVox, as described herein.
- 2) The Petitioners shall file a report of action taken pursuant to the approval granted herein within thirty (30) days of consummation of the transaction, subject to administrative extension by the Commission's Director of Public Utility Accounting. Such report shall include the date that the transfer of control took place.
- 3) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUC-2004-00030  
JULY 28, 2004**

PETITION OF  
VERIZON VIRGINIA INC.  
and  
VERIZON SOUTH INC.

For arbitration of an amendment to interconnection agreements with competitive local exchange carriers and commercial mobile radio service providers in Virginia pursuant to section 252 of the Communications Act of 1934, as amended, and the Triennial Review Order

**ORDER DISMISSING PETITION**

On March 10, 2004, Verizon Virginia Inc. and Verizon South Inc. (collectively, "Verizon") filed a Petition for Arbitration ("Petition") asking the Virginia State Corporation Commission ("Commission") to initiate a consolidated arbitration proceeding between Verizon, competitive local exchange carriers, and commercial mobile radio service providers for the purpose of amending Verizon's interconnection agreements to reflect various unbundling provisions contained in the Federal Communication Commission's Triennial Review Order ("TRO").

On March 19, 2004, Verizon filed an amendment to its Petition, which Verizon explains was prompted by the D.C. Circuit's decision affirming in part and denying in part the TRO.<sup>1</sup> On April 14, 2004, Verizon filed another amendment to its Petition, which removed any proposals for new non-recurring charges for DS1 network modifications. On May 17, 2004, Verizon filed a Motion to Hold Proceeding in Abeyance, which requested the Commission hold this case in abeyance until the D.C. Circuit issues its mandate on the TRO scheduled for June 15, 2004.

Additional participants filing pleadings in the case include: the Commission's Staff; OpenBand of Virginia, LLC; Cavalier Telephone, LLC; Sprint Communications Company of Virginia, Inc.; US LEC of Virginia, L.L.C.; Plan B Communications of Virginia Inc.; Cellco Partnership d/b/a Verizon Wireless; AT&T Communications of Virginia, LLC, and TCG Communications of Virginia, Inc.; the Swidler Competitive Carrier Coalition;<sup>2</sup> the MCI Group;<sup>3</sup> and the Competitive Carrier Group.<sup>4</sup>

<sup>1</sup> *United States Telecom Ass'n v. FCC*, 359 F.3d 554 (D.C. Cir. 2004) ("*USTA II*").

<sup>2</sup> The Swidler Competitive Carrier Coalition is comprised of Focal Communications Corporation; ATX Communications, Inc.; Allegiance Telecom Inc.; Level 3 Communications, LLC; Lightship Telecom, LLC; LightWave Communications, LLC; PAETEC Communications of Virginia Inc.; PAETEC Communications Inc.; DSLnet Communications VA Inc.; Adelpia Business Solutions of Virginia Inc.; Starpower Communications, LLC; ICG Telecom Group of Virginia Inc.; and CTC Communications of Virginia Inc.

<sup>3</sup> The MCI Group is comprised of MCImetro Access Transmission Services of Virginia, Inc.; MCI WorldCom Communications of Virginia, Inc.; MCI WorldCom Communications of Virginia, Inc. (as successor to Rhythms Links, Inc.); and Intermedia Communications, Inc.

<sup>4</sup> The Competitive Carrier Group is comprised of A.R.C. Networks Inc. d/b/a InfoHighway of Virginia Inc.; Broadview Networks of Virginia Inc.; BullsEye Telecom of Virginia LLC; Business Telecom of Virginia Inc.; Comcast Phone of Virginia Inc.; DIECA Communications Inc. d/b/a Covad Communications

On July 23, 2004, Verizon filed a Notice of Withdrawal of Petition for Arbitration. Verizon explains that most of its interconnection agreements contain specific terms permitting Verizon, upon specified notice, to cease providing unbundled network elements ("UNEs") that are no longer subject to an unbundling obligation under 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51. Thus, Verizon states that those agreements need not be amended in order to implement Verizon Virginia's contractual right to cease providing UNEs that were eliminated by the TRO or *USTA II*, which is the purpose of the instant proceeding before this Commission. Verizon asserts to the extent that particular agreements may be construed to require an amendment to reflect elimination of Verizon's unbundling obligations pursuant to the TRO and *USTA II*, the appropriate negotiation and dispute resolution provisions in the respective agreements will apply. Therefore, Verizon requests that its Petition for Arbitration in this proceeding be dismissed without prejudice.

NOW UPON CONSIDERATION of the pleadings and applicable law, the Commission is of the opinion and finds that Verizon's Petition shall be dismissed without prejudice.

Accordingly, IT IS ORDERED THAT:

- (1) Verizon's Petition is hereby dismissed without prejudice.
- (2) There being nothing further to come before the Commission in this matter, this case is now closed.

Company; Essex Acquisition Corp.; Global Crossing Local Services Inc.; IDT America of Virginia LLC; KMC Telecom of Virginia Inc.; KMC Telecom V of Virginia Inc.; NTELOS Network Inc.; R&B Network Inc.; Winstar of Virginia LLC; XO Virginia LLC; and Xspedius Management Co. of Virginia LLC.

**CASE NO. PUC-2004-00031  
APRIL 1, 2004**

APPLICATION OF  
CABLE & WIRELESS USA OF VIRGINIA, INC.

To cancel existing certificate of public convenience and necessity to provide interexchange telecommunications services

**FINAL ORDER**

On April 10, 2003, the State Corporation Commission ("Commission") entered an Order in Case No. PUC-2003-00042, which reissued to Cable & Wireless USA of Virginia, Inc. ("C&W USA" or the "Company"), a certificate of public convenience and necessity, No. TT-5C, to provide interexchange telecommunications services.<sup>1</sup>

On March 10, 2004, the Company petitioned the Commission to cancel its certificate to provide interexchange telecommunications services and its tariffs after its assets were purchased through the bankruptcy auction process concluded in the Company's reorganization under Chapter 11 of the United States Bankruptcy Code in the U.S. Bankruptcy Court for the District of Delaware.<sup>2</sup> When the process of transfer was completed on March 5, 2004, C&W USA no longer provided any telecommunications services in Virginia.

NOW, UPON CONSIDERATION of the foregoing, the Commission is of the opinion and finds that the certificate of public convenience and necessity, No. TT-5C, issued to C&W USA, should be cancelled.

Accordingly, IT IS THEREFORE ORDERED THAT:

- (1) This matter is hereby docketed and assigned Case No. PUC-2004-00031.
- (2) Certificate of public convenience and necessity, No. TT-5C, issued to Cable & Wireless USA of Virginia, Inc., is hereby canceled.
- (3) Any interexchange tariffs on file for Cable & Wireless USA of Virginia, Inc., are hereby canceled.
- (4) 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.

<sup>1</sup> Case No. PUC-2003-00042 updated the certificated Company name from Cable & Wireless of Virginia, Inc., to the captioned name in this instant application.

<sup>2</sup> *In re: Cable & Wireless USA, Inc., et al*, Case No. 03-13711 (GCG) (Bankr. D. DE.).

**CASE NO. PUC-2004-00033  
MAY 4, 2004**

JOINT PETITION OF  
DOMINION RESOURCES, INC.,  
DFV CAPITAL CORPORATION,  
DT SERVICES, INC.,  
DOMINION FIBER VENTURES, LLC,  
VIRGINIA ELECTRIC AND POWER COMPANY,  
and  
ELANTIC NETWORKS, INC.

For approval of a change of control

**ORDER GRANTING APPROVAL**

On March 22, 2004, Dominion Resources, Inc. ("Dominion"), Dominion Fiber Ventures, LLC ("DFVLLC"), DFV Capital Corporation ("DFVCC"), DT Services, Inc. ("DTSI"), Virginia Electric and Power Company ("VEPCO"), and Elantic Networks, Inc. ("Elantic") (collectively the "Petitioners"), filed a joint petition with the State Corporation Commission ("Commission") requesting approval, pursuant to Chapter 5 of Title 56 of the Code of Virginia ("Code"), to consummate a series of transactions (the "Transactions") through which the ultimate control of Dominion Telecom, Inc. ("DTI"), will transfer from Dominion to Elantic.

DTI is a Virginia public service corporation certificated to provide local exchange and intrastate interexchange telecommunications services throughout Virginia. DTI currently serves one government, five retail, and 51 wholesale customers from Northern Virginia to Norfolk. DTI also provides interstate interexchange telecommunications services in other jurisdictions. DTI is an "exempt telecommunications company" for purposes of the Public Utility Holding Company Act of 1935 ("the 1935 Act"). DTI is a wholly owned direct subsidiary of DFVLLC.

DFVLLC is a limited liability company organized under the laws of the State of Delaware. DFVLLC is a partially owned direct subsidiary of DFVCC and DTSI, both of which are wholly owned direct subsidiaries of Dominion. DFVCC is a Delaware corporation with its office located in Richmond, Virginia. DTSI is a Virginia general business corporation and is considered to be an "exempt telecommunications company" for purposes of the 1935 Act with its office located in Glen Allen, Virginia.

Dominion is a publicly held Virginia general business corporation and a registered holding company subject to regulation by the Securities and Exchange Commission pursuant to the 1935 Act. VEPCO is a public service corporation and is a wholly owned direct subsidiary of Dominion.

Elantic is a Delaware corporation that was formed by a group of investors to acquire all of the issued and outstanding shares of DTI.

Cavalier Telephone LLC ("Cavalier") holds certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services in Virginia. Cavalier is a direct wholly owned subsidiary of Cavalier Telephone Corporation ("Cavalier Telephone"), the majority owners of which are the principal investors in Elantic. Cavalier serves approximately 150,000 residential and business customers and has 260,000 telephone lines throughout the areas it serves; it serves approximately 76,000 customers in Virginia.

Merger Sub is a Virginia public service corporation and wholly owned subsidiary of Elantic that was created solely for the purpose of the change of control of DTI.

Petitioners request approval to consummate Transactions through which the control of DTI will transfer from Dominion to Elantic through the acquisition by Elantic of all of the issued and outstanding shares of DTI. The transfer of control will occur by virtue of a merger pursuant to an Agreement and Plan of Merger ("Agreement"). Following the merger, Elantic will engage Cavalier to operate and manage the telecommunications network acquired as a result of the change of control. More specifically, under the Agreement, Merger Sub will merge with and into DTI. Following this combination, the existence of Merger Sub will cease, and DTI will continue as the Surviving Corporation. After the completion of the merger, the Surviving Corporation will revise its name to Elantic Telecom, Inc. ("Elantic Telecom"). Additionally, the Surviving Corporation will update the name reflected on its certificates of public convenience and necessity and tariffs on file with the Division of Communications. Elantic Telecom will provide telecommunications services to DTI's existing customers. Merger Sub will enter into one or more management and services agreements with Cavalier for the operation and management of the network. The Petitioners further represent that Cavalier holds the technical, financial, and managerial qualifications to provide operation and management services to existing DTI customers.

The purpose of the proposed Transactions is to allow Dominion to transfer control of DTI to Elantic and ensure that DTI's existing customers will continue to receive telecommunications services. The Petitioners represent that none of the transactions will have an adverse impact on the provision of adequate service to the public at just and reasonable rates. Petitioners further represent that the proposed Transactions will be transparent to DTI's customers. However, the entity currently operating as Dominion Telecom, Inc., will become Elantic Telecom, Inc.

Elantic Telecom will own all of the assets that are currently owned by DTI and will be the contracting party with customers for telecommunications services. Although Cavalier and Elantic Telecom are separately financed and governed, Cavalier will provide management and operations services for the Elantic network. Cavalier plans to hire some current DTSI employees, who now provide DTI with management and operational functions and will continue to do so for Elantic Telecom.

Elantic will have financial support of its investors, which have agreed to provide funding for Elantic. The Petitioners represent that the funding will enable Elantic to complete the acquisition and provide for the initial working capital needs of Elantic Telecom.

THE COMMISSION, upon consideration of the joint petition and representations of Petitioners and having been advised by its Staff, is of the opinion and finds that the above-described transfer of control 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 to consummate the Transactions as described herein to allow Elantic Networks, Inc., to acquire direct control of Dominion Telecom, Inc.
- (2) The Petitioners shall file a report of the action taken pursuant to the approval granted herein within thirty (30) days of consummation of the transaction, subject to administrative extension by the Director of Public Utility Accounting. Such report shall include the date the transfer of control took place.
- (3) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUC-2004-00034  
SEPTEMBER 17, 2004**

APPLICATION OF  
SUNSET DIGITAL COMMUNICATIONS, INC.

For a certificate of public convenience and necessity to provide interexchange telecommunications services

**FINAL ORDER**

On June 9, 2004, Sunset Digital Communications, Inc. ("Sunset" or the "Company"), completed an application with the State Corporation Commission ("Commission") for a certificate of public convenience and necessity to provide interexchange telecommunications services throughout the Commonwealth of Virginia. 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.

By Order for Notice and Comment dated July 2, 2004, the Commission directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. On August 20, 2004, Sunset filed proof of publication and proof of service as required by the July 2, 2004, Order.

On September 1, 2004, the Staff filed its Report finding that Sunset's application was in compliance with 20 VAC 5-411-10 *et seq.*, the Rules Governing the Certification of Interexchange Carriers. Based upon its review of Sunset's application, the Staff determined it would be appropriate to grant the Company a certificate to provide interexchange telecommunications services.

NOW THE COMMISSION, having considered the application and the Staff Report, finds that the Company should be granted a certificate to provide interexchange telecommunications services. Having considered § 56-481.1, the Commission further finds that the Company may price its interexchange telecommunications services competitively.

Accordingly, IT IS ORDERED THAT:

- (1) Sunset Digital Communications, Inc., is hereby granted a certificate of public convenience and necessity, No. TT-207A, 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) The Company shall provide tariffs to the Division of Communications that conform with all applicable Commission rules and regulations.
- (3) Pursuant to § 56-481.1 of the Code of Virginia, the Company may price its interexchange telecommunications services competitively.
- (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.

**CASE NO. PUC-2004-00036  
JULY 29, 2004**

APPLICATION OF  
CHARTER FIBERLINK VA-CCO, LLC

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

**FINAL ORDER**

On March 31, 2004, Charter Fiberlink VA-CCO, LLC ("Charter" or the "Company"), 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. 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.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

By Order for Notice and Comment dated May 13, 2004, the Commission directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. On June 15, 2004, the Company filed proof of publication and proof of service as required by the Commission's May 13, 2004, Order.

On July 8, 2004, the Staff filed its Report finding that Charter's application was in compliance with 20 VAC 5-417-10 *et seq.*, the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers and 20 VAC 5-411-10 *et seq.*, the Rules Governing the Certification of Interexchange Carriers. Based upon its review of Charter'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 conditions:

(1) Charter should notify the Division of Economics 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 Staff or the Commission determines it is no longer necessary.

(2) At such time as voice services are initiated by Charter, the Company should comply with all requirements of 20 VAC 5-417-30.

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, the Commission further finds that the Company may price its interexchange telecommunications services competitively.

Accordingly, IT IS ORDERED THAT:

(1) Charter Fiberlink VA-CCO, LLC, is hereby granted a certificate of public convenience and necessity, No. TT-206A, 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) Charter Fiberlink VA-CCO, LLC, is hereby granted a certificate of public convenience and necessity, No. T-629, 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 Company may price its interexchange telecommunications services competitively.

(4) The Company shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations.

(5) The Company shall notify the Division of Economics 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 Staff or the Commission determines it is no longer necessary.

(6) At such time as voice services are initiated by Charter, the Company shall comply with all requirements set forth in 20 VAC 5-417-30.

(7) 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 NOS. PUC-2004-00037 and PUC-2004-00035  
JUNE 16, 2004**

APPLICATION OF  
CHARTER FIBERLINK VA - CCVI, LLC

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

and

APPLICATION OF  
CHARTER FIBERLINK VA - CCVII, LLC

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

**DISMISSAL ORDER**

On March 31, 2004, Charter Fiberlink VA - CCVI, LLC ("Charter I"), and Charter Fiberlink VA - CCVII, LLC ("Charter II") (together the "Applicants"), completed applications (together the "Charter applications") 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. Both Applicants also requested authority to price their interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia.

On May 13, 2004, the Commission issued Orders for Notice and Comments for both of the Charter applications and ordered that the Staff prepare Reports in both cases.

On May 24, 2004, the Applicants filed requests that the Charter applications be withdrawn from further consideration. The Applicants stated that no customers will be affected by the withdrawal of either the Charter I or the Charter II application.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

NOW THE COMMISSION, upon consideration of the requests from Charter I and Charter II and the pleadings of record in these cases is of the opinion that the requests for withdrawal of the Charter applications should be approved.

Accordingly, IT IS ORDERED THAT:

(1) Case No. PUC-2004-00037, concerning the application of Charter Fiberlink VA - CCVI, LLC, shall be, and hereby is, dismissed from the docket of active cases.

(2) Case No. PUC-2004-00035, concerning the application of Charter Fiberlink VA - CCVII, LLC, shall be, and hereby is, dismissed from the docket of active cases.

(3) There being nothing further to come before the Commission, the papers in the above-captioned cases shall be placed in the Commission's file for ended causes.

**CASE NO. PUC-2004-00038**  
**MAY 21, 2004**

JOINT PETITION OF  
FOCAL COMMUNICATIONS CORPORATION,  
FOCAL FINANCIAL SERVICES, INC.,  
FOCAL COMMUNICATIONS CORPORATION OF VIRGINIA  
and  
CORVIS CORPORATION,  
CORVIS ACQUISITION COMPANY, INC.

For approval to transfer control

**ORDER GRANTING APPROVAL**

On March 18, 2004, Focal Communications Corporation ("Focal"), Focal Financial Services, Inc. ("Focal Financial"), Focal Communications Corporation of Virginia ("Focal Virginia"), Corvis Corporation ("Corvis"), and Corvis Acquisition Company, Inc. ("Corvis Acquisition") (collectively, the "Petitioners"), filed a joint petition with the State Corporation Commission ("Commission") requesting approval pursuant to Chapter 5 of Title 56 of the Code of Virginia ("Code") to transfer control of Focal and the indirect transfer of control of Focal Virginia to Corvis.

Focal Virginia is a public service corporation with its headquarters located in Chicago, Illinois. Focal Virginia holds a certificate of public convenience and necessity to provide interexchange and local exchange telecommunications services in Virginia. Focal Financial is a wholly owned subsidiary of Focal. Focal Financial does not provide telecommunications services and does not hold any regulatory licenses. Focal is a privately held Delaware corporation and is the ultimate parent company of Focal Virginia. Focal is a holding company for a family of facilities-based national integrated communications providers offering a variety of telecommunications services.

Corvis is a publicly traded corporation organized under the laws of Delaware. Corvis's communications services division, managed within its Broadwing Communications, LLC, subsidiary ("Broadwing"), provides data, voice and video solutions to carrier and enterprise customers by a fiber optic network that connects 137 cities nationwide. Corvis Acquisition is a wholly owned subsidiary of Corvis that was created solely for the purpose of the change of control of Focal. Broadwing is a Delaware limited liability company and holds certificates of public convenience and necessity to provide facilities-based interexchange telecommunications services in Virginia.

Petitioners request that the Commission grant authority to permit Petitioners to consummate a series of transactions through which the transfer of control of Focal, and, therefore, Focal Virginia will occur, pursuant to an Agreement and Plan of Merger ("Agreement"), dated March 3, 2004. Under the Agreement, Corvis Acquisition will be merged with and into Focal, with Focal as the surviving entity. Focal will become a wholly owned subsidiary of Corvis. Focal Financial and Focal Virginia will then become indirect wholly owned subsidiaries of Corvis. As a result of these transactions, Focal Virginia and Broadwing will become affiliated sister companies.

The proposed transactions will be completed at the holding company level, and thus, are not expected to impair or jeopardize adequate services at reasonable and just rates provided by Focal Virginia. Petitioners represent that the transactions will be seamless and transparent to Focal Virginia's customers. There will be no change in the name of the providing carrier; in the format or appearance of the customers' bills; in the rates, terms, and conditions of service; and no unfavorable changes in customer service.

THE COMMISSION, upon consideration of the joint petition and representations of Petitioners and having been advised by its Staff, is of the opinion and finds that the above-described transfer of control 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 to consummate the proposed transactions as described herein to allow Corvis Corporation to acquire direct control of Focal Communications Corporation and indirect control of Focal Communications Corporation of Virginia.

(2) The Petitioners shall file a report of the action taken pursuant to the approval granted herein within thirty (30) days of consummation of the transactions, subject to administrative extension by the Director of Public Utility Accounting. Such report shall include the date the transfer of control took place.

(3) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUC-2004-00044  
APRIL 23, 2004**

APPLICATION OF  
AFN TELECOM, LLC

For cancellation of a certificate of public convenience and necessity to provide interexchange telecommunications services

**ORDER CANCELLING CERTIFICATE**

On March 26, 2004, AFN Telecom, LLC ("AFN Telecom" or the "Company"), filed a letter application with the State Corporation Commission ("Commission") requesting cancellation of a certificate of public convenience and necessity to provide interexchange telecommunications services ("certificate"). The Commission granted Certificate No. TT-139A to AFN Telecom in Case No. PUC-2000-00289 on March 31, 2001.

In its application, AFN Telecom states that it is no longer in business and is no longer offering or providing telecommunications services in Virginia. AFN Telecom requests that the Commission cancel the Company's certificate and associated tariffs.

NOW UPON CONSIDERATION of the matter, the Commission finds that the certificate granted to AFN Telecom should be cancelled. The Commission further finds that any interexchange telecommunications tariffs on file with the Division of Communications should be cancelled.

Accordingly, IT IS ORDERED THAT:

(1) This matter is docketed and assigned Case No. PUC-2004-00044.

(2) Certificate TT-139A authorizing AFN Telecom, LLC, to provide interexchange telecommunications services throughout the Commonwealth is hereby cancelled.

(3) Any tariffs associated with Certificate No. TT-139A on file with the Division of Communications are hereby cancelled.

(4) There being nothing further to be done, this matter shall be dismissed from the Commission docket of active cases and the papers filed herein placed in the Commission's file for ended causes.

**CASE NO. PUC-2004-00045  
APRIL 23, 2004**

APPLICATION OF  
CAMBRIAN COMMUNICATIONS OF VIRGINIA, LLC

For cancellation of certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

**ORDER CANCELLING CERTIFICATES**

On March 29, 2004, Cambrian Communications of Virginia, LLC ("Cambrian of Virginia" or the "Company"),<sup>1</sup> filed a letter application with the State Corporation Commission ("Commission") requesting cancellation of certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services ("certificates"). The Commission granted Certificate Nos. T-555 and TT-150A to Cambrian of Virginia in Case No. PUC-2001-00017 on May 9, 2001.

In the application, Cambrian Communications states that PPL Prism, LCC, has purchased substantially all of Cambrian Communications' telecommunications assets that were being used to serve Cambrian of Virginia's customers and that Cambrian Communications is no longer an independent business entity. All of Cambrian of Virginia's former customers continue to receive telecommunications services as a result of the transaction. Cambrian of Virginia requests that the Commission cancel the Company's certificates and associated tariffs.

NOW UPON CONSIDERATION of the matter, the Commission finds that the certificates granted to Cambrian of Virginia should be cancelled. The Commission further finds that any local exchange or interexchange telecommunications tariffs on file with the Division of Communications should be cancelled.

<sup>1</sup> Counsel for Cambrian of Virginia's parent company, Cambrian Communications, LLC ("Cambrian Communications"), filed the application. Cambrian of Virginia, however, holds the certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services referenced herein.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed and assigned Case No. PUC-2004-00045.
- (2) Certificate No. T-555 authorizing Cambrian Communications of Virginia, LLC, to provide local exchange telecommunications services throughout the Commonwealth is hereby cancelled.
- (3) Certificate TT-150A authorizing Cambrian Communications of Virginia, LLC, to provide interexchange telecommunications services throughout the Commonwealth is hereby cancelled.
- (4) Any tariffs associated with Certificate Nos. T-555 and TT-150A on file with the Division of Communications are hereby cancelled.
- (5) There being nothing further to be done, this matter shall be dismissed from the Commission docket of active cases and the papers filed herein placed in the Commission's file for ended causes.

**CASE NO. PUC-2004-00046  
MAY 7, 2004**

JOINT PETITION OF  
FAIRPOINT COMMUNICATIONS, INC.,  
THOMAS H. LEE EQUITY FUND IV, L.P.,  
KELSO INVESTMENT ASSOCIATES V, L.P.,  
and  
KELSO EQUITY PARTNERS V, L.P.

For approval to relinquish control

**ORDER GRANTING APPROVAL**

On March 31, 2004, Kelso Investment Associates V, L.P., and Kelso Equity Partners V, L.P. (collectively "Kelso"), FairPoint Communications, Inc. ("FairPoint"), and Thomas H. Lee Equity Fund IV, L.P. ("THL") (collectively, the "Petitioners"), filed a joint petition with the State Corporation Commission ("Commission") requesting approval, pursuant to Chapter 5 of Title 56 (the "Utility Transfers Act") of the Code of Virginia ("Code"), to consummate a series of transactions (the "Transactions") through which the relinquishment of control of Peoples Mutual Telephone Company ("Peoples Mutual") by THL and Kelso will occur.

Peoples Mutual, a wholly owned subsidiary of FairPoint, is a public service corporation with its principal place of business in Gretna, Virginia. Peoples Mutual is an incumbent local exchange carrier providing local exchange telecommunications services in Pittsylvania County, Virginia. FairPoint is a Delaware business corporation with its headquarters located in Charlotte, North Carolina. Kelso & Company, a private equity investment firm headquartered in New York, New York, manages Kelso. Kelso owns approximately 36.4% of FairPoint, and THL, a Boston-based investment firm, owns approximately 42.9% of FairPoint. Therefore, Kelso and THL are considered to have control of Peoples Mutual as defined in the Utility Transfers Act.

The Petitioners request that the Commission grant authority to permit Petitioners to consummate a series of Transactions through which the relinquishment of control of Peoples Mutual by THL and Kelso as requested in this joint petition will occur. FairPoint will issue Income Deposit Securities ("IDSs")<sup>1</sup> that will consist of one share of FairPoint Class A common stock and a senior subordinated note. Concurrently with this offering, FairPoint will enter into a new credit facility and a stand-alone issuance of the senior subordinated notes. More specifically, the Petitioners seek approval of their proposed Transactions whereby the issuance of the IDSs will result in THL's ownership of FairPoint reduced to approximately 12.5% or less and Kelso's ownership reduced to 10.6% or less. Thus, as a result of the Transactions, neither THL nor Kelso will continue to "control" Peoples Mutual, as defined in § 56-88.1 of the Code of Virginia.

The purpose of the proposed Transactions is to allow FairPoint to recapitalize and strengthen its financial support. The Petitioners represent that there should be no impact on Peoples Mutual with the recapitalization of FairPoint. Specifically, there will be no impact on Peoples Mutual's rates, service, capital structure, or its ability to access capital and financial markets.

THE COMMISSION, upon consideration of the joint petition and representations of Petitioners and having been advised by its Staff, is of the opinion and finds that the above-described transfer of control 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 to consummate the Transactions as described herein to allow Thomas H. Lee Equity Fund IV, L.P., Kelso Investment Associates V, L.P., and Kelso Equity Partners V, L.P., to relinquish control of Peoples Mutual Telephone Company.

<sup>1</sup> IDSs are a new type of security that began trading in the United States on December 5, 2003. IDSs represent shares of a company's stock and debt combined into one security that trades like a stock on an exchange.



(2) The Petitioners shall file a report of the action taken pursuant to the approval granted herein within thirty (30) days of consummation of the transaction, subject to administrative extension by the Director of Public Utility Accounting. Such report shall include the date the relinquishment of control took place.

(3) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NOS. PUC-2004-00048 and PUC-2004-00047  
JUNE 18, 2004**

APPLICATION OF  
VERIZON VIRGINIA INC.

APPLICATION OF  
VERIZON SOUTH INC.

To introduce High Capacity Digital Channel Service - DS3 and classify it as competitive under its Plan for Alternative Regulation

**DISMISSAL ORDER**

On May 4, 2004, the State Corporation Commission ("Commission") entered its Order for Notice and Comment ("Order") in each of these two cases. On May 17, 2004, Verizon Virginia Inc. and Verizon South Inc. (collectively "Verizon") filed their "Petition for Reconsideration," which asked the Commission to reconsider the requirement of newspaper publication contained in Ordering Paragraph (2) of each Order and eliminate that requirement.

On June 9, 2004, Verizon filed a request that these cases be closed. Attached to the filing was a copy of Verizon's letter advising the Director of the Division of Communications that Verizon requested the proposed service classification of High Capacity Digital Channel Service - DS3 be changed to "Discretionary."

Having considered Verizon's request, the Commission finds that it should be granted.

Accordingly, IT IS ORDERED THAT:

- (1) Verizon's request that these cases be closed is granted.
- (2) There being nothing further to come before the Commission, these matters are dismissed.

**CASE NO. PUC-2004-00049  
JULY 2, 2004**

JOINT PETITION OF  
METROPOLITAN TELECOMMUNICATIONS HOLDING COMPANY  
and  
METTEL OF VA, INC.

For approval to transfer control

**ORDER GRANTING APPROVAL**

On April 16, 2004, Metropolitan Telecommunications Holding Company ("Holding Company") and MetTel of VA, Inc.<sup>1</sup> ("MetTel") (collectively, the "Petitioners"), filed a joint petition with the State Corporation Commission ("Commission") requesting approval pursuant to Chapter 5 of Title 56 of the Code of Virginia ("Code") to transfer minority control of Holding Company and the indirect transfer of control of MetTel of VA Inc. to MCG Capital Corporation ("MCG").

Holding Company's indirect operating company subsidiary, MetTel, holds a certificate of public convenience and necessity to provide local exchange telecommunications services in Virginia. MetTel's tariffs are currently pending approval.

MCG is a corporation organized under the laws of the state of Delaware with its principal offices located in Arlington, Virginia. MCG is a financial services company that provides capital and strategic advice for small to mid-size companies in the communications, information services, media, and technology industries.

Petitioners request that the Commission grant authority to permit Petitioners to consummate a series of transactions through which MCG will obtain a minority interest in Holding Company's common stock. As part of its compensation for MCG's part in establishing a Credit Facility Agreement for Holding Company and its various subsidiaries, including MetTel, MCG was issued preferred stock and two sets of warrants, Block A and Block B, for common stock that, upon exercise, will entitle MCG to acquire fixed amounts of common stock of Holding Company. Unlike Block A warrants, Block B

<sup>1</sup> The joint petition was filed in the name of Metropolitan Communications of Virginia, Inc.; however, the name of the certificated entity in Virginia is MetTel of VA, Inc.

warrants may only be exercised in the event certain performance benchmarks are not met by June 30, 2004. Upon exercising the warrants, MCG will acquire ownership in excess of 25% of Holding Company and, therefore, MetTel.

The proposed transactions are being completed as an extension of existing credit for the purpose of providing for Holding Company's working capital requirements. MetTel currently does not serve any customers in Virginia, therefore, the proposed transactions will not affect Virginia customers. Petitioners represent that the financing arrangements ensure that MetTel will continue to have the financial resources to provide high quality services in Virginia and compete effectively in the Virginia market. Petitioners further represent that the transactions will not impair or jeopardize any rates, terms, or conditions of MetTel's services at this time and have no foreseeable effect on any future MetTel customers.

THE COMMISSION, upon consideration of the joint petition and representations of Petitioners and having been advised by its Staff, is of the opinion and finds that the above-described transfer of control 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 to consummate the proposed transactions as described herein to allow MCG Capital Corporation to acquire indirect control of MetTel of VA, Inc.

(2) The Petitioners shall file a report of the action taken pursuant to the approval granted herein within thirty (30) days of consummation of the transactions, subject to administrative extension by the Director of Public Utility Accounting. Such report shall include the date the transfer of control took place.

(3) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUC-2004-00050  
JULY 9, 2004**

JOINT APPLICATION OF  
ESSEX ACQUISITION CORPORATION  
and  
NOW COMMUNICATIONS OF VIRGINIA, INC.

Authority for Essex Acquisition Corporation to acquire assets of NOW Communications of Virginia, Inc."

**ORDER GRANTING AUTHORITY**

On April 23, 2004, Essex Acquisition Corporation ("EAC")<sup>1</sup> and NOW Communications of Virginia, Inc. ("NOW-VA") (collectively, the "Applicants"), filed a joint application with the State Corporation Commission ("Commission") requesting authority pursuant to Chapter 5 of Title 56 of the Code of Virginia ("Code") to transfer the assets of NOW-VA to EAC.

NOW Communications, Inc. ("NOW"), is the ultimate parent company of NOW-VA. On March 4, 2003, NOW filed for reorganization under Chapter 11 of the United States Bankruptcy Laws in the United States Bankruptcy Court for the Southern District of Mississippi. NOW and its various operating subsidiaries provide resold and facilities-based telecommunications services throughout the United States. NOW-VA is a Virginia corporation with its principal offices located in Jackson, Mississippi. NOW-VA holds a certificate of public convenience and necessity to provide local exchange telecommunications services in Virginia.

EAC is a Virginia corporation with its principal business office located in Chicago, Illinois. EAC is a wholly owned subsidiary of Cleartel Communications, which in turn is a subsidiary of MCG. EAC and other subsidiaries of Cleartel Communications provide resold and facilities-based telecommunications services in eight states. EAC holds certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services in Virginia.

EAC and NOW-VA request that the Commission grant authority to permit EAC to acquire the Virginia assets, including the customer base of NOW-VA. NOW-VA is a borrower under a credit facility agreement ("Credit Agreement") and maintains certain outstanding loans of money and extensions of credit (collectively, "Loans") with MCG. The Loans are confirmed by a Term Loan Note ("Note").

On March 4, 2003, under the Credit Agreement, NOW-VA's debt obligations were due and payable in full. NOW-VA continues to be in default under the Credit Agreement, the Loans, and the Note. In order for NOW-VA to meet its indebtedness and other obligations, NOW-VA has granted to MCG a duly perfected security interest in substantially all of NOW-VA's assets and property. After completing the aforesaid transaction, such assets will be immediately assigned by MCG to EAC.

After the transaction takes place, NOW-VA will withdraw its authority to provide telecommunications services in Virginia. EAC submitted a tariff to the Division of Communications establishing rates, terms, and conditions of service identical to NOW-VA's tariff. Applicants represent that EAC holds the technical, financial, and managerial qualifications to acquire control of NOW-VA.

THE COMMISSION, upon consideration of the joint application and representations of Applicants and having been advised by its Staff, is of the opinion and finds that the above-described transfer of control will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates and should, therefore, be authorized. However, once the authorized transfer of control takes place, EAC should submit a letter to the

<sup>1</sup> On May 27, 2004, Essex Acquisition Corporation changed its name to Cleartel Telecommunications of Virginia, Inc.

Division of Communications advising that NOW-VA's certificate of public convenience and necessity and tariffs can be cancelled. Such letter should reflect the name change of Essex Acquisition Corporation to ClearTel Telecommunications of Virginia, Inc.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to §§ 56-88.1 and 56-90 of the Code, the Applicants are hereby granted authority to consummate the proposed transaction as described herein to allow Essex Acquisition Corporation to acquire direct control of NOW Communications of Virginia, Inc.

(2) Once the transfer of control authorized herein takes place, EAC shall submit a letter to the Division of Communications advising that NOW-VA's certificate of public convenience and necessity and tariffs can be cancelled. Such letter shall reflect the name change of Essex Acquisition Corporation to ClearTel Telecommunications of Virginia, Inc.

(3) The Applicants shall file a report of the action taken pursuant to the authority granted herein within thirty (30) days of consummation of the transaction, subject to administrative extension by the Director of Public Utility Accounting. Such report shall include the date the transfer of control took place.

(4) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUC-2004-00051  
JUNE 25, 2004**

JOINT PETITION OF  
DIECA COMMUNICATIONS, INC. D/B/A COVAD COMMUNICATIONS COMPANY  
and  
GOBEAM SERVICES OF VIRGINIA, INC

For approval of a transfer of control

**ORDER GRANTING APPROVAL**

On April 9, 2004, DIECA Communications, Inc. d/b/a Covad Communications Company ("Covad") and GoBeam Services of Virginia, Inc. ("GoBeam-VA") (collectively, the "Petitioners"), filed a joint petition with the State Corporation Commission ("Commission") requesting approval pursuant to Chapter 5 of Title 56 of the Code of Virginia ("Code") to transfer indirect control of GoBeam-VA to Covad Communications Group, Inc. ("CCGI").

Covad is a wholly owned subsidiary of CCGI. Covad is a broadband provider of high-speed Internet and network access utilizing Digital Subscriber Line ("DSL") technology. Covad provides DSL, T1, managed security, hosting, IP, dial-up and bundled voice, and data services. Covad's network covers more than 45 million homes and businesses and reaches approximately 45 percent of all US homes and businesses. Covad holds certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services in Virginia.

GoBeam-VA is a wholly owned subsidiary of GoBeam, Inc. ("GoBeam"). GoBeam is a privately held, venture-backed company. GoBeam delivers VoIP telephony solutions to small and mid-size businesses. GoBeam-VA holds certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services in Virginia. GoBeam-VA currently has no retail customers in Virginia.

Petitioners request that the Commission grant authority to permit Petitioners to consummate a transaction through which the transfer of control of GoBeam and, therefore, GoBeam-VA to CCGI will occur. CCGI will acquire GoBeam as a going concern, including its assets and intellectual property, in a transaction in which GoBeam's stockholders will receive CCGI shares in exchange for their GoBeam shares. Upon completion of the proposed transaction, GoBeam and Covad will become subsidiaries of CCGI, and GoBeam-VA will remain a 100 percent direct subsidiary of GoBeam. GoBeam-VA will become an indirect subsidiary of CCGI.

Since GoBeam-VA does not currently serve any retail customers in Virginia, the proposed transaction will have no adverse effect on Virginia customers. Petitioners represent that customers will receive services under the same rates, terms, and conditions as those on file with the Division of Communications.

THE COMMISSION, upon consideration of the joint petition and representations of Petitioners and having been advised by its Staff, is of the opinion and finds that the above-described transfer of control 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 to consummate the proposed transactions as described herein to allow Covad Communications Group, Inc., to acquire indirect control of GoBeam Services of Virginia, Inc.

(2) The Petitioners shall file a report of the action taken pursuant to the approval granted herein within thirty (30) days of consummation of the transactions, subject to administrative extension by the Director of Public Utility Accounting. Such report shall include the date the transfer of control took place.

(3) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUC-2004-00056**  
**AUGUST 2, 2004**

IN RE:  
 PETITION OF THE FEDERAL COMMUNICATIONS COMMISSION

For Agreement in Redefining the Service Area of United Telephone Company-Southeast Virginia pursuant to 47 C.F.R. § 54.207(d)

**FINAL ORDER**

On September 19, 2002, Highland Cellular, Inc. ("Highland Cellular" or "Company"), filed a Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia with the Federal Communications Commission ("FCC"). On April 12, 2004, the FCC released a Memorandum Opinion and Order ("FCC Order") designating Highland Cellular as an Eligible Telecommunications Carrier ("ETC") in specific portions of its licensed service area in the Commonwealth of Virginia subject to certain conditions.<sup>1</sup>

The FCC Order further stated that Highland Cellular's request to redefine the service area of United Telephone Company-Southeast Virginia ("United Telephone") in Virginia pursuant to § 214(e)(5) of the Telecommunications Act of 1996 ("Act") was granted subject to the agreement of the State Corporation Commission ("Commission"). On April 19, 2004, the FCC filed its Order as a petition in this case seeking the Commission's concurrence in the redefinition of United Telephone's service areas.<sup>2</sup>

Section 214(e)(5) of the Act states:

SERVICE AREA DEFINED.—The term "service area" means a geographic area established by a State commission (or the Commission under paragraph (6)) for the purpose of determining universal service obligations and support mechanisms. In the case of an area served by a rural telephone company, "service area" means such company's "study area" unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company.

In this instance, the FCC has determined that the service area of United Telephone, which is a rural telephone company under the Act, should be redefined as requested by Highland Cellular.<sup>3</sup> The FCC further recognizes that the "Virginia Commission's first-hand knowledge of the rural areas in question uniquely qualifies it to examine the redefinition proposal and determine whether it should be approved."<sup>4</sup>

On June 9, 2004, the Commission issued its Order Inviting Comments and/or Request for Hearing. Comments were received from United Telephone. Reply comments were received from Highland Cellular. Neither party requested a hearing. In its comments, United Telephone states that it does not object to redefinition of its service territory for purposes of Highland Cellular's designation as an ETC. Highland Cellular, in its reply, reaffirms its commitment to provide universal service in its service area.

NOW UPON CONSIDERATION of all the pleadings of record and the applicable law, the Commission concurs with the FCC's redefinition of United Telephone's service area.

Accordingly, IT IS ORDERED THAT:

- (1) The FCC's petition for agreement to redefine United Telephone's service area is hereby granted.
- (2) 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.

<sup>1</sup> *In the Matter of Federal-State Joint Board on Universal Service, Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45.

<sup>2</sup> See paragraph 42 of the FCC Order. The FCC, in accordance with § 54.207(d) of its rules, requests that the Virginia Commission treat this Order as a petition to redefine a service area under § 54.207(d)(1) of the FCC's rules. A copy of the petition can be obtained from the Commission's website at: <http://www.state.va.us/sec/caseinfo.htm>.

<sup>3</sup> The FCC denied Highland Cellular's request to redefine the study area of Verizon South Inc. See paragraph 47 of the FCC Order.

<sup>4</sup> FCC Order at paragraph 2 (citations omitted).

**CASE NO. PUC-2004-00058  
DECEMBER 6, 2004**

APPLICATION OF  
NATIONSLINE VIRGINIA, INC.

For a certificate of public convenience and necessity to provide local exchange telecommunications services

**ORDER**

On June 17, 2004, NationsLine Virginia, Inc. ("NationsLine" or the "Company"), completed an application for a certificate of public convenience and necessity with the State Corporation Commission ("Commission") to provide local exchange telecommunications services throughout the Commonwealth of Virginia. The Company also requested certain waivers to allow it to offer a prepaid month-by-month local exchange telecommunications service targeted to a specific market of customers.

To provide the prepaid month-by-month local exchange telecommunications service, NationsLine requests waivers of Rule 30 A 4, Rule 30 A 5, Rule 30 A 6, and Rule 30 E of the Rules Governing the Offering of Competitive Local Exchange Telephone Service, 20 VAC 5-417-10 *et. seq.* ("Local Rules"). These specific Local Rules require a new entrant, either directly or through arrangements with others, to provide access to directory assistance; access to operator services (including collect and third-party billed); and equal access to interLATA and intraLATA services. Also specific to the prepaid month-by-month local exchange telecommunications service, the Company requests a waiver of Rule 50 D of the Local Rules, limiting the proposed rate for service provided by a new entrant to not exceed the highest rate of the comparable tariffed services provided by the incumbent local exchange telephone company or companies in the same local service areas.

By Order for Notice and Comment dated July 21, 2004, the Commission directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. On August 20, 2004, the Company requested an extension to the procedural schedule. On August 27, 2004, the Commission granted the extension to allow the Company to complete publications and furnish a continuous performance or surety bond. On September 29, 2004, and November 12, 2004, the Company filed proof of publication and proof of service as required. No comments or requests for hearing were filed.

On September 24, 2004, NationsLine provided a \$50,000 letter of credit to the Commission's Division of Economics and Finance, requested a waiver of the requirement of Rule 20 G 1 b of the Local Rules for a performance or surety bond, and asked that this requirement be satisfied with the letter of credit.

On November 9, 2004, the Staff filed its Report commenting on NationsLine's request for waivers and finding that, overall, the Company's application met the criteria set forth in the Local Rules. The Staff does not oppose granting NationsLine's request for waivers from certain requirements of the Local Rules applicable only to its month-by-month prepaid local exchange telecommunications service offering. All other services should be required to meet all the conditions in the Local Rules. Additionally, the Staff believes that the letter of credit substantially complies with the intent of the Local Rules, and the waiver request is acceptable to the Staff. The Staff believes it is appropriate to grant NationsLine a certificate to provide local exchange telecommunications services subject to certain conditions, as follows:

(1) NationsLine should notify the Division of Economics and Finance no less than thirty (30) days prior to the cancellation or lapse of its letter of credit and should provide a replacement bond or letter of credit at that time. This requirement should be maintained until such time as the Staff or Commission determines it is no longer necessary.

(2) Regarding NationsLine's prepaid month-by-month local exchange telecommunications service offering, the Company should not be allowed to collect customer deposits under any circumstances.

(3) Regarding NationsLine's prepaid month-by-month local exchange telecommunications service offering, the Company should provide full disclosure to consumers about the services and features NationsLine will and will not furnish to subscribers of its alternative prepaid month-by-month local exchange telecommunications service. Sales brochures and other marketing and advertising materials should prominently disclose that customers will have no access to directory assistance, operator services, long distance, collect and third-party calls, or any other pay-for-usage services.

(4) Any waivers granted to NationsLine in this case for its prepaid month-by-month local exchange telecommunications service described in the Company's filing should be limited solely to that service offering.

(5) Any waivers granted to NationsLine for its prepaid month-by-month local exchange telecommunications service should be subject to revocation, alteration, or the imposition of additional conditions, such as pricing restrictions, in the event the Commission subsequently determines the service is operating improperly or is not in the public interest.

(6) Any subsequent increase in the rate for NationsLine's prepaid month-by-month local exchange telecommunications service should be subject to thirty (30) days' notice to the Commission, and notice to customers should be provided through billing inserts or publication for two (2) consecutive weeks as display advertising in newspapers having general circulation in the areas served by the Company.

(7) Regarding NationsLine's prepaid month-by-month local exchange telecommunications service offering, the Company should be authorized to bill its prepaid customers for per-use or per-minute features and services, in limited situations where the Company does not have the ability to block the customers' access to those services and features. The Company should be required to provide full disclosure to consumers that per-minute or per-use charges may apply for certain services or features in these limited circumstances.

(8) Regarding NationsLine's prepaid month-by-month local exchange telecommunications service offering, the Company should be required to clearly and specifically include any features and services, including rates, in the Company's tariff for the limited situations where the Company does not have the ability to block customers' access to features and services that have associated per-use or per-minute charges and that the Company intends to bill to the customer.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

(9) Regarding NationsLine's prepaid month-by-month local exchange telecommunications service offering, the Company should not be granted a waiver from the price ceiling requirement (Rule 50 D of the Local Rules) in the limited circumstances where the Company is unable to block a customer's access to certain features and services that have associated per-usage or per-minute charges.

NOW THE COMMISSION, having considered the application and the Staff Report, finds that the Company should be granted a certificate to provide local exchange telecommunications services subject to the conditions set forth below.

Accordingly, IT IS ORDERED THAT:

(1) NationsLine Virginia, Inc., is hereby granted a certificate of public convenience and necessity, No. T-633, to provide local exchange telecommunications services subject to the restrictions set forth in the Local Rules, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(2) The Company is hereby granted a waiver of the bond requirement of Rule 20 G 1 b of the Local Rules, and the letter of credit is hereby accepted. The Company shall notify the Division of Economics and Finance no less than thirty (30) days prior to the cancellation or lapse of its letter of credit and shall provide a replacement bond or letter of credit at that time. This requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary.

(3) Local Rules 30 A 4, 30 A 5, 30 A 6, 30 E, and 50 D are hereby waived for the Company's prepaid month-by-month local exchange telecommunications service offering described in the application.

(4) The waivers granted herein to NationsLine for the Company's month-by-month local exchange telecommunications service offering shall be limited solely to that service offering. The Local Rules shall otherwise apply to all other local exchange telecommunications services provided by the Company.

(5) With regard to the Company's prepaid month-by-month local exchange telecommunications service offering, the Company shall not be granted the requested waiver from the price ceiling requirement of Rule 50 D of the Local Rules in the limited circumstances where the Company is unable to block a customer's access to certain features and services that have associated per-usage or per-minute charges.

(6) Any waivers granted to the Company for its prepaid month-by-month local exchange telecommunications service shall be subject to revocation, alteration, or the imposition of additional conditions, such as pricing restrictions, in the event the Commission subsequently determines the service is operating improperly or is not in the public interest.

(7) With regard to its prepaid month-by-month local exchange telecommunications service offering, the Company shall not be allowed to collect customer deposits under any circumstances.

(8) The Company shall provide full disclosure to consumers about the services and features the Company will and will not furnish to subscribers of its alternative prepaid month-by-month local exchange telecommunications service. Sales brochures and other marketing and advertising materials shall prominently disclose that customers will have no access to directory assistance, operator services, long distance, collect and third-party calls, or any other pay-for-usage services.

(9) Any subsequent increase in the rate for NationsLine's prepaid month-by-month local exchange telecommunications service shall be subject to thirty (30) days' notice to the Commission, and notice to customers shall be provided through billing inserts or publication for two (2) consecutive weeks as display advertising in newspapers having general circulation in the areas served by the Company.

(10) The Company is authorized to bill its prepaid month-by-month local exchange telecommunications service customers for per-use or per-minute features and services in limited situations where the Company does not have the ability to block the customers' access to those services and features. The Company shall provide full disclosure to consumers that per-minute or per-use charges may apply for certain services or features in these limited circumstances.

(11) With regard to its prepaid month-by-month local exchange telecommunications service offering, the Company shall clearly and specifically include any features and services, including rates, in the Company's tariff for the limited situations where the Company does not have the ability to block customers' access to features and services that have associated per-use or per-minute charges and that the Company intends to bill to the customer.

(12) The Company shall provide tariffs to the Division of Communications that conform to all applicable Commission rules from which the Company has not been granted a waiver.

(13) This case shall remain open to evaluate NationsLine's prepaid month-by-month local exchange telecommunications service offering.

**CASE NO. PUC-2004-00060  
JUNE 18, 2004**

JOINT PETITION OF  
TELCOVE, INC.,  
ADELPHIA BUSINESS SOLUTIONS OF VIRGINIA, L.L.C.,  
and  
ACC TELECOMMUNICATIONS OF VIRGINIA, LLC

For approval of transfer of assets

**ORDER GRANTING APPROVAL**

On April 26, 2004, TelCove, Inc. ("TelCove")<sup>1</sup>, Adelphia Business Solutions of Virginia, L.L.C. d/b/a TelCove ("TelCove-Virginia"), and ACC Telecommunications of Virginia, LLC ("ACC") (collectively referred to herein as "Petitioners"), filed a joint petition with the State Corporation Commission ("Commission") for approval of the transfer of substantially all assets and customers from ACC to TelCove-Virginia, as approved by the Bankruptcy Court March 23, 2004, in assigned Case No. 02-41729. The filing was made complete with additional information filed May 13, 2004.

On May 12, 2004, ACC filed its Exit Plan with the Commission, pursuant to the Commission's Discontinuance Rules, requesting authority to discontinue the provision of all forms of telecommunications services in Virginia as of June 28, 2004, the date of transfer and finalization of the transactions under the Global Settlement Agreement ("GSA"). The matter was assigned Case No. PUC-2004-00065. In the filing ACC requested that it be allowed to retain its certificates of public convenience and necessity ("CPCN"s). An Order in that case is pending.

On January 19, 2001, the Commission, in Case No. PUC-2001-00013, granted TelCove-Virginia CPCN Nos. T-433b and TT-63C to provide local exchange and interexchange telecommunications services in Virginia. TelCove-Virginia is a limited liability company organized and existing under the laws of Virginia.

TelCove-Virginia is a wholly owned subsidiary of TelCove, a general corporation organized and existing under the laws of Delaware. TelCove is a holding company that provides telecommunications services through operating company affiliates, including TelCove-Virginia. Adelphia Communications Corporation ("Adelphia"), a publicly traded Delaware corporation, is currently the majority owner of TelCove.

On March 27, 2002, TelCove filed a petition in 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 ("Bankruptcy Code"), which was assigned Case No. 02-1 1389. TelCove filed a Reorganization Plan, which the Bankruptcy Court confirmed on December 19, 2003. On February 26, 2004, in Case No. PUC-2003-00184, the Commission approved the reorganization and associated transfer of control.

On May 9, 2002, in Case No. PUC-2002-00011, the Commission granted ACC CPCN Nos. T-585 and No. TT-177A to provide local exchange and interexchange telecommunications services in Virginia. ACC is a wholly owned subsidiary of Adelphia.

On June 25, 2002, Adelphia filed a petition in the Bankruptcy Court to reorganize under Chapter 11 of the Bankruptcy Code, which was assigned Case No. 02-41729. On February 25, 2004, Adelphia filed its proposed Reorganization Plan with the Bankruptcy Court.

As stated in a petition filed January 8, 2002, in Case No. PUC-2001-00080, assets were to be transferred from TelCove to ACC. As not all of TelCove assets were to be transferred, the proposed transaction did not constitute a transfer of control and, therefore, did not require Commission approval. A Dismissal Order was entered June 28, 2002. Certain assets and customers, however, were transferred from TelCove to ACC.

On February 21, 2004, to resolve certain bankruptcy claims between TelCove and Adelphia, the companies entered into a GSA whereby certain Virginia assets and customers of ACC would be transferred from ACC to TelCove-Virginia. The GSA, the settlement claims, and the associated transfer of assets and customers, were approved by the Bankruptcy Court on March 23, 2004, in assigned Case No. 02-41729.

TelCove is in the process of changing its name, and the names of its subsidiaries, as part of its emergence from bankruptcy. Thus, "Adelphia Business Solutions of Virginia, L.L.C. d/b/a TelCove" will be changed to "TelCove of Virginia, LLC." The request to change the name of the Virginia entity was filed May 24, 2004, in Case No. PUC-2004-00071.

The Petitioners represent that the transaction meets the impairment standard set forth in § 56-90 of the Code. The Petitioners represent that the asset transfer will not adversely impact customers or the general public, nor impair or jeopardize adequate service to the public at just and reasonable rates. ACC has submitted its customer notification letter and other material required by the Commission's Discontinuance Rules to Commission Staff. The Petitioners represent that rates and charges will not change as a result of the transfer and that they are working together to provide a smooth transition for all affected customers.

THE COMMISSION, upon consideration of the joint petition and representations of the Petitioners and having been advised by its Staff, is of the opinion and finds that the transactions described herein, involving the transfer of assets and customers from ACC to TelCove-Virginia, will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates. The joint petition should, therefore, be approved.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to §§ 56-88.1 and 56-90 of the Code of Virginia, approval is hereby granted for the transfer of assets, as described herein.

<sup>1</sup> Previously Adelphia Business Solutions, Inc. d/b/a/ TelCove.

- 2) The Petitioners shall file a report of the action taken pursuant to the approval granted herein within thirty (30) days of consummation of the transaction, subject to administrative extension by the Director of Public Utility Accounting. Such report shall include the date of the transaction.
- 3) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUC-2004-00061  
MAY 28, 2004**

APPLICATION OF  
EUREKA TELECOM, LLC

For cancellation of certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

**ORDER CANCELLING CERTIFICATES**

On April 28, 2004, Eureka Telecom, LLC ("Eureka" or the "Company"), filed a letter application with the State Corporation Commission ("Commission") requesting cancellation of its certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services ("Certificates"). The Commission granted Certificate Nos. T-617 and TT-196A to Eureka in Case No. PUC-2003-00020 on July 28, 2003.

In the application, Eureka states that it voluntarily surrenders its Certificates without prejudice. Eureka indicates that it has not provided telecommunications services to customers in Virginia and that it has no loop, transport, or switching facilities in the Commonwealth.

NOW UPON CONSIDERATION of the matter, Eureka finds that the Certificates granted to Eureka should be cancelled. The Commission further finds that any local exchange or interexchange telecommunications tariffs on file with the Division of Communications should be cancelled.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed and assigned Case No. PUC-2004-00061.
- (2) Certificate No. T-617 authorizing Eureka Telecom, LLC, to provide local exchange telecommunications services throughout the Commonwealth is hereby cancelled.
- (3) Certificate TT-196A authorizing Eureka Telecom, LLC, to provide interexchange telecommunications services throughout the Commonwealth is hereby cancelled.
- (4) Any tariffs associated with Certificate Nos. T-617 and TT-196A on file with the Division of Communications are hereby cancelled.
- (5) There being nothing further to be done, this matter shall be dismissed from the Commission docket of active cases, and the papers filed herein placed in the Commission's file for ended causes.

**CASE NO. PUC-2004-00062  
MAY 7, 2004**

APPLICATION OF  
RCN TELECOM SERVICES OF VIRGINIA, INC.

For cancellation of certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

**ORDER CANCELLING CERTIFICATES**

On May 3, 2004, RCN Telecom Services of Virginia, Inc. ("RCN" or the "Company"), filed a letter application with the State Corporation Commission ("Commission") requesting cancellation of certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services ("Certificates"). The Company requested that these cancellations be effective June 1, 2004. The Commission granted Certificate Nos. T-387 and TT-39A to RCN in Case No. PUC-1997-00043 on September 16, 1997.

In its application, RCN states that it has no local exchange customers or interexchange long distance customers in Virginia. According to the Company, local and interexchange customers are currently being served through RCN's affiliate, Starpower Communications, LLC. The Company represents that its request for cancellation of its certificates does not affect the operations of Starpower Communications, LLC. RCN requests that the Commission cancel the Company's certificates and associated tariffs.

NOW UPON CONSIDERATION of the matter, the Commission finds that the certificates granted to RCN should be cancelled. The Commission further finds that any local exchange or interexchange telecommunications tariffs on file with the Division of Communications should also be cancelled.

Accordingly, IT IS ORDERED THAT:

- (1) This application shall be docketed and assigned Case No. PUC-2004-00062.



(2) Certificate No. T-387 authorizing RCN Telecom Services of Virginia, Inc., to provide local exchange telecommunications services throughout the Commonwealth is hereby cancelled effective June 1, 2004.

(3) Certificate No. TT-39A authorizing RCN Telecom Services of Virginia, Inc., to provide interexchange telecommunications services throughout the Commonwealth is hereby cancelled effective June 1, 2004.

(4) Any tariffs associated with Certificate Nos. T-387 and TT-39A on file with the Division of Communications are hereby cancelled effective June 1, 2004.

(5) There being nothing further to be done herein, this matter 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-2004-00063**  
**MAY 27, 2004**

APPLICATION OF  
ESSEX ACQUISITION CORPORATION

For update of a certificate of public convenience and necessity to provide local exchange telecommunications services and cancellation of a certificate of public convenience and necessity to provide interexchange telecommunications services

**ORDER**

On May 6, 2004, Essex Acquisition Corporation ("Essex" or the "Company") filed a letter application with the State Corporation Commission ("Commission") requesting that its certificate of public convenience and necessity to provide local exchange telecommunications services, Certificate No. T-605, be updated and its certificate of public convenience and necessity to provide interexchange telecommunications services, Certificate No. TT-189A, be cancelled.

The Commission granted Certificate Nos. T-605 and TT-189A to Essex in Case No. PUC-2002-00204 on February 20, 2003.

Essex provided a copy of the Articles of Amendment changing the Company's name to Cleartel Telecommunications of Virginia, Inc., as well as the Certificate of Amendment issued by the Commission. The Company requests, therefore, that Certificate No. T-605 be updated to reflect the new corporate name. The Company also states that since it only intends to provide interexchange telecommunications services on a resale basis, Certificate No. TT-189A is no longer required.

NOW UPON CONSIDERATION of the matter, the Commission finds that the certificate of public convenience and necessity to provide local exchange telecommunications services, Certificate No. T-605, should be updated to reflect the Company's new corporate name, and the certificate of public convenience and necessity to provide interexchange telecommunications services, Certificate No. TT-189A, should be cancelled.

Accordingly, IT IS ORDERED THAT:

(1) This matter is docketed and assigned Case No. PUC-2004-00063.

(2) Certificate No. T-605 authorizing Essex Acquisition Corporation to provide local exchange telecommunications services throughout the Commonwealth is hereby cancelled and shall be reissued as amended Certificate T-605a in the name of Cleartel Telecommunications of Virginia, Inc.

(3) The Company shall provide revised tariffs to the Division of Communications reflecting the new name, Cleartel Telecommunications of Virginia, Inc., within sixty (60) days of the issuance of this Order.

(4) Certificate No. TT-189A authorizing Essex Acquisition Corporation to provide interexchange telecommunications services throughout the Commonwealth is hereby cancelled.

(5) Any tariffs associated with Certificate No. TT-189A on file with the Division of Communications are hereby cancelled.

(6) There being nothing further to be done, this matter shall be dismissed from the Commission docket of active cases and the papers filed herein placed in the Commission's file for ended causes.

**CASE NO. PUC-2004-00064  
AUGUST 20, 2004**

APPLICATION OF  
THE CITY OF FRANKLIN

For a certificate of public convenience and necessity to provide local exchange telecommunications services

**FINAL ORDER**

On May 20, 2004, the City of Franklin ("Franklin" or "Applicant"), completed an application with the State Corporation Commission ("Commission") for a certificate of public convenience and necessity to provide local exchange telecommunications services in the Cities of Franklin and Suffolk and the Counties of Southampton and Isle of Wight.

By Order for Notice and Comment dated June 7, 2004, the Commission directed the Applicant to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report.

On June 22, 2004, Verizon Virginia Inc. and Verizon South Inc. filed a Notice of Participation. On July 9, 2004, comments were filed by Mr. Neil McNeely with Beldar Associates, Franklin, Virginia. No requests for a hearing on the certification of Franklin were received.

On July 13, 2004, the Applicant filed proof of publication and proof of service as required by the June 7, 2004, Order.

On July 30, 2004, the Staff filed its Report finding that Franklin's application was in compliance with 20 VAC 5-417-10 *et seq.*, the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers. The Staff Report notes that Franklin will initially be providing high-speed broadband Internet access services.<sup>1</sup> The Staff, based upon its review of Franklin's application, determined it would be appropriate to grant the Applicant a certificate to provide local exchange telecommunications services subject to the following condition: at such time as Franklin provides local exchange telecommunications services, it shall comply with all applicable requirements of competitive local exchange carriers and municipal local exchange carriers ("MLECs") in the Local Rules.<sup>2</sup>

Franklin filed its Response to the Staff Report and Public Comment on August 6, 2004. According to its response, Franklin does not object to the condition contained in the Staff Report. Regarding the filed comment, Franklin's response confirms that its application was filed pursuant to the Local Rules and not Article 5.1 to Title 56 of the Code of Virginia (§§ 56-484.7:1 and 56-484.7:2), Provision of Certain Communications Services, and, therefore, is not bound by the requirements of Article 5.1 including the limitation to the number of providers.

NOW THE COMMISSION, having considered the application, Staff Report, and Comment, finds that the Applicant should be granted a certificate to provide local exchange telecommunications services in the Cities of Franklin and Suffolk and the Counties of Southampton and Isle of Wight.

Accordingly, IT IS ORDERED THAT:

(1) The City of Franklin is hereby granted a certificate of public convenience and necessity, No. T-630, to provide local exchange telecommunications services in the Cities of Franklin and Suffolk and the Counties of Southampton and Isle of Wight, 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) Franklin shall provide tariffs to the Division of Communications that conform with all applicable Commission rules and regulations before it begins offering local exchange telecommunications services.

(3) Franklin is hereby ordered, at such time as it provides local exchange telecommunications services, to comply with all applicable requirements of new entrants and MLECs in the Local Rules.

(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.

<sup>1</sup> The Staff notes that the Federal Communications Commission has determined Internet access to be jurisdictionally interstate and, therefore, is not regulated by this Commission. Therefore, until Franklin offers jurisdictional local exchange telecommunications services, intrastate tariffs are not necessary.

<sup>2</sup> As the Staff stated in prior Staff Reports for the certification of MLECs, the Staff believes the Local Rules address the requirements of § 56-265.4:4 regarding the certification and regulation of localities to provide local exchange telecommunications services.

**CASE NO. PUC-2004-00065  
JUNE 16, 2004**APPLICATION OF  
ACC TELECOMMUNICATIONS OF VIRGINIA, LLC

For approval to discontinue the provision of local exchange and interexchange telecommunications services in the greater Richmond, Charlottesville, and Shenandoah Valley geographical areas

**ORDER PERMITTING DISCONTINUANCE OF  
SERVICE IN THE GREATER RICHMOND, CHARLOTTESVILLE,  
AND SHENANDOAH VALLEY GEOGRAPHICAL AREAS**

On May 12, 2004, ACC Telecommunications of Virginia, LLC ("ACC" or "Company"), filed a letter application with the State Corporation Commission ("Commission") requesting Commission approval to discontinue its provision of local exchange and interexchange telecommunications services in the greater Richmond, Charlottesville, and Shenandoah Valley geographical areas. ACC advises that it has sold its telecommunications customers and equipment in the State of Virginia to Adelpia Business Solutions of Virginia, L.L.C. ("Adelpia VA")<sup>1</sup> as part of a larger bankruptcy settlement agreement.<sup>2</sup> The Company reports that the bankruptcy settlement was filed with the respective courts, and the parties received approval on March 23, 2004. According to ACC's application, TelCove is a current provider of local exchange and interexchange telecommunications services in Norfolk, Virginia, and has been functioning as ACC's service agent for all back office operating support systems for the current ACC Virginia operations.

According to the application, ACC currently serves its Richmond, Charlottesville, and Shenandoah Valley customers via a mixture of physical facilities, some totally supported by ACC facilities and others via facilities purchased from incumbent local exchange carriers. According to ACC, 1,290 customer accounts and approximately 800 customers are impacted by this transaction. ACC proposes to transfer its customers to Adelpia VA and proposes that upon transfer its customers will receive the same telecommunications services that are currently provided in accordance with the rates, terms, and conditions of customers' existing contracts or effective tariffs on file with the Commission. ACC advises that the final transfer date for all of its customers will be June 28, 2004.

On May 13, 2004, ACC amended its May 12, 2004, application, attaching a customer notification letter, which the Company represented had been amended from the initial version filed with its application on May 12, 2004. On June 10, 2004, ACC advised that it had mailed the amended customer letter to its consumers on May 14, 2004.

The Commission's primary concern with authorizing any discontinuance of telecommunications services is that adequate notice to customers be provided. The Commission's rules regarding discontinuance, 20 VAC 5-423-20 require, among other things, that an application provide at least 30 days' written notice of a proposed discontinuance of telecommunications services. The Company has provided proof of mailing its notification letter to consumers in compliance with the rules governing discontinuance.

NOW THE COMMISSION, being sufficiently advised of the foregoing, finds that ACC's request to discontinue telecommunications services should be granted effective June 28, 2004.

Accordingly, IT IS ORDERED THAT:

- (1) This matter shall be docketed and assigned Case No. PUC-2004-00065.
- (2) ACC is hereby granted authority to discontinue its provision of telecommunications services to its customers in the greater Richmond, Charlottesville, and Shenandoah Valley geographical areas of Virginia effective June 28, 2004.
- (3) On June 30, 2004, ACC's tariffs on file with the Commission's Division of Communications shall be cancelled.
- (4) There being nothing further to be done in this matter, this case shall be dismissed from the Commission's docket of active proceedings, and the papers herein shall be placed in the Commission's file for ended causes.

<sup>1</sup> On June 8, 2004, an amendment to the application was filed correcting Adelpia VA's name to Adelpia Business Solutions of Virginia, L.L.C. The May 12, 2004, filing incorrectly identified the name of the company that was purchasing ACC's equipment as Adelpia Business Solutions of Virginia, Inc. Also, Adelpia Business Solutions of Virginia, L.L.C., was granted authority by the June 11, 2004, Order entered in Case No. PUC-2004-00071 to change its name to TelCove of Virginia, LLC.

<sup>2</sup> ACC advised that it wished to retain its certificates of public convenience and necessity ("CPCN") to operate as a local exchange and interexchange telecommunications services provider in Virginia. ACC holds CPCN No. T-585 to provide local exchange telecommunications services and CPCN No. TT-177A to provide interexchange telecommunications services, issued May 9, 2002, in Case No. PUC-2002-00011.

**CASE NO. PUC-2004-00066  
JUNE 14, 2004**

JOINT PETITION OF  
TELIGENT, INC., TELIGENT OF VIRGINIA, INC.,  
and  
ASPEN PARTNERS-SERIES A, A SERIES OF ASPEN CAPITAL PARTNERS, L.P.

For approval to transfer control

**ORDER GRANTING APPROVAL**

On May 14, 2004, Teligent, Inc. ("Teligent"), Teligent of Virginia, Inc. ("TVA"), and Aspen Partners-Series A ("Aspen Series A") (collectively, the "Petitioners"), filed a joint petition with the State Corporation Commission ("Commission") requesting approval pursuant to Chapter 5 of Title 56 of the Code of Virginia ("Code") to transfer the direct control of Teligent and the indirect control of TVA to Aspen Series A.

Teligent is a privately held Delaware corporation. Through its subsidiaries, Teligent is authorized to provide local and long distance telecommunications services in 50 states as well as the District of Columbia. TVA is a public service corporation with its headquarters located in Herndon, Virginia. TVA is a wholly owned subsidiary of Teligent and holds certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services in Virginia.

Aspen Series A is a series of Aspen Capital Partners, L.P., a limited partnership organized under the laws of Delaware. Aspen Series A's primary business is financial investment and management. Although Aspen Series A does not have a separate certificate of limited partnership, the certificate of limited partnership for Aspen Capital Partners, L.P., explicitly discloses the separate nature of each series of Aspen Capital Partners, L.P. Aspen Series A currently is a minority shareholder of Teligent.

Petitioners request that the Commission grant authority to permit Petitioners to consummate a transaction through which the transfer of control of Teligent and, therefore, TVA will allow Aspen Series A to acquire substantially all of the stock of Teligent. As a result of the transaction, Aspen Series A will become a majority shareholder, thus gaining control of Teligent and TVA.

More specifically, Teligent emerged debt free from Chapter 11 bankruptcy on September 12, 2002. Aspen Series A currently holds a 21.89% ownership in Teligent. Under the proposed transaction, Aspen Series A will acquire the outstanding stock of Teligent from existing major shareholders. Upon consummation of the proposed transaction, Aspen Series A will hold a 97.19% ownership in Teligent and, therefore, TVA.

Petitioners represent that the transactions will be seamless and transparent to TVA's customers. There will be no change in the name of the providing carrier format or appearance of the customer's bills; in the rates, terms, and conditions of service; and no unfavorable change in customer service.

THE COMMISSION, upon consideration of the joint petition and representations of Petitioners and having been advised by its Staff, is of the opinion and finds that the above-described transfer of control 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 to consummate the proposed transactions as described herein to allow Aspen Series A to acquire direct control of Teligent, Inc., and, therefore, control of Teligent of Virginia, Inc.
- (2) The Petitioners shall file a report of the action taken pursuant to the approval granted herein within thirty (30) days of consummation of the transaction, subject to administrative extension by the Director of Public Utility Accounting. Such report shall include the date the transfer of control took place.
- (3) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUC-2004-00068  
OCTOBER 8, 2004**

APPLICATION OF  
GLOBAL CONNECTION INC. OF VIRGINIA

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

**ORDER**

On May 19, 2004, Global Connection Inc. of Virginia ("Global Connection" or the "Company") filed 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. On August 4, 2004, the Company amended its application to propose offering a prepaid month-by-month local exchange telecommunications service targeted to a specific market of both residential and business in addition to standard local exchange telecommunications services.

To provide the prepaid month-by-month local exchange telecommunications service, Global Connection requests waivers of Rule 30 A 4, Rule 30 A 5, Rule 30 A 6, and Rule 30 E of the Rules Governing the Offering of Competitive Local Exchange Telephone Service, 20 VAC 5-417-10 et. seq.

("Local Rules"). These specific Local Rules require a new entrant, either directly or through arrangements with others, to provide access to directory assistance; access to operator services (including collected and third-party billed); and equal access to interLATA and intraLATA services. Also specific to the prepaid month-by-month local exchange telecommunications service, the Company requests a waiver of Rule 50 D of the Local Rules, limiting the proposed rate for service provided by a new entrant not to exceed the highest rate of the comparable tariffed services provided by the incumbent local exchange telephone company or companies in the same local service areas.

By Order for Notice and Comment dated June 21, 2004, the Commission directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. On July 13, 2004, the Company filed proof of publication and proof of service as required by the June 21, 2004, Order. No comments or requests for hearing were filed.

On August 24, 2004, Global Connection provided a \$50,000 letter of credit to the Commission's Division of Economics and Finance, requested a waiver of the requirement of Rule 20 G 1 b of the Local Rules for a performance or surety bond, and asked that this requirement be satisfied with the letter of credit.

On September 7, 2004, the Staff filed its Report commenting on Global Connection's request for waivers and finding that, overall, the Company's application met the criteria set forth in the Local Rules and Rules Governing the Certification of Interexchange Carriers ("IXC Rules"). The Staff does not oppose granting Global Connection's request for waivers from certain requirements of the Local Rules applicable only to its month-by-month prepaid local exchange telecommunications service offering. All other services should be required to meet all the conditions in the Local Rules. Additionally, the Staff believes that the letter of credit substantially complies with the intent of the Local Rules, and the waiver request is acceptable to the Staff. The Staff believes it is appropriate to grant Global Connection a certificate to provide interexchange telecommunications services and a certificate to provide local exchange telecommunications services subject to certain conditions, as follows:

(1) Global Connection should notify the Division of Economics and Finance no less than 30 days prior to the cancellation or lapse of its letter of credit and should provide a replacement bond or letter of credit at that time. This requirement should be maintained until such time as the Staff or Commission determines it is no longer necessary.

(2) Regarding Global Connection's prepaid month-by-month local exchange telecommunications service offering, the Company should not be allowed to collect customer deposits under any circumstances.

(3) Regarding Global Connection's prepaid month-by-month local exchange telecommunications service offering, the Company should provide full disclosure to consumers about the services and features Global Connection will and will not furnish to subscribers of its alternative prepaid month-by-month local exchange telecommunications service. Sales brochures and other marketing and advertising materials should prominently disclose that customers will have no access to directory assistance, operator services, long distance, collect and third-party calls, or any other pay-for-usage services.

(4) Any waivers granted to Global Connection in this case for its prepaid month-by-month local exchange telecommunications service described in the Company's filing should be limited solely to that service offering.

(5) Any waivers granted to Global Connection for its prepaid month-by-month local exchange telecommunications service should be subject to revocation, alteration, or the imposition of additional conditions, such as pricing restrictions, in the event the Commission subsequently determines the service is operating improperly or is not in the public interest.

(6) Any subsequent increase in the rate for Global Connection's prepaid month-by-month local exchange telecommunications service should be subject to thirty (30) days' notice to the Commission, and notice to customers should be provided through billing inserts or publication for two (2) consecutive weeks as display advertising in newspapers having general circulation in the areas served by the Company.

(7) Regarding Global Connection's prepaid month-by-month local exchange telecommunications service offering, the Company should have the ability to bill its prepaid customers for per-use or per-minute features and services, in limited situations where the Company does not have the ability to block the customers' access to those services and features. The Company should be required to provide full disclosure to consumers that per-minute or per-use charges may apply for certain services or features in these limited circumstances.

(8) Regarding Global Connection's prepaid month-by-month local exchange telecommunications service offering, the Company should be required to clearly and specifically include any features and services, including rates, in the Company's tariff for the limited situations where the Company does not have the ability to block customers' access to features and services that have associated per-use or per-minute charges and that the Company intends to bill to the customer.

(9) Regarding Global Connection's prepaid month-by-month local exchange telecommunications service offering, the Company should not be granted a waiver from the price ceiling requirement (Rule 50 D of the Local Rules) in the limited circumstances where the Company is unable to block a customer's access to certain features and services that have associated per-usage or per-minute charges.

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 subject to the conditions set forth below.

Accordingly, IT IS ORDERED THAT:

(1) Global Connection Inc. of Virginia is hereby granted a certificate of public convenience and necessity, No. TT-208A, to provide interexchange telecommunications services subject to the restrictions set forth in the IXC Rules, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(2) Global Connection Inc. of Virginia is hereby granted a certificate of public convenience and necessity, No. T-632, to provide local exchange telecommunications services subject to the restrictions set forth in the Local Rules, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

(3) The Company is hereby granted a waiver of the bond requirement of Rule 20 G 1 b of the Local Rules, and the letter of credit is hereby accepted. The Company shall notify the Division of Economics and Finance no less than thirty (30) days prior to the cancellation or lapse of its letter of credit and shall provide a replacement bond or letter of credit at that time. This requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary.

(4) Local Rules 30 A 4, 30 A 5, 30 A 6, 30 E, and 50 D are hereby waived for the Company's prepaid month-by-month local exchange telecommunications service offering described in the application.

(5) The waivers granted herein to Global Connection for the Company's month-by-month local exchange telecommunications service offering shall be limited solely to that service offering. The Local Rules shall otherwise apply to all other local exchange telecommunications services provided by the Company.

(6) With regard to the Company's prepaid month-by-month local exchange telecommunications service offering, the Company shall not be granted the requested waiver from the price ceiling requirement of Rule 50 D of the Local Rules in the limited circumstances where the Company is unable to block a customer's access to certain features and services that have associated per-usage or per-minute charges.

(7) Any waivers granted to the Company for its prepaid month-by-month local exchange telecommunications service shall be subject to revocation, alteration, or the imposition of additional conditions, such as pricing restrictions, in the event the Commission subsequently determines the service is operating improperly or is not in the public interest.

(8) With regard to its prepaid month-by-month local exchange telecommunications service offering, the Company shall not be allowed to collect customer deposits under any circumstances.

(9) The Company shall provide full disclosure to consumers about the services and features the Company will and will not furnish to subscribers of its alternative prepaid month-by-month local exchange telecommunications service. Sales brochures and other marketing and advertising materials shall prominently disclose that customers will have no access to directory assistance, operator services, long distance, collect and third-party calls, or any other pay-for-usage services.

(10) Any subsequent increase in the rate for Global Connection's prepaid month-by-month local exchange telecommunications service shall be subject to thirty (30) days' notice to the Commission, and notice to customers shall be provided through billing inserts or publication for two (2) consecutive weeks as display advertising in newspapers having general circulation in the areas served by the Company.

(11) The Company shall have the ability to bill its prepaid month-by-month local exchange telecommunications service customers for per-use or per-minute features and services in limited situations where the Company does not have the ability to block the customers' access to those services and features. The Company shall provide full disclosure to consumers that per-minute or per-use charges may apply for certain services or features in these limited circumstances.

(12) With regard to its prepaid month-by-month local exchange telecommunications service offering, the Company shall clearly and specifically include any features and services, including rates, in the Company's tariff for the limited situations where the Company does not have the ability to block customers' access to features and services that have associated per-use or per-minute charges and that the Company intends to bill to the customer.

(13) The Company shall provide tariffs to the Division of Communications that conform to all applicable Commission rules from which the Company has not been granted a waiver.

(14) This case shall remain open to evaluate Global Connection's prepaid month-by-month local exchange telecommunications service offering.

**CASE NO. PUC-2004-00071  
JUNE 11, 2004**

APPLICATION OF  
ADELPHIA BUSINESS SOLUTIONS OF VIRGINIA, L.L.C.

For update of certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services to reflect the new company name

**ORDER**

On May 24, 2004, Adelpia Business Solutions of Virginia, L.L.C. ("Adelpia VA" or "Applicant"), filed a letter application with the State Corporation Commission ("Commission") stating that the Virginia entity, Adelpia VA, had changed its name to TelCove of Virginia, LLC. The application further requested that the certificates of public convenience and necessity ("Certificate"), Certificate No. T-433b to provide local exchange telecommunications services and Certificate No. TT-63C to provide interexchange telecommunications services, be updated to reflect the new company name.

Adelpia VA provided a copy of the Articles of Amendment changing the Company's name to TelCove of Virginia, LLC, as well as the Certificate of Amendment issued by the Commission. The Company requests, therefore, that Certificate No. T-433b and Certificate No. TT-63C be updated to reflect the new Company name.

NOW UPON CONSIDERATION of the matter, the Commission finds that the certificates of public convenience and necessity for local exchange and interexchange telecommunications services should be updated to reflect the Company's new name.

Accordingly, IT IS ORDERED THAT:

- (1) This case is docketed and assigned Case No. PUC-2004-00071.
- (2) Certificate No T-433b authorizing Adelphia VA to provide local exchange telecommunications services throughout the Commonwealth is hereby cancelled and shall be reissued as amended Certificate No. T-433c in the name of TelCove of Virginia, LLC.
- (3) Certificate No TT-63C authorizing Adelphia VA to provide interexchange telecommunications services throughout the Commonwealth is hereby cancelled and shall be reissued as amended Certificate No. TT-63D in the name of TelCove of Virginia, LLC.
- (4) The Company shall provide revised tariffs to the Division of Communications reflecting the new name, TelCove of Virginia, LLC, within forty-five (45) days of the issuance of this Order.
- (5) There being nothing further to be done, this matter shall be dismissed from the Commission docket of active cases and the papers filed herein placed in the Commission's file for ended causes.

**CASE NOS. PUC-2004-00073 and PUC-2004-00074  
JULY 19, 2004**

PETITION OF  
THE COMPETITIVE CARRIER COALITION

For an Expedited Order that Verizon Virginia Inc. and Verizon South Inc. Remain Required to Provision Unbundled Network Elements on Existing Rates and Terms Pending the Effective Date of Amendments to the Parties' Interconnection Agreements

and

PETITION OF  
AT&T COMMUNICATIONS OF VIRGINIA, LLC,  
and  
TCG VIRGINIA, INC.

For an Order Preserving Local Exchange Market Stability

**ORDER DISMISSING PETITIONS**

On May 25, 2004, ACN Communication Services, Inc.; Adelphia Business Solutions of Virginia, Inc. d/b/a Telcove; ATX Telecommunications Services of Virginia, LLC; Cavalier Telephone, LLC; DSLnet Communications, LLC; Focal Communications Corporation of Virginia; Lightwave Communications, LLC; McGraw Communications of Virginia, Inc.; NTELOS Network, Inc.; R&B Network Inc.; and Starpower Communications, LLC (collectively the "Competitive Carrier Coalition" or "Coalition"), filed with the State Corporation Commission ("Commission") a Petition for Expedited Relief ("Coalition Petition"). On May 27, 2004, AT&T Communications of Virginia, LLC, and TCG Virginia, Inc. (collectively "AT&T"), filed with the Commission a Petition for an Order Preserving Local Exchange Market Stability ("AT&T Petition"). Both petitions ask, in effect, that the Commission maintain the status quo regarding Verizon Virginia Inc.'s and Verizon South Inc.'s (collectively "Verizon") duty to provide certain unbundled network elements ("UNEs"). The Coalition and AT&T both note that the stay of the decision in *United States Telecom Ass'n v. FCC*, 359 F.3d 554 (D.C. Cir. 2004) ("*USTA II*") is due to expire on June 15, 2004, and assert that there exists some uncertainty if, and under what conditions, certain UNEs will be provided by Verizon after that date.

The Competitive Carrier Coalition asserts, among other things, that *USTA II*, even if it becomes effective, would not immediately alter Verizon's statutory and contractual obligations. The Coalition states that applicable law requires continued unbundling of transport, loops, and switching and that the Commission must act to protect consumers and competition from Verizon's threat to disrupt its provision of UNEs unilaterally and prematurely. The Coalition contends that the Commission is not preempted by *USTA II* or by the Federal Communications Commission's ("FCC") Triennial Review Order ("TRO")<sup>1</sup> from remedying any alleged void left by *USTA II*. The Coalition requests the Commission to clarify that Verizon is required to provision UNEs at the rates and terms of its existing interconnection agreements until interconnection agreement amendments that alter such obligations are approved pursuant to § 252 of the federal Telecommunications Act ("Act"). The Coalition states that its petition should be granted prior to June 15, 2004, to provide certainty to the market and consumers that service will not be unilaterally and unlawfully disrupted in the event that *USTA II* takes effect on June 16, 2004.

AT&T requests that the Commission direct Verizon: (1) to adhere to its existing interconnection agreements; (2) to adhere to its ongoing merger commitments to the FCC; (3) to comply with its independent unbundling obligations under Virginia law; and (4) otherwise to obtain the Commission's express approval (after first providing notice to affected parties and extending them an opportunity to be heard) before denying, restricting, hindering, or increasing the cost of access to the existing UNEs that Verizon provides. AT&T states that any measures by Verizon to raise UNE rates or limit their availability in response to *USTA II* would be contrary to Verizon's obligations under the Act; at odds with the terms of its interconnection agreements; in violation of obligations arising out of the Bell Atlantic/GTE merger; and inconsistent with its obligations under Virginia law. AT&T asks the Commission to act before June 16, 2004, to avoid disrupting the ability to provide competitive local exchange telecommunications services to Virginia customers.

On June 1, 2004, the Commission issued an Order Establishing an Abbreviated Schedule for Response that, among other things, consolidated the petitions of the Coalition and AT&T into a single proceeding and required Verizon to file an answer to the Petitions on or before June 9, 2004.

<sup>1</sup> *In the matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, FCC 03-36 (rel. Aug. 21, 2003).

On June 9, 2004, A.R.C. Networks Inc. d/b/a InfoHighway of Virginia Inc.; Business Telecom of Virginia Inc.; Comcast Phone of Virginia Inc.; Comcast Phone of Northern Virginia, Inc.; DIECA Communications Inc. d/b/a Covad Communications Company; Essex Acquisition Corp.; Global Crossing Local Services Inc.; KMC Telecom of Virginia Inc.; KMC Telecom V of Virginia Inc.; Plan B Communications, Inc.; XO Virginia LLC; Xspedius Management Co. of Virginia LLC; and Xspedius Communications, LLC, filed a Notice of Intervention and Support of the Coalition Petition and AT&T Petition.

On June 9, 2004, Verizon filed an Answer and Motion to Dismiss. Verizon states that once the *USTA II* mandate issues on June 16, 2004, Verizon intends to provide competitive local exchange carriers ("CLECs") with 90 days' notice – a period of time that exceeds the requirements of its agreements with many Virginia CLECs – before taking any action pursuant to applicable law and its agreements. Verizon asserts that during the 90-day notice period, it will continue to provide the de-listed UNEs at Total Element Long Run Incremental Cost ("TELRIC") rates and will continue to accept new orders for those UNEs. Verizon argues that the petitioners do not allege that Verizon has violated its interconnection agreements or any provision of law; that there is no risk of service disruption that would justify the petitioners' requested relief; that there is not an actual controversy; and that the petitioners have failed to state a claim for either injunctive or declaratory relief under the Commission's rules. Verizon also asserts that the petitioners are trying to change the status quo by asking the Commission to override the terms of existing interconnection agreements. Verizon states that to the extent existing interconnection agreements give Verizon the right to cease providing UNEs under federal rules that were struck down by *USTA II*, the Commission cannot deprive Verizon of those rights or impose unbundling requirements in the absence of a lawful finding of impairment by the FCC. Verizon argues that the Commission lacks authority under Virginia law to abrogate the provisions of a lawful contract.

On June 17, 2004, AT&T filed a Response to Verizon's Motion to Dismiss. AT&T states that its interconnection agreement with Verizon does not permit Verizon unilaterally to terminate provision of any UNE or UNE combinations under the current state of the law. AT&T also argues that Verizon's threat to terminate provisions of four-line and above UNE platform ("UNE-P") and associated shared transport fails to satisfy the precondition of the FCC that enhanced extended loops ("EELs") be readily available, and Verizon's plan to terminate provisioning of four-line and above UNE-P and associated shared transport is not a requirement of the TRO. AT&T asserts that Verizon's threat to restrict or re-price UNEs will have adverse consequences for competition in Virginia. AT&T asks that the Commission require Verizon to maintain the status quo with respect to the pricing and availability of existing UNEs. AT&T further states that the terms, conditions, and rates under which UNE-P is currently available in the Washington, D.C. and Norfolk/Virginia Beach/Newport News Metropolitan Statistical Areas should not be changed without approval by this Commission.

On July 1, 2004, Verizon filed its Reply to AT&T's Response to Verizon's Motion to Dismiss. Verizon states that the Commission cannot order injunctive or declaratory relief in the absence of a clear showing of imminent and irreparable harm and that the petitioners cannot make such showing. Verizon argues that the Commission does not have the authority under Virginia law to override the terms of binding interconnection agreements and to require Verizon to continue to provide access, at TELRIC prices, to UNEs that Verizon has no legal obligation to provide. Verizon also asserts that the Commission would be in violation of federal law if it provides the petitioners with the very stay of the *USTA II* mandate that the D.C. Circuit Court and Supreme Court have refused to grant. Verizon states that AT&T has not shown that it is entitled to relief regarding the four-line carve-out rule, and that Verizon already provides access to EELs (to the extent required by governing law) pursuant to the terms of numerous interconnection agreements in its service territory and, thus, satisfies any condition for invoking the four-line carve-out rule.

NOW UPON CONSIDERATION of the pleadings and applicable law, the Commission is of the opinion and finds as follows. The Coalition Petition and the AT&T Petition are hereby dismissed. The matters complained of in the petitions involve existing interconnection agreements. We will not grant injunctive relief in this proceeding that may preempt these binding, valid contracts.<sup>2</sup> Moreover, certain issues raised herein by the petitioners, such as the conditions imposed by the FCC in its approval of the Bell Atlantic/GTE merger and the four-line carve-out rule, are the result of actions by the FCC and should be enforced by the FCC.

In addition, the stay of *USTA II* expired on June 15, 2004. *USTA II* establishes that no unbundling can be ordered in the absence of a valid finding by the FCC of impairment under 47 U.S.C. § 251(d)(2). The FCC, however, currently has not made a lawful finding of impairment pursuant to § 251(d)(2) of the Act. This Commission will not mandate unbundling requirements that violate federal law.

Accordingly, IT IS ORDERED THAT:

- (1) Verizon's Motion to Dismiss is hereby granted.
- (2) The Petition of the Competitive Carrier Coalition for Expedited Relief is hereby dismissed.
- (3) The Petition of AT&T Communications of Virginia, LLC, and TCG Virginia, Inc., for an Order Preserving Local Exchange Market Stability is hereby dismissed.
- (4) This consolidated matter is dismissed.

<sup>2</sup> We do not in this Order reach the arguments of the parties regarding the effects of *USTA II* and the TRS on the interconnection agreements and unbundling obligations.



**CASE NOS. PUC-2004-00075, PUC-2001-00218, and PUC-2001-00195  
AUGUST 2, 2004**

APPLICATION OF  
UNITED TELEPHONE-SOUTHEAST, INC. and  
CENTRAL TELEPHONE COMPANY OF VIRGINIA  
and  
SHENTEL COMMUNICATIONS COMPANY

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

APPLICATION OF  
UNITED TELEPHONE-SOUTHEAST, INC., and  
CENTRAL TELEPHONE COMPANY OF VIRGINIA  
and  
SHENTEL COMMUNICATIONS COMPANY

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

APPLICATION OF  
UNITED TELEPHONE-SOUTHEAST, INC. and  
CENTRAL TELEPHONE COMPANY OF VIRGINIA  
and  
SHENTEL COMMUNICATIONS COMPANY

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**ORDER APPROVING AGREEMENT AND  
DISMISSING EARLIER PROCEEDINGS**

On June 9, 2004, United Telephone-Southeast, Inc. and Central Telephone Company of Virginia (collectively "the Sprint Companies") and ShenTel Communications Company ("ShenTel") filed an interconnection agreement ("Agreement"), entered under §§ 251 and 252 of the Telecommunications Act of 1996 (the "Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e).

This Agreement establishes the terms, conditions, and prices for the mutual exchange and termination of traffic originating on each party's network; the purchase by ShenTel of unbundled network elements from the Sprint Companies; the purchase by ShenTel of certain telecommunications services from the Sprint Companies for resale; and the provision of certain ancillary services.

Counsel for the Sprint Companies indicated that notice of the Agreement was served on the modified service list in this case as defined in the Commission's Procedural Rules for Implementing §§ 251 and 252 of the Act, 20 VAC 5-419-10 *et seq.* ("Procedural Rules"). Comments were to be filed on or before June 30, 2004, and none were received.

Whether the Commission is authorizing alternative forms of regulation or certifying competitive providers, it must assure the continuation of quality local exchange telecommunications services and protect the public interest. The Commission has a duty under the Constitution of Virginia and the Code of Virginia to regulate the operations of telecommunications public service companies to assure conformance to the public interest. *See* Va. Const. art. IX, § 2, and § 56-35, § 56-265.4:4, and Chapter 15 of Title 56 of the Code of Virginia. Our action approving the interconnection agreement negotiated between the Sprint Companies and ShenTel is taken pursuant to that authority.

Notwithstanding their negotiated agreement, the Sprint Companies, ShenTel, and all other providers of local exchange telecommunications services must comply with all statutory standards and Commission rules and regulations. As required by 20 VAC 5-419-20 2 of the Procedural Rules, we have reviewed the negotiated Agreement. We find no reason to reject this Agreement. It should not, however, be viewed as Commission precedent for other agreements. The Agreement is directly binding only on the Sprint Companies and ShenTel.

Accordingly, IT IS THEREFORE ORDERED THAT:

(1) Pursuant to the Commission's authority to regulate public service companies as authorized by the Virginia Constitution, art. IX, § 2, and § 56-35 of the Code of Virginia, the Agreement submitted by the Sprint Companies and ShenTel hereby is approved.

(2) A copy of this Agreement shall be kept on file in the Commission's Division of Communications for inspection by the public.

(3) This matter, Case No. PUC-2004-00075, is continued generally for the consideration of any subsequent revisions or amendments to the Agreement.

(4) The earlier proceedings between the Sprint Companies and ShenTel, Case Nos. PUC-2001-00195 and PUC-2001-00218, are hereby dismissed and the papers therein shall be placed in the file for ended causes.

**CASE NOS. PUC-2004-00076 and PUC-2001-00199  
JULY 15, 2004**

APPLICATION OF  
UNITED TELEPHONE-SOUTHEAST, INC. AND  
CENTRAL TELEPHONE COMPANY OF VIRGINIA  
and  
1-800-RECONEX, INC.

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

APPLICATION OF  
UNITED TELEPHONE-SOUTHEAST, INC. AND  
CENTRAL TELEPHONE COMPANY OF VIRGINIA  
and  
1-800-RECONEX, INC.

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**ORDER APPROVING AGREEMENT  
AND DISMISSING EARLIER PROCEEDING**

On June 11, 2004, United Telephone-Southeast, Inc. and Central Telephone Company of Virginia (collectively, "Sprint"), and 1-800-RECONEX, Inc. ("Reconex"),<sup>1</sup> filed an interconnection agreement ("Agreement"), entered into under §§ 251 and 252 of the Telecommunications Act of 1996 (the "Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e).

The Agreement establishes the terms, conditions, and prices for the mutual exchange and termination of traffic originating on each party's network; the purchase by Reconex of unbundled network elements from Sprint; the purchase by Reconex of certain telecommunications services from Sprint for resale; and the provision of certain ancillary services.

Counsel for Sprint indicated that a copy of the application was served on the modified service list applicable to this case,<sup>2</sup> as defined and required by the Commission's Procedural Rules for Implementing §§ 251 and 252 of the Act, 20 VAC 5-419-10 *et seq.* Comments were to be filed on or before July 2, 2004, and none were received.

Whether the Commission is authorizing alternative forms of regulation or certifying competitive providers, it must assure the continuation of quality local exchange telecommunications services and protect the public interest. The Commission has a duty under the Constitution of Virginia and Code of Virginia to regulate the operations of telecommunications public service companies to assure conformance to the public interest. *See* Va. Const. art. IX, § 2, and § 56-35, § 56-265.4:4, and Chapter 15 of Title 56 of the Code of Virginia. Our action approving the interconnection agreement negotiated between Sprint and Reconex is taken pursuant to that authority.

Notwithstanding their negotiated agreement, Sprint, Reconex, and all other providers of local exchange telecommunications services must comply with all statutory standards and Commission rules and regulations. As required by 20 VAC 5-419-20 2, we have reviewed the negotiated Agreement. We find no reason to reject this Agreement. This should not, however, be viewed as Commission precedent for approvals of other agreements. The Agreement is binding only on Sprint and Reconex.

Additionally, according to the cover letter accompanying the Agreement, the Agreement supersedes an earlier agreement between the parties approved by the Commission on November 27, 2001, in Case No. PUC-2001-00199. This case approving the earlier agreement between Sprint and Reconex should be dismissed.

Accordingly, IT IS THEREFORE ORDERED THAT:

- (1) Pursuant to the Commission's authority to regulate public service companies as authorized by the Virginia Constitution, art. IX, § 2, and § 56-35 of the Code of Virginia, the interconnection agreement submitted by Sprint and Reconex is hereby approved.
- (2) A copy of the Agreement shall be kept on file in the Commission's Division of Communications for inspection by the public.
- (3) This matter, Case No. PUC-2004-00076, is continued generally for the consideration of any subsequent revisions or amendments to the Agreement.
- (4) The earlier proceeding between Sprint and Reconex, Case No. PUC-2001-00199, is hereby dismissed and the papers therein shall be placed in the file for ended causes.

<sup>1</sup> The interconnection agreement identifies 1-800-RECONEX, Inc., as an Oregon corporation; the Virginia entity is 1-800-RECONEX, Inc., a Virginia corporation. Issuance of a certificate of public convenience and necessity to a Virginia competitive local exchange carrier ("VA-CLEC") does not convey authority for the VA-CLEC to operate under interconnection agreements executed between an incumbent local exchange carrier and any of the VA-CLEC's affiliates or its parents.

<sup>2</sup> The service list was originally entered in Commission Case No. PUC-1996-00059. *See* 20 VAC 5-419-10 A.

**CASE NO. PUC-2004-00081  
SEPTEMBER 16, 2004**

PETITION OF  
KMC TELECOM OF VIRGINIA, INC.,  
KMC TELECOM V OF VIRGINIA, INC.,  
and  
KMC DATA LLC

For arbitration pursuant to § 252(b) of the Telecommunications Act of 1996 and 20 VAC 5-419-30 of the Commission's Procedural Rules for Implementing §§ 251 and 252 of the Telecommunications Act of 1996

**ORDER OF DISMISSAL**

On June 22, 2004, KMC Telecom of Virginia, Inc., KMC Telecom V of Virginia, Inc., and KMC Data LLC (collectively, "KMC"), pursuant to § 252(b) of the Telecommunications Act of 1996 ("Telecommunications Act")<sup>1</sup> and 20 VAC 5-419-30 of the Commission's Procedural Rules for Implementing §§ 251 and 252 of the Telecommunications Act of 1996 ("Interconnection Rules"),<sup>2</sup> filed with the State Corporation Commission ("Commission") a Petition for Arbitration ("Petition").

In its Petition, KMC requests a hearing to address certain unresolved issues arising between KMC and United Telephone – Southeast, Inc. and Central Telephone Company of Virginia (collectively, "Sprint") in the negotiation of an interconnection agreement.<sup>3</sup> KMC includes in its Petition, among other things, a summary of KMC's and Sprint's positions on the unresolved issues and each party's proposed contract language. KMC requests a waiver of 20 VAC 5-419-30 I of the Interconnection Rules which requires the submission of prefiled direct testimony with the Petition, as KMC argues that it would be in the interest of both KMC and Sprint to submit direct testimony after Sprint files its response to the Petition.

On July 20, 2004, Sprint filed its response to KMC's Petition ("Response"). In its Response, Sprint requests that the Commission reject the contract language proposed by KMC and adopt Sprint's proposed contract language. Sprint also provides additional proposed revisions to the interconnection agreement to reflect the decision of the U.S. Court of Appeals for the D.C. Circuit ("Circuit Court") that became effective June 15, 2004.<sup>4</sup>

No comments on the Petition or Response were filed.

NOW THE COMMISSION, upon full consideration of the pleadings and the applicable statutes and rules, finds that the Petition should be dismissed.

Section 56-265.4:4 B 4 of the Code of Virginia provides that the Commission shall discharge the responsibilities of state commissions pursuant to the Telecommunications Act and applicable law and regulations, including, but not limited to, the arbitration of interconnection agreements. However, the statute goes on to provide that the Commission may exercise its discretion to defer selected issues. Based upon the potential conflict that could arise should the Commission attempt to determine the rights and responsibilities of the parties under state law or through application of the federal standards embodied in the Telecommunications Act in the absence of complete federal rules, we find that this arbitration proceeding should be deferred to the Federal Communications Commission ("FCC").

On August 21, 2003, the FCC issued its Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers ("Triennial Review Order") which, among other things, contained rules requiring incumbent local exchange carriers ("ILECs") to unbundle and lease certain switching and transport facilities to competitive local exchange carriers ("CLECs").<sup>5</sup> On March 2, 2004, the U.S. Court of Appeals for the D.C. Circuit ("Circuit Court") issued an opinion affirming in part and reversing in part the Triennial Review Order and vacating the rules, and on June 4, 2004, denied a motion to stay the FCC's mandate.<sup>6</sup> One of the grounds for reversal cited by the Circuit Court was the impermissible attempt by the FCC to delegate to the state commissions responsibility for defining unbundled elements that Congress had apportioned to the FCC itself. The FCC just released interim rules and issued a notice of proposed rulemaking of permanent rules on August 20, 2004 ("Interim Rules").<sup>7</sup> However, several parties have already appealed these Interim Rules to the Circuit Court.<sup>8</sup> Therefore, the Commission is without the necessary final federal rules to apply to some unresolved issues in this arbitration proceeding.

<sup>1</sup> Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, codified at 47 U.S.C. § 151 *et seq.*

<sup>2</sup> 20 VAC 5-419-10 *et seq.* of the Virginia Administrative Code.

<sup>3</sup> KMC identified 15 disputed issues in the Petition.

<sup>4</sup> See *supra* note 5.

<sup>5</sup> Triennial Review Order, CC Docket Nos. 01-338 *et al.*, FCC 03-36, 18 F.C.C. Rcd. 16978 (Aug. 21, 2003); Errata, 18 F.C.C. Rcd. 19020 (Sep. 17, 2003), vacated and remanded in part sub nom., United States Telecom Ass'n v. FCC, 359 F.3d 554 (D.C. Cir. 2004), stay denied by 2004 U.S. App. LEXIS 11063 (D.C. Cir. 2004).

<sup>6</sup> The U.S. Solicitor General and FCC have determined not to petition the U.S. Supreme Court for a review of the Circuit Court's ruling.

<sup>7</sup> Order and Notice of Proposed Rulemaking, WC Docket No. 04-313, CC Docket No. 01-338, FCC 04-179 (Aug. 20, 2004).

<sup>8</sup> On August 23, 2004, Qwest, the United States Telecom Association, and Verizon filed a petition with the Circuit Court asking it to invalidate the Interim Rules.

Where this Commission was previously faced with an absence of final FCC rules, the Commission found it more practical to defer the matters to the FCC. In the consolidated Final Order in Case Nos. PUC-1999-00023 and PUC-1999-00046,<sup>9</sup> the Commission concluded that any interpretation of the interconnection agreements at issue could well be inconsistent with the FCC's final order in a pending rulemaking as well as other resolution of outstanding issues. The Commission stated:

Given the possibility of conflicting results being reached by the Commission and the FCC, we believe the only practical action is for this Commission to decline jurisdiction and allow the parties to present their cases to the FCC. The FCC should be able to give the parties a decision that will be compatible with any future determinations that it might issue. Being unable to determine the FCC's ultimate resolutions of these issues, any decision by us would be compatible with such rulings only by coincidence.

In light of the current uncertainty surrounding FCC rules, we find that it would be more appropriate for KMC and Sprint to petition the FCC for arbitration of the disputed issues arising from the negotiation of their interconnection agreement.

Accordingly, IT IS ORDERED THAT the Petition is hereby dismissed. There being nothing further to come before the Commission, the papers shall be transferred to the files for ended causes.

<sup>9</sup> Petition of Starpower Communications, LLC. For declaratory judgment interpreting interconnection agreement with GTE South, Inc., Case No. PUC-1999-00023, and Petition of Cox Virginia Telcom, Inc. v. GTE South Incorporated. For enforcement of interconnection agreement for reciprocal compensation for the termination of local calls to Internet Service Providers, Case No. PUC-1999-00046, 2000 S.C.C. Ann. Rept. 263, Final Order (Jan. 24, 2000).

**CASE NO. PUC-2004-00093  
SEPTEMBER 30, 2004**

PETITION OF  
LOOKING GLASS NETWORKS OF VIRGINIA, INC.

For approval of an indirect transfer of control

**ORDER GRANTING APPROVAL**

On August 2, 2004, Looking Glass Networks of Virginia, Inc. ("LGN of Virginia" or "Petitioner"), filed a petition with the State Corporation Commission ("Commission") requesting approval, pursuant to Chapter 5 of Title 56 of the Code of Virginia ("Code"), to consummate a series of transactions through which indirect control of LGN of Virginia will be transferred ("Transactions"). Specifically, Petitioner seeks approval of a series of transactions through which the majority of stock in Looking Glass Networks Holding Co., Inc. ("LGN Holding"), will be acquired by current LGN Holding lenders ("LGN Lenders"), through the conversion of debt into an equity interest. LGN Holding is the parent company of Looking Glass Networks, Inc. ("LGN"), which, in turn, is the parent of LGN of Virginia. LGN Holding is a wholly owned subsidiary of Looking Glass Networks, LLC, a Delaware limited liability company.

Upon consummation of the proposed transactions, LGN Lenders will collectively hold an 80% indirect voting and economic interest in LGN of Virginia and LGN, and LGN's current shareholders and management will hold the remaining 20% ownership interest. This includes a reduction of the interest of LGN Holding's parent, Looking Glass Networks, LLC, from 100% to 5%. The Transactions will also enable LGN and LGN Holding to reduce their aggregate debt from approximately \$167 million to approximately \$55 million. The LGN Lenders will provide an amended credit facility providing for up to \$7.5 million of borrowing availability to LGN.

LGN is a privately held Delaware corporation and a facilities-based provider of metropolitan data transport services for carrier and enterprise customers. In Virginia, LGN provides telecommunications services through its wholly owned subsidiary, LGN of Virginia. LGN of Virginia is a Virginia corporation with principal offices in Oak Brook, Illinois. LGN of Virginia holds certificate of public convenience and necessity ("CPCN") No. TT-122A to provide facilities-based interexchange telecommunications services and CPCN No. T-526 to provide local exchange telecommunications services. The Virginia CPCNs were granted in Case No. PUC-2000-00175 on January 4, 2001. LGN of Virginia has approximately 78 customers that receive a wide variety of lit and dark fiber data transport services.

Petitioner requests approval of the proposed transactions through which indirect control of LGN of Virginia and LGN will be acquired by several current lenders. The transfer of control is indirect because it will not result in a change in the direct parent of LGN of Virginia. Petitioner represents that the Transactions will reinforce the status of LGN of Virginia as a viable competitor by reducing the aggregate amount of LGN's debt while allowing LGN access to additional funding in order to expand its operations. Immediately following the Transactions, LGN of Virginia will continue to offer the services it currently offers with no change in the rates, terms, or conditions of service.

THE COMMISSION, upon consideration of the petition and representations of the Petitioner and having been advised by its Staff, is of the opinion and finds that the indirect transfer of control of LGN of Virginia, as described herein, 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 Petitioner is hereby granted approval to consummate the transactions as described herein to allow for the indirect transfer of ownership of LGN of Virginia.

2) The Petitioner shall file a report of the action taken pursuant to the approval granted herein within thirty (30) days of consummation of the transfer of control, subject to administrative extension by the Commission's Director of Public Utility Accounting. Such report shall include the date the transfer of control took place.

3) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUC-2004-00094  
AUGUST 4, 2004**

APPLICATION OF  
WINSTAR OF VIRGINIA, LLC

For discontinuance of certain telecommunications services to certain customers in the Commonwealth of Virginia

**ORDER PERMITTING DISCONTINUANCE OF SERVICES**

On June 28, 2002, in Case No. PUC-2002-00010, the State Corporation Commission ("Commission") issued to Winstar of Virginia, LLC ("Winstar" or the "Company"), certificates of public convenience and necessity, Nos. T-588 and TT-179A, to provide local exchange and interexchange telecommunications services respectively.

On July 16, 2004, Winstar filed an application with the Commission requesting approval to discontinue the provision of certain services to commercial customers<sup>1</sup> in certain areas.<sup>2</sup> Specifically, the Company seeks to discontinue local exchange and interexchange telecommunications services, along with toll free, ATM, frame relay, Winstar switched private line services, and other high-speed data transmission services. The proposed discontinuance of service will affect approximately 268 Virginia customers. Winstar states that the discontinuance is a "part of Winstar's plan to refocus its business plan in order to maintain long term profitability." Discontinuance of service is to be effective on August 31, 2004, or as soon thereafter as the necessary authorizations have been obtained.

Winstar advises that it gave written notice to its affected customers on either June 15, 2004, June 18, 2004, or June 30, 2004. Pursuant to 20 VAC 5-423 B, a local exchange carrier is required to provide customers with at least 30 days' written notice prior to discontinuing service. The Commission's primary concern with authorizing discontinuance is providing adequate notice. It appears from the information provided that Winstar has given adequate customer notice.

In Winstar's notification letters, some customers were offered services from WiTel Communications of Virginia, Inc., as an alternative provider. Additionally, the Company states that it will work with the customer's new carrier to effectuate a seamless transition to the alternative provider's network.

The Company is not requesting to cancel its certificates of public convenience and necessity at this time. Therefore, Winstar indicates that the Company will revise its tariffs following the discontinuance to remove any services no longer to be offered to customers.

NOW THE COMMISSION, having considered the matter and 20 VAC 5-423, will permit Winstar to discontinue telecommunications services as described herein.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed and assigned Case No. PUC-2004-00094.
- (2) The application is approved, and the discontinuance of telecommunications services as described herein is hereby effective August 31, 2004.
- (3) On or before August 24, 2004, Winstar shall report to the Commission's Division of Communications the number of its remaining affected customers in Virginia.
- (4) The Company shall submit revised tariffs to the Commission's Division of Communications on or before September 30, 2004.
- (5) This matter is hereby dismissed.

<sup>1</sup> The Company's federal government customers, fixed wireless services and offerings supporting mobile carrier infrastructures, cable, Wi-Fi and other backhaul systems, private circuits, closed networks, and Winstar's spectrum lease offerings will remain unaffected by the discontinuance described herein.

<sup>2</sup> The affected commercial customers are located in northern Virginia and the Richmond, Tidewater, and Williamsburg metropolitan areas.

**CASE NO. PUC-2004-00096  
AUGUST 11, 2004**

APPLICATION OF  
IDS TELCOM, LLC

For cancellation of certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

**ORDER**

On July 26, 2004, IDS Telcom, LLC ("IDS" or the "Company"), filed a letter application with the State Corporation Commission ("Commission") requesting that its certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services, Certificate Nos. T-536 and TT-132A, respectively, be cancelled.

The Commission granted Certificate Nos. T-536 and TT-132A to IDS in Case No. PUC-2000-00244 on February 8, 2001. IDS states that it has not conducted business in the Commonwealth and has no customers.

NOW UPON CONSIDERATION of the matter, the Commission finds that the Company's certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services should be cancelled.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed and assigned Case No. PUC-2004-00096.
- (2) Certificate No. T-536 authorizing IDS Telcom, LLC, to provide local exchange telecommunications services throughout the Commonwealth is hereby cancelled.
- (3) Certificate No. TT-132A authorizing IDS Telecom, LLC, to provide interexchange telecommunications services throughout the Commonwealth is hereby cancelled.
- (4) Any tariffs associated with Certificate Nos. T-536 and TT-132A on file with the Commission's Division of Communications are hereby cancelled.
- (5) There being nothing further to be done, this matter shall be dismissed from the Commission docket of active cases and the papers filed herein placed in the Commission's file for ended causes.

**CASE NO. PUC-2004-00097  
AUGUST 18, 2004**

APPLICATION OF  
DOMINION TELECOM, INC.

To cancel existing certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services and to reissue certificates reflecting new corporate name

**FINAL ORDER**

By letter application filed July 27, 2004, Dominion Telecom, Inc. ("Dominion" or "Company"), informed the State Corporation Commission ("Commission") that it had changed its corporate name to Elantic Telecom, Inc.

In its letter application, Dominion states that its corporate name change is related to Articles of Merger and Amended and Restated Articles of Incorporation filed with the Commission and approved effective May 20, 2004. Under the Articles of Merger, Elantic Networks Merger Sub, Inc. ("Merger Sub"), a Virginia corporation, was merged into Dominion. Merger Sub's corporate existence ceased with its merger into Dominion, and Dominion became the surviving corporation. The Amended and Restated Articles of Incorporation filed in conjunction with the merger changed the corporate name of Dominion to Elantic Telecom, Inc. ("Elantic")

Although the Company requests that the name on its certificates be changed to reflect its new corporate name, we find that the Company's current certificates should be cancelled and that new certificates should be issued reflecting the new corporate name of the Company. This is the procedure we have followed for name changes for other telecommunications companies, and we find a similar procedure should be followed here.

NOW THE COMMISSION, having considered the letter application, is of the opinion and finds that certificates of public convenience and necessity, No. TT -38B and No. T-457b, issued to Dominion should be cancelled, and new certificates of public convenience and necessity should be issued reflecting the Company's new corporate name.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is hereby docketed and assigned Case No. PUC-2004-00097.
- (2) Certificate of public convenience and necessity, No. TT-38B, issued to Dominion is hereby cancelled.

(3) Certificate of public convenience and necessity, No. TT-38C, is hereby issued to Elantic Telecom, Inc., authorizing it to provide interexchange telecommunications services subject to all restrictions and conditions previously imposed in Certificate No. TT-38B, the restrictions set forth in the Commission's Rules Governing the Certification of Interexchange Carriers (codified in 20 VAC 5-411-10 et seq.), and § 56-265.4:4 of the Code of Virginia.

(4) Certificate of public convenience and necessity, No. T-457b, issued to Dominion is hereby cancelled.

(5) Certificate of public convenience and necessity, No. T-457c, is hereby issued to Elantic Telecom, Inc., authorizing it to provide local exchange telecommunications services subject to all restrictions and conditions imposed in Certificate No. T-457b, the restrictions set forth in the Commission's Rules Governing the Offering of Competitive Local Exchange Telephone Service (codified in 20 VAC 5-417-10 et seq.), and § 56-265.4:4 of the Code of Virginia.

(6) Elantic Telecom, Inc., shall file revised tariffs no later than sixty (60) days from the date of this Order with the Commission's Division of Communications that conform with all applicable Commission rules and regulations and which use Elantic Telecom, Inc.'s name rather than that of Dominion.

(7) 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.

**CASE NO. PUC-2004-00098**  
**NOVEMBER 22, 2004**

APPLICATION OF  
XO VIRGINIA, LLC,  
ALLEGIANCE TELECOM OF VIRGINIA, INC.,  
and  
XO COMMUNICATIONS SERVICES, INC.

For Approval of an Internal Corporate Reorganization

**ORDER GRANTING APPROVAL**

On July 28, 2004, XO Virginia, LLC ("XO Virginia"), Allegiance Telecom of Virginia, Inc. ("ALGX Virginia"), and XO Communications Services, Inc. ("XO Communications") (collectively the "Applicants"), all subsidiaries of XO Communications, Inc. ("XO"), the ultimate parent corporation, filed an application with the State Corporation Commission ("Commission") requesting approval pursuant to Chapter 5 of Title 56 of the Code of Virginia ("Code") for an internal corporate reorganization whereby ALGX Virginia will be merged into XO Virginia, which will become a direct subsidiary of XO Communications and XO's single operating subsidiary in Virginia.

XO is a Delaware corporation whose principal office and place of business is located at 11111 Sunset Hills Road, Reston, Virginia. XO currently offers facilities-based, broadband telecommunications services within and between more than 70 markets throughout the United States. XO is the ultimate parent company of XO Virginia, which holds certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services on a facilities and resale basis to approximately 1,193 customers in Virginia.

XO Communications, renamed from XO Domestic Holdings, Inc., does not hold any certificates of public convenience and necessity or licenses to provide telecommunications services in any state at this time.

ALGX Virginia is a corporation organized under the laws of the State of Delaware. In furtherance of the reorganization of Allegiance Telecom, Inc., Debtor-in-Possession ("Allegiance"), and its subsidiaries, including ALGX Virginia, under Chapter 11 of the United States Bankruptcy Code, it was agreed that XO would acquire substantially all of the assets of Allegiance, including the stock of ALGX Virginia. The Commission approved the transfer of control on April 9, 2004, in Case No. PUC-2004-00024, and the transaction was consummated on June 23, 2004. As a result, ALGX Virginia became a wholly owned, direct subsidiary of XO. ALGX Virginia currently provides local and long distance telecommunications services, data services, and Internet access services to approximately 2,155 customers in Virginia.

The Applicants propose to transfer direct ownership of XO Virginia from XO to XO Communications. Although XO Virginia will have a new direct parent, XO will remain the ultimate parent corporation. The Applicants request that the Commission authorize, to the extent necessary, the transfer of ownership of XO Virginia to XO Communications.

The Applicants also propose to transfer ALGX Virginia's assets and intrastate customer base to XO Virginia through a merger of ALGX Virginia into XO Virginia. After the merger, ALGX Virginia will cease to exist by operation of law, and XO Virginia will assume all of ALGX Virginia's assets and operations and will provide telecommunications services to ALGX Virginia's end users.

Applicants represent that the proposed reorganization will be transparent to customers of XO Virginia and ALGX Virginia and will have no adverse impact on them. Current ALGX Virginia customers will be notified of the change in their service provider from ALGX Virginia to XO Virginia. Applicants state that current customers of both ALGX Virginia and XO Virginia will continue to receive the same services at the same rates, terms, and conditions as before the proposed reorganization. Applicants intend to grandfather ALGX Virginia's existing tariff, amended with the new name XO Virginia. Applicants further represent that XO Virginia is backed by the same qualifications as ALGX Virginia and will provide the same services to customers.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

NOW THE COMMISSION, upon consideration of the application and representations of the Applicants and having been advised by its Staff, is of the opinion and finds that the above-described reorganization 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 to consummate the transactions as described herein to allow for the transfer of control of ALGX Virginia and XO Virginia.
- (2) The Applicants shall file a report of the action taken pursuant to the approval granted herein within thirty (30) days of consummation of the transactions, subject to administrative extension by the Director of Public Utility Accounting. Such report shall include the date the transactions took place.
- (3) There appearing nothing further to be done in this master, it hereby is dismissed.

**CASE NO. PUC-2004-00100  
AUGUST 18, 2004**

PETITION OF  
ICG TELECOM GROUP OF VIRGINIA, INC.

For authority to discontinue certain services in the Commonwealth of Virginia

**ORDER PERMITTING DISCONTINUANCE OF SERVICES**

On October 27, 1998, in Case No. PUC-1998-00100, the State Corporation Commission ("Commission") issued to ICG Telecom Group of Virginia, Inc. ("ICG" or the "Company"), a certificate of public convenience and necessity, No. T-420, to provide local exchange telecommunications services.

On August 3, 2004, ICG completed filing its Petition with the Commission requesting approval to discontinue the provision of certain voice and data services including local exchange, long distance, and primary rate interface ("PRI") services, which are provided over ICG's own facilities, and high-speed data transmission services. ICG reports that it has five (5) existing customers in Virginia. ICG states that the discontinuance is a "part of ICG's plan to refocus its business in order to maintain long term profitability." Discontinuance of service is to be effective on August 31, 2004.

ICG attaches as exhibits to its Petition the written notices given to its affected customers on June 25, 2004, and July 22, 2004. Pursuant to 20 VAC 5-423-20 B, a local exchange carrier is required to provide customers with at least 30 days' written notice prior to discontinuing service. The Commission's primary concern with authorizing discontinuance is providing adequate notice. It appears from the information provided that ICG has given adequate customer notice. Both notices advise customers that, subject to regulatory approval, the date for discontinuance of service is August 31, 2004. In ICG's notification letters, the Company states that it will work with the customer's new carrier to effectuate a seamless transition to the alternate provider's network.

The Company is not requesting to cancel its certificate of public convenience and necessity at this time and will continue to offer Signal System 7 (SS7) and resold special access/private line services in Virginia. Therefore, ICG indicates that the Company will revise its tariffs following the discontinuance to remove any services no longer to be offered to customers.

NOW THE COMMISSION, having considered the matter and ICG's demonstrated compliance with 20 VAC 5-423-20, will permit ICG to discontinue telecommunications services as described herein.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed and assigned Case No. PUC-2004-00100.
- (2) The Petition is approved, and the discontinuance of telecommunications services as described herein is hereby effective August 31, 2004.
- (3) On or before August 24, 2004, ICG shall report to the Commission's Division of Communications the number of its remaining affected customers in Virginia.
- (4) The Company shall submit revised tariffs to the Commission's Division of Communications on or before September 30, 2004.
- (5) This matter is hereby dismissed.



**CASE NO. PUC-2004-00101  
OCTOBER 8, 2004**

JOINT PETITION OF  
MCCC ICG HOLDINGS LLC  
and  
ICG COMMUNICATIONS, INC.

For approval to complete a transfer of control

**ORDER GRANTING APPROVAL**

On August 20, 2004, MCCC ICG Holdings LLC ("Buyer") and ICG Communications, Inc. ("ICG") (together the "Petitioners"), filed a joint petition with the State Corporation Commission ("Commission") requesting approval pursuant to § 56-88.1 of the Code of Virginia to transfer control of ICG Telecom Group of Virginia, Inc. ("ICG-VA"), an entity certificated to provide local exchange and interexchange telecommunications services in Virginia; from ICG to Buyer.

Buyer is a newly formed limited liability company organized under the laws of the State of Delaware. Buyer is currently owned by two families of investment companies, MIC Venture Partners ("WC Venture") and Columbia Capital, LLC ("Columbia Capital"), each of which will hold a 50% interest in Buyer. MIC Venture manages a family of investment companies headquartered in Boston, Massachusetts, which specializes in investing in early-stage communications and related information technology companies. Columbia Capital is a venture capital firm headquartered in Alexandria, Virginia, which specializes in the communications and information technology industries.

ICG is a Delaware corporation with principal offices located at 161 Inverness Drive West, Englewood, Colorado. ICG, through its operating subsidiaries, offers a range of resold and facilities-based telecommunications services. Currently, ICG, which is widely held, is the ultimate holding company of the ICG family of companies. The ICG family of companies provides communications and information services over a nationwide fiber-optic data and voice network.

In Virginia, ICG provides telecommunications services through its wholly owned subsidiary, ICG-VA. ICG-VA holds a certificate of public convenience and necessity to provide local exchange telecommunications services pursuant to Certificate No. T-420 granted by the Commission in Case No. PUC-1998-00100 on October 27, 1998. The petition also represents that ICG-VA is "authorized" to provide resold interexchange telecommunications services in Virginia.<sup>1</sup>

Petitioners request that the Commission grant approval to permit Petitioners to consummate a series of transactions ("Transactions") through which Buyer will acquire ICG and, therefore, indirect ownership and control of ICG-VA. Petitioners filed the joint petition in connection with the Agreement and Plan of Merger ("Agreement") entered into as of July 19, 2004, pursuant to which Buyer will acquire ownership of ICG. Through the Agreement, MCCC Merger Corporation ("MCCC"), a newly created acquisition subsidiary wholly owned by Buyer, will be merged with and into ICG, under the laws of the State of Delaware, with ICG being the surviving entity. As a result of that merger, ICG will become a wholly owned direct subsidiary of Buyer, and Buyer will acquire indirect control over ICG-VA. In connection with the proposed Transactions, current owners of ICG common stock will receive \$0.75 per share.

The Petitioners represent that the proposed Transactions will provide ICG with access to financial and managerial resources that will allow the ICG companies to better assess and implement their business strategies going forward. Access to those resources will facilitate ICG's and ICG-VA's ability to continue to provide telecommunications services to existing customers. The Petitioners represent that ICG-VA will continue to provide telecommunications services to customers with no change in rates, terms, or conditions and that the proposed Transactions will be transparent to customers. The Petitioners further represent that Buyer holds the technical, financial, and managerial qualifications to acquire ICG.

THE COMMISSION, upon consideration of the joint petition and representations of Petitioners and having been advised by its Staff, is of the opinion and finds that the above-described transfer of control 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 of Virginia, the Petitioners are hereby granted approval to consummate the Transactions as described herein to allow MCCC ICG Holdings LLC to acquire indirect control of ICG Telecom Group of Virginia, Inc.

(2) The Petitioners shall file a report of the action taken pursuant to the approval granted herein within thirty (30) days of consummation of the Transactions, subject to administrative extension by the Director of Public Utility Accounting. Such report shall include the date the Transactions took place.

(3) There appearing nothing further to be done in this matter, it hereby is dismissed.

<sup>1</sup> Resellers of interexchange telecommunications services are not currently required to have a certificate of public convenience and necessity or tariffs on file with the Commission. At this time, resellers of interexchange telecommunications services are only required to be registered with the Clerk of the Commission.

**CASE NO. PUC-2004-00104  
SEPTEMBER 24, 2004**

APPLICATION OF  
LIGHTYEAR COMMUNICATIONS OF VIRGINIA, INC.

For cancellation of its local exchange certificate of public convenience and necessity

**ORDER**

By Order dated September 22, 2000, in Case No. PUC-2000-00223, the State Corporation Commission ("Commission") granted Lightyear Communications of Virginia, Inc. ("Lightyear" or the "Company"), Certificate No. T-462a to provide local exchange telecommunications services in Virginia.

By letter application filed August 9, 2004, Lightyear requested that the Commission cancel its certificate because of the transfer of substantially all of its assets and customers to Lightyear Network Solutions, LLC ("Lightyear Network"). Lightyear Network was granted its local exchange certificate on May 13, 2004. Lightyear does not serve any customers in Virginia and holds no deposits or advance payments from any Virginia consumers.

NOW THE COMMISSION, having considered the matter, is of the opinion that Lightyear's certificate should be cancelled.

Accordingly, IT IS ORDERED THAT:

- (1) This matter shall be docketed and assigned Case No. PUC-2004-00104.
- (2) Certificate No. T-462a is hereby cancelled.
- (3) Any existing tariffs of the Company currently on file with the Commission's Division of Communications are hereby cancelled.
- (4) This matter is hereby dismissed.

**CASE NO. PUC-2004-00105  
NOVEMBER 2, 2004**

PETITION OF  
CORVIS CORPORATION

For approval of restructuring of regulated subsidiaries

**ORDER GRANTING APPROVAL**

On August 10, 2004, Corvis Corporation ("Corvis" or "Petitioner"), on behalf of itself and its current subsidiaries, C III Communications, LLC ("C III), and Broadwing Communications, LLC ("Broadwing"), and its prospective subsidiaries, Focal Communications Corporation ("Focal"), Focal Financial Services, Inc. ("Focal Financial"), and Focal Communications Corporation of Virginia ("Focal Virginia"),<sup>1</sup> filed a petition with the State Corporation Commission ("Commission") requesting approval pursuant to Chapter 5 of Title 56 of the Code of Virginia ("Code") of the restructuring of certain regulated subsidiaries of Corvis. Corvis completed its petition on September 9, 2004.

Corvis is a publicly traded corporation organized under the laws of Delaware. Corvis' communications services division, managed within its Broadwing subsidiary, provides data, voice, and video solutions to carrier and enterprise customers by a fiber optic network that connects 137 cities nationwide. C III is a privately held Delaware limited liability company and a subsidiary of Corvis. C III does not currently hold any authority to provide telecommunications services. Broadwing, a wholly owned subsidiary of C III, is a Delaware limited liability company which holds certificates of public convenience and necessity to provide facilities-based interexchange telecommunications services in Virginia.

Focal Virginia, a wholly owned subsidiary of Focal Financial, is a public service corporation with its headquarters located in Chicago, Illinois. Focal Virginia holds certificates of public convenience and necessity to provide interexchange and local exchange telecommunications services in Virginia. Focal Financial does not provide telecommunications services and does not hold any regulatory licenses. Focal Financial is a wholly owned subsidiary of Focal. Focal is a privately held Delaware corporation and is the ultimate parent company of Focal Virginia. Focal is a holding company for a family of facilities-based national integrated communications providers offering a variety of telecommunications services.

Petitioner requests that the Commission grant authority to permit Petitioner to consummate a series of transactions which would result in the transfer of assets and customer base of Focal Virginia into Broadwing ("Restructuring"), both as subsidiaries of Corvis. The Restructuring will be accomplished as follows: (i) Focal will be merged with and into Corvis; (ii) the assets and customers of Focal Virginia will be transferred to Broadwing in exchange for membership interest in C III, Broadwing's parent company; and (iii) the C III membership interests transferred to Focal Virginia would eventually be distributed to Corvis, subject to tax implications.

<sup>1</sup> In Case No. PUC-2004-00038, by Order dated May 21, 2004, the Commission approved the direct transfer of control of Focal, and the indirect transfer of control of Focal Virginia, with and into Corvis pursuant to an Agreement and Plan of Merger dated March 3, 2004. The transfer of control occurred on September 1, 2004.

Following the Restructuring, Focal Virginia will not provide any regulated services, hold assets, or employ personnel used to provide regulated services. As a result of the proposed Restructuring, all of Focal Virginia's transmission facilities would be transferred to Broadwing, and all of Focal Virginia's current customers would receive the services currently provided by Focal Virginia under the Broadwing name. Petitioner represents that the proposed transaction would not adversely affect the services currently provided by Focal Virginia. Broadwing would continue to provide telecommunications services to all of Focal Virginia's existing customers without interruption and would adopt Focal Virginia's existing local exchange tariffs. Petitioner further represents that the financial, managerial, and technical abilities of Focal Virginia, combined with the existing operations of Broadwing, will result in a business that is better positioned to continue to provide and expand service offerings.

THE COMMISSION, upon consideration of the petition and representations of Petitioner and having been advised by its Staff, is of the opinion and finds that the above-described transfer of control of Focal Virginia's assets and customer base to Broadwing 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, Petitioner is hereby granted approval to consummate the proposed transactions as described herein to allow Corvis Corporation to restructure its regulated subsidiaries resulting in a transfer of control of Focal Virginia's assets and customer base to Broadwing.

(2) Petitioner shall file a report of the action taken pursuant to the approval granted herein within thirty (30) days of consummation of the transactions, subject to administrative extension by the Director of Public Utility Accounting. Such report shall include the date the transfer of control took place.

(3) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUC-2004-00106  
SEPTEMBER 15, 2004**

APPLICATION OF  
BROADWING COMMUNICATIONS, LLC

For a certificate of public convenience and necessity to provide local exchange telecommunications services and for interim operating authority

**ORDER FOR NOTICE AND COMMENT AND REQUEST  
FOR HEARING AND FOR GRANTING INTERIM OPERATING AUTHORITY**

On August 11, 2004, Broadwing Communications, LLC ("Broadwing" 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.<sup>1</sup> The Applicant also requested interim operating authority to provide local exchange and interexchange<sup>2</sup> telecommunications services to existing customers of Focal Communications Corporation of Virginia ("Focal"), pursuant to Focal's Tariff on file with the Commission's Division of Communications.<sup>3</sup>

NOW UPON CONSIDERATION of the application, the Commission is of the opinion and finds that Broadwing's application should be docketed; that the Applicant should give notice to the public of its application; that interested persons should have an opportunity to comment and request a hearing on Broadwing's application; that the Commission Staff should conduct an investigation into the reasonableness of the application and present its findings in a Staff Report; and that Broadwing should be granted interim local exchange and interexchange operating authority.

Accordingly, IT IS ORDERED THAT:

(1) This case is docketed and assigned Case No. PUC-2004-00106.

(2) Broadwing is hereby granted interim operating authority to provide local exchange and interexchange telecommunications services to existing Focal customers pursuant to Focal's tariff on file with the Commission's Division of Communications until such time as the Commission renders a final order in this proceeding.

(3) On or before September 30, 2004, the Applicant shall complete publication of the following notice to be published on one (1) occasion as classified advertising in newspapers having general circulation throughout the Applicant's proposed service territory:

<sup>1</sup> Broadwing currently holds an interexchange certificate, Certificate No. TT-195B.

<sup>2</sup> Broadwing filed for interim operating authority to continue to provide interexchange telecommunications services to the existing interexchange customers of Focal on September 1, 2004.

<sup>3</sup> Focal holds both local exchange and interexchange certificates, Certificate Nos. T-411 and TT-51A, respectively. There are two associated cases: PUC-2004-00105, a restructuring of the following subsidiaries: Corvis Corporation, Focal, and Broadwing; and PUC-2004-00107, cancellation of Focal's certificates.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

NOTICE TO THE PUBLIC OF AN APPLICATION BY  
 BROADWING COMMUNICATIONS, LLC, FOR A CERTIFICATE  
 OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE LOCAL EXCHANGE  
 TELECOMMUNICATIONS SERVICES THROUGHOUT THE COMMONWEALTH  
 OF VIRGINIA AND FOR INTERIM OPERATING AUTHORITY  
CASE NO. PUC-2004-00106

On August 11, 2004, Broadwing Communications, LLC ("Broadwing" 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.

Broadwing also requested and was granted interim operating authority to provide telecommunications services to the existing customers of Focal Communications Corporation of Virginia ("Focal"), pursuant to Focal's tariffs currently on file with the Commission's Division of Communications.

Copies of the application are available for public inspection between the hours of 8:15 a.m. and 5:00 p.m., Monday through Friday, in the Commission's Document Control Center located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia. Copies may also be downloaded from the Commission's website: <http://www.state.va.us/scc/caseinfo.htm>, or may be ordered from Broadwing's counsel, Shannon Omia Pierce, Esquire, McGuireWoods, LLP, One James Center, 901 East Main Street, Richmond, Virginia 23219-4030.

On or before October 15, 2004, any person desiring to comment on Broadwing's application for a certificate to provide local exchange telecommunications services may do so by directing such comments in writing to the Clerk of the Commission at the address set forth below. Interested persons desiring to submit comments electronically may do so by following the instructions found on the Commission's website: <http://www.state.va.us/scc/caseinfo.htm>. A hard copy of the comments, whether submitted in writing or electronically, shall be simultaneously served upon Broadwing's counsel at the address set forth above.

Any person may request a hearing on Broadwing's application by filing an original and fifteen (15) copies of its request for hearing on or before October 15, 2004, with the Clerk of the Commission at the address set forth below. Requests for hearing must include: (i) a precise statement of the interest of the filing party; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the legal basis for such action; and (iv) a precise statement why a hearing should be conducted in the matter. Persons filing a request for hearing shall serve a copy of their request on or before October 15, 2004, upon Broadwing's counsel at the address set forth above.

All written communications to the Commission concerning Broadwing's application shall be directed to Joel H. Peck, Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, and shall refer to Case No. PUC-2004-00106.

BROADWING COMMUNICATIONS, LLC

(4) On or before September 30, 2004, the Applicant shall provide a copy of the notice contained in Ordering Paragraph (2) to each local exchange telephone carrier certificated in Virginia and each interexchange carrier certificated in Virginia by personal delivery or first-class mail, postage prepaid, to the customary place of business. Lists of all current local exchange and interexchange carriers in Virginia are attached to this Order as Appendices A and B, respectively.

(5) Any person desiring to comment on Broadwing's application for a certificate to provide local exchange telecommunications services may do so by directing such comments in writing on or before October 15, 2004, to Joel H. Peck, Clerk of the 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 found on the Commission's website: <http://www.state.va.us/scc/caseinfo.htm>. A hard copy of such comments, whether submitted in writing or electronically, shall be simultaneously served upon Broadwing's counsel, Shannon Omia Pierce, Esquire, McGuireWoods, LLP, One James Center, 901 East Cary Street, Richmond, Virginia 23219-4030. Comments must refer to Case No. PUC-2004-00106.

(6) On or before October 15, 2004, any person wishing to request a hearing on Broadwing's application for a certificate to provide local exchange telecommunications services shall file an original and fifteen (15) copies of its request for hearing in writing with the Clerk of the Commission at the address set forth above. Written requests for hearing shall refer to Case No. PUC-2004-00106 and shall include: (i) a precise statement of the interest of the filing party; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the legal basis for such action; and (iv) a precise statement why a hearing should be conducted in the matter. A copy shall also simultaneously be served on the Applicant at the address set forth above.

(7) On or before October 22, 2004, the Applicant shall file with the Commission proof of notice and proof of service as ordered herein.

(8) The Commission Staff shall analyze the reasonableness of Broadwing's application and present its findings in a Staff Report to be filed on or before November 5, 2004.

(9) On or before November 16, 2004, the Applicant shall file with the Clerk of the Commission an original and fifteen (15) copies of any responses to the Staff Report or comments and requests for hearing filed with the Commission. A copy of the response shall be delivered by overnight delivery to Staff and any other persons who filed comments or requests for hearing.

(10) The Applicant shall respond to written interrogatories or data requests within seven (7) days after the receipt of the same. Persons who filed requests for hearing shall provide to the Applicant, the Commission Staff, and any other persons who filed requests for hearing any workpapers or documents used in preparation of their requests for hearing, promptly upon request. Except as so modified, discovery shall be in accordance with Part IV of the Commission's Rules of Practice and Procedure.

(11) The Applicant shall respond promptly to requests from interested persons for copies of the application and shall provide one copy free of charge. Copies are also available for public inspection between the hours of 8:15 a.m. and 5:00 p.m., Monday through Friday, in the Commission's Document Control Center located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia, or may be downloaded from the Commission's website: <http://www.state.va.us/scc/caseinfo.htm>.

(12) This matter is continued generally.

**CASE NO. PUC-2004-00106  
DECEMBER 21, 2004**

APPLICATION OF  
BROADWING COMMUNICATIONS, LLC

For a certificate of public convenience and necessity to provide local exchange telecommunications services

**FINAL ORDER**

On August 10, 2004, Broadwing Communications, LLC ("Broadwing" or the "Company"), filed an application for a certificate of public convenience and necessity with the State Corporation Commission ("Commission") to provide local exchange telecommunications services throughout the Commonwealth of Virginia.

By Order for Notice and Comment dated September 15, 2004, the Commission directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. On October 12, 2004, the Company filed proof of publication and proof of service as required by the September 15, 2004, Order; but on October 15, 2004, it stated that it had failed to provide notice to each local exchange and interexchange carrier as required by our September 15, 2004, Order and requested that the Commission accept its late-filed notices. An Order modifying the procedural schedule was issued on October 22, 2004, and Broadwing filed an Affidavit of Service on November 5, 2004, certifying that it had corrected its earlier failure to notice other carriers.

On December 3, 2004, the Staff filed its Report finding that Broadwing's application was in compliance with 20 VAC 5-417-10 *et seq.*, the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers, and 20 VAC 5-411-10 *et seq.*, the Rules Governing the Certification of Interexchange Carriers. Based upon its review of Broadwing'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 conditions:

1. Broadwing should notify the Division of Economics 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 Staff or the Commission determines it is no longer necessary; and
2. Broadwing should file local exchange tariffs that mirror the existing tariffs of Focal VA and any modifications needed to include any Focal VA interexchange tariff service offerings with the Division of Communications no later than forty-five days after the date of any final order granting the requested certificate.

On December 8, 2004, the Staff filed a correction to its Report.

NOW THE COMMISSION, having considered the application and the Staff Report, finds that the Company should be granted a certificate to provide local exchange telecommunications services.

Accordingly, IT IS ORDERED THAT:

- (1) Broadwing is hereby granted a certificate of public convenience and necessity, No. T-635, 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) The Company shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations.
- (3) Broadwing shall notify the Division of Economics 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 Staff or the Commission determines it is no longer necessary.
- (4) Broadwing shall file local exchange tariffs that mirror the existing tariffs of Focal VA and any modifications needed to include any Focal VA interexchange tariff service offerings with the Division of Communications no later than forty-five (45) days after the date of any final order granting the requested certificate.
- (5) 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-2004-00108  
DECEMBER 17, 2004**

APPLICATION OF  
SBC LONG DISTANCE, INC.

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

**FINAL ORDER**

On August 16, 2004, SBC Long Distance, Inc. ("SBC" or the "Company"), filed 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. 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.

By Order for Notice and Comment dated September 9, 2004, the Commission directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. On October 1, 2004, the Company filed proof of publication and proof of service as required by the September 9, 2004, Order.

On November 3, 2004, the Staff filed its Report finding that SBC's application was in compliance with 20 VAC 5-417-10 *et seq.*, the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers and 20 VAC 5-411-10 *et seq.*, the Rules Governing the Certification of Interexchange Carriers. Based upon its review of SBC'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: that SBC should notify the Division of Economics 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, and that this requirement should be maintained until such time as the Staff or 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, the Commission further finds that the Company may price its interexchange telecommunications services competitively.

Accordingly, IT IS ORDERED THAT:

- (1) SBC is hereby granted a certificate of public convenience and necessity, No. TT-209A, 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) SBC is hereby granted a certificate of public convenience and necessity, No. T-634, 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 Company may price its interexchange telecommunications services competitively.
- (4) The Company shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations.
- (5) SBC shall notify the Division of Economics and Finance no less than 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 Staff or the Commission determines it is no longer necessary.
- (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-2004-00113  
NOVEMBER 5, 2004**

PETITION OF  
CHOICE ONE COMMUNICATIONS OF VIRGINIA INC.

For approval of a change of control

**ORDER GRANTING APPROVAL**

On October 6, 2004, Choice One Communications of Virginia Inc. ("Choice One-VA" or "Petitioner") filed a petition with the State Corporation Commission ("Commission") requesting approval pursuant to Chapter 5 of Title 56 of the Code of Virginia ("Code") of a transfer of control of its ownership and related transactions as a result of its reorganization ("Reorganization") of its parent company, Choice One Communications Inc. ("Choice One").

Choice One-VA is a wholly owned subsidiary of Choice One. Choice One-VA does not currently provide telecommunications services to any customers in Virginia and does not have accepted tariffs on file with the Division of Communications. Headquartered in Rochester, New York, Choice One is an integrated communications provider offering voice and data services to businesses in 29 markets across 12 states. Choice One has more than 100,000 clients and employs approximately 1,400 colleagues. On October 5, 2004, Choice One filed a bankruptcy petition in the United States Bankruptcy Court for the Southern District of New York.

Petitioner requests that the Commission grant approval of a transfer of control of its ownership as a result of its Reorganization. It is anticipated that the Reorganization will take the following form: (i) Choice One's approximately \$404 million of outstanding senior debt would be converted into \$175 million of new senior secured term notes payable over six years and 90% of the common stock of the reorganized company; (ii) Choice One's approximately \$252 million of outstanding subordinated debt would be converted into the other 10% of such common stock and into two series of seven-year warrants to purchase additional shares of common stock from the reorganized company; and (iii) upon completion of the Reorganization, Choice One would obtain a revolving credit facility of up to \$35 million secured by substantially all of the assets of Choice One, including those of Choice One-VA, from a subset of its senior lenders to provide for ongoing working capital requirements. As a result, a group of investors previously holding 37% will now hold ownership in Choice One of approximately 9%. Therefore, a direct transfer of control of Choice One and an indirect transfer of control of Choice One-VA will take place.

Petitioner represents that the Reorganization and related transactions are in the public interest because they will be seamless to end users, and Choice One will emerge from this Reorganization stronger financially, strengthening its ability to provide competitive telecommunications services in Virginia in the future. The Reorganization and related transactions are designed to remedy Choice One's debt situation. Petitioner represents that, in addition to debt reduction, the proposed Reorganization will increase Choice One's liquidity.

THE COMMISSION, upon consideration of the petition and representations of Petitioner and having been advised by its Staff, is of the opinion and finds that the above-described transfer of control 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, Petitioner is hereby granted approval of the proposed transfer of control of Choice One-VA as described herein.

(2) Petitioner shall file a report of the action taken pursuant to the approval granted herein within thirty (30) days of consummation of the transaction, subject to administrative extension by the Director of Public Utility Accounting. Such report shall include the date the transfer of control took place.

(3) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUC-2004-00121  
OCTOBER 8, 2004**

APPLICATION OF  
INTERNATIONAL TELEPHONE GROUP OF VIRGINIA, INC.

To cancel existing certificate of public convenience and necessity to provide local exchange telecommunications services and to reissue certificate reflecting new corporate name

**FINAL ORDER**

By letter application filed September 23, 2004, and supplemented September 27, 2004, International Telephone Group of Virginia, Inc. ("ITG" or "Company"), informed the State Corporation Commission ("Commission") that it had changed its corporate name to BCN Telecom of Virginia, Inc.

In its letter application, ITG states that its corporate name change was a business decision for marketing purposes and that no change of control or structural changes have occurred. In its notice, ITG stated that it had been issued a Certificate of Amendment by the Commission on September 14, 2004, changing the Company's name from International Telephone Group of Virginia, Inc., to BCN Telecom of Virginia, Inc.

Although ITG failed to request cancellation of the certificate of public convenience and necessity ("certificate") issued in its name and the reissuance of a certificate reflecting its new name, we take notice that this should be done.<sup>1</sup> This is the procedure we have followed for name changes for other telecommunications companies, and we find a similar procedure should be followed here.

NOW THE COMMISSION, having considered the letter application, is of the opinion and finds that certificate of public convenience and necessity, No. T-503, issued to ITG should be cancelled, and a new certificate of public convenience and necessity should be issued reflecting the Company's new corporate name.

Accordingly, IT IS ORDERED THAT:

(1) This matter is hereby docketed and assigned Case No. PUC-2004-00121.

(2) Certificate of public convenience and necessity, No. T-503, issued to ITG is hereby cancelled.

(3) Certificate of public convenience and necessity, No. T-503a, is hereby issued to BCN Telecom of Virginia, Inc., authorizing it to provide local exchange telecommunications services subject to all restrictions and conditions imposed in Certificate No. T-503, the restrictions set forth in the Commission's Rules Governing the Offering of Competitive Local Exchange Telephone Service (codified in 20 VAC 5-417-10 *et seq.*), and § 56-265.4:4 of the Code of Virginia.

<sup>1</sup> We also take notice that, although the Company requested to change the name on its operating authority to BCN Telecom, Inc. of Virginia, Inc., the Company's correct new name, BCN Telecom of Virginia, Inc., as reflected on its Certificate of Amendment, should be used.

(4) 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.

**CASE NO. PUC-2004-00122  
NOVEMBER 19, 2004**

JOINT PETITION OF  
NEWSOUTH COMMUNICATIONS OF VIRGINIA, INC.,  
NEWSOUTH COMMUNICATIONS CORP.  
and  
NEWSOUTH HOLDINGS, INC.

For approval of a direct transfer of control

**ORDER GRANTING APPROVAL**

On October 6, 2004, NewSouth Communications of Virginia, Inc. ("NewSouth VA"), NewSouth Communications Corp. ("NewSouth"), and NewSouth Holdings, Inc. ("NewSouth Holdings") (collectively the "Petitioners"), completed a joint petition with the State Corporation Commission ("Commission") requesting authority pursuant to Chapter 5 of Title 56 of the Code of Virginia ("Code") to transfer control of NewSouth VA from NewSouth to NewSouth Holdings.

NuVox, Inc., a facilities-based, integrated, communications provider of voice and data telecommunications services, is a privately held Delaware corporation. NuVox, Inc., and its operating subsidiaries, including NuVox Communications, Inc. ("NuVox"), a South Carolina corporation, and NewSouth, a Delaware corporation, are located in Greenville, South Carolina. Currently, NuVox, Inc., and its subsidiaries have more than 38,000 customers.

NuVox is a direct, wholly owned subsidiary of TriVergent Corporation, which, in turn, is a direct, wholly owned subsidiary of Gabriel Communications Finance Company, which, in turn, is a direct, wholly owned subsidiary of NuVox, Inc. NuVox does not hold a certificate of public convenience and necessity ("CPCN) to provide telecommunications services in Virginia.

NewSouth VA holds a CPCN to provide interexchange telecommunications services in Virginia. NewSouth VA is a direct, wholly owned subsidiary of NewSouth, which, in turn, is a direct, wholly owned subsidiary of NewSouth Holdings, which, in turn, is a direct, wholly owned subsidiary of NuVox, Inc. NewSouth Holdings is a Delaware corporation currently operating as a holding company and does not hold a CPCN or license to provide telecommunications services in any state at this time.

Petitioners request that the Commission grant approval to permit Petitioners to consummate an internal corporate reorganization through which the stock of NewSouth VA will be transferred from its existing parent, NewSouth, to NewSouth Holdings. NuVox, Inc., will remain the ultimate, corporate parent. The proposed reorganization and consolidation of the operating subsidiaries of NuVox, Inc., into a single operating entity, NuVox Communications, Inc., is anticipated to occur via a series of mergers. Petitioners propose that NewSouth, NewSouth VA's existing direct parent, will be merged with and into NewSouth Holdings, with NewSouth Holdings surviving the merger and NewSouth ceasing to exist as a corporate entity. NewSouth Holdings will change its name to NuVox Communications, Inc. d/b/a NuVox Communications and will assume all of NewSouth's assets, operations, and customer base.

The proposed reorganization also includes the merger of NuVox, Inc.'s southeastern United States subsidiaries with and into NewSouth Holdings, with NewSouth Holdings surviving and changing its name to NuVox Communications, Inc. NewSouth Holdings (renamed NuVox Communications, Inc.) will be NewSouth VA's direct parent company. Upon consummation of the mergers, the entity authorized to provide telecommunications services in Virginia will remain NewSouth VA, wholly owned by NuVox Communications, Inc. f/k/a NewSouth Holdings, Inc., wholly owned by Gabriel Communications Finance Company, wholly owned by NuVox, Inc.

The Petitioners represent that, upon completion of the reorganization, the ultimate ownership of NewSouth VA will be identical to its current ultimate ownership. Direct and intermediate ownership will change to NuVox Communications, Inc., and Gabriel Communications Finance Company, respectively. NewSouth VA currently does not provide telecommunications services to any customers in Virginia; therefore, no customers will be affected by the proposed reorganization. The Petitioners state that the proposed consolidation will simplify the NuVox companies' corporate structure and improve the companies' overall efficiency, thereby enhancing NewSouth VA's ability to compete in Virginia.

NOW THE COMMISSION, upon consideration of the joint petition and representations of Petitioners and having been advised by its Staff, is of the opinion and finds that the above-described transfer of control of NewSouth VA 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 to consummate the transactions as described herein to allow for the direct transfer of control of NewSouth VA from NewSouth to NewSouth Holdings.

(2) The Petitioners shall file a report of the action taken pursuant to the approval granted herein within thirty (30) days of consummation of the transactions, subject to administrative extension by the Commission's Director of Public Utility Accounting. Such report shall include the date the transactions took place.

(3) There appearing nothing further to be done in this matter, it hereby is dismissed.



**CASE NO. PUC-2004-00123  
SEPTEMBER 28, 2004**

APPLICATION OF  
VERIZON VIRGINIA INC.

For Withdrawal of Exemption from Physical Collocation at its Mason Cove Central Office

**ORDER**

On January 4, 2001, Verizon Virginia Inc. ("Verizon Virginia") filed with the State Corporation Commission ("Commission") in Case No. PUC-2001-00006 a request for exemption from the requirement of § 251(c)(6) of the Act to provide physical collocation in its Mason Cove central office.

On April 19, 2001, the Commission entered a Final Order in Case No. PUC-2001-00006 granting Verizon Virginia's request for exemption from the requirements to provide physical collocation at its Mason Cove central office. Pursuant to the Final Order, once Verizon Virginia's building addition is completed at the Mason Cove central office, the exemption will be terminated.

On September 23, 2004, Verizon Virginia filed a Withdrawal of Exemption Request ("Withdrawal"), notifying the Commission that its building addition to the Mason Cove central office is completed. The Withdrawal is now docketed in Case No. PUC-2004-00123 as captioned above.

NOW UPON CONSIDERATION of Verizon Virginia's Withdrawal of Exemption Request, the Commission finds that the exemption from physical collocation requirements in the Mason Cove central office, granted by Final Order of April 19, 2001, in Case No. PUC-2001-00006, should be terminated.

Accordingly, IT IS ORDERED THAT:

(1) Verizon Virginia's Withdrawal of Exemption Request should be granted, and exemption from the requirements to provide physical collocation at Verizon Virginia's Mason Cove central office is hereby terminated.

(2) There being nothing further to be done herein, this matter shall be dismissed from the Commission's docket of active cases and the papers filed herein be placed in the Commission's file for ended causes.

**CASE NO. PUC-2004-00124  
NOVEMBER 16, 2004**

APPLICATION OF  
ITC^DELTACOM, INC.

For consent to the indirect transfer of control of its operating subsidiary

**ORDER GRANTING MOTION TO WITHDRAW APPLICATION**

On September 30, 2004, pursuant to the Utility Transfers Act, Chapter 5 (§ 56-88 et seq. of Title 56) of the Code of Virginia ("Code"), ITC^DeltaCom, Inc. ("ITCD" or the "Company"), filed an Application and Request for Expedited Treatment ("Application") seeking Commission approval of the indirect transfer of control of its operating subsidiary, Business Telecom of Virginia, Inc. d/b/a BTI and d/b/a ITC^DeltaCom ("BTI").<sup>1</sup> The Application states that ITCD will issue new common stock resulting in a reduction of the ownership interest of ITCD's current majority shareholder, Welsh, Carson, Anderson & Stowe VIII, L.P., WCAS Capital Partners III, L.P., and WCAS Information Partners, L.P. (collectively, "Welsh Carson"), and, in turn, control of BTI.

On October 12, 2004, ITCD filed a Motion and Supplement to Application containing the proper verifications to complete the Application. ITCD indicates that Welsh Carson currently owns approximately 63.1% of the common stock and that Welsh Carson will own approximately 39.3% after the stock transactions described in the Application.

On November 3, 2004, ITCD filed a Motion to Withdraw Application ("Motion") stating that, pursuant to § 56-88.1 of the Code, there is no acquisition or disposal of control since the transactions described in the Application do not involve the acquisition of twenty-five percent (25%) or more of the voting stock of ITCD or a change in the actual exercise of any substantial influence over the policies and actions of ITCD.

NOW THE COMMISSION, having considered the Motion, is of the opinion and finds that this matter should be dismissed. The transfer of stock described in the Application does not require Commission approval pursuant to the Utility Transfers Act.

Accordingly, IT IS ORDERED THAT:

(1) ITCD's Motion to Withdraw Application is hereby granted.

(2) The Application shall be lodged in the Commission's file for ended causes.

<sup>1</sup> BTI is a Virginia public service corporation that holds Certificate Nos. TT-168A and T-389 to provide interexchange and local exchange telecommunications services, respectively, in the Commonwealth of Virginia.

**CASE NO. PUC-2004-00125  
DECEMBER 29, 2004**

APPLICATION OF  
SHENANDOAH TELEPHONE COMPANY,  
SHENANDOAH TELECOMMUNICATIONS COMPANY,  
SHENANDOAH CABLE TELEVISION COMPANY,  
SHENTEL SERVICE COMPANY,  
SHENANDOAH VALLEY LEASING COMPANY,  
SHENANDOAH MOBILE COMPANY,  
SHENANDOAH LONG DISTANCE COMPANY,  
SHENANDOAH NETWORK COMPANY,  
SHENTEL FOUNDATION,  
SHENANDOAH PERSONAL COMMUNICATIONS COMPANY  
SHENTEL COMMUNICATIONS COMPANY  
and  
SHENTEL MANAGEMENT COMPANY

For approval of transactions pursuant to the Affiliates Act

**ORDER GRANTING APPROVAL**

On October 1, 2004, Shenandoah Telephone Company ("Shenandoah"), Shenandoah Telecommunications Company ("ShenCom"), Shenandoah Cable Television Company ("Shenandoah Cable"), ShenTel Service Company ("ShenTel"), Shenandoah Valley Leasing Company, Shenandoah Mobile Company, Shenandoah Long Distance Company ("Long Distance"), Shenandoah Network Company, ShenTel Foundation, Shenandoah Personal Communications Company ("PCS"), ShenTel Communications Company, and ShenTel Management Company ("SMC") (collectively, the "Applicants") filed an application with the State Corporation Commission ("Commission") pursuant to the Affiliates Act requesting approval to modify the existing Affiliates Agreement (the "Services Agreement") to update the allocation procedures to reflect a new organizational structure that Applicants believe to be better suited to the telecommunications industry's technologies and services and to include a new affiliate, SMC, in the allocation process; to allow certain non-telephone operating assets of Shenandoah to be transferred to SMC at net book value; and to allow future affiliates of Shenandoah to become signatories to the Affiliates Agreement with notice to the Commission within 15 days of becoming signatories. SMC will be the entity through which all shared services and shared assets will be provided to all existing and future affiliates. After filing the application, the Applicants identified Shentel Converged Services ("SCS"), an affiliate that will provide multiple services such as voice, Internet, and video to customers, as a competitive local exchange carrier. SCS is a wholly owned subsidiary of ShenCom formed on or about November 23, 2004. SCS acquired the 83.88% ownership of NTC Communications, LLC ("NTC"), not currently owned by ShenTel when the application was filed. NTC provides voice, Internet, and/or cable television services primarily to college students located in multiple dwelling units adjacent to college campuses in Virginia and other Southeastern states. ShenCom owns the remaining 16.12% interest in NTC.

Shenandoah represents that most of ShenCom's revenues come from the wireless affiliate, PCS, unlike in the past when Shenandoah generated the majority of revenues. Applicants represent that ShenCom's management will likely continue to add affiliates that complement its existing business lines.

To facilitate the efficient provision of services and assets among affiliates, Shenandoah's affiliates will transfer personnel and assets to SMC. Thereafter, capital costs and expenses will be allocated to the appropriate affiliate based on its proportionate share of such costs and expenses without a profit component. Any capital costs or expenses directly related to a particular affiliate will be paid by that affiliate. All accounts or cost centers in SMC will have a zero balance at the end of the month (except in rare instances where adjustments need to be made). Applicants represent that this will make tracking and auditing the allocations more efficient.

Pursuant to the proposed Services Agreement, expenses and capital costs will be shared among Shenandoah and its affiliates by a two-tiered allocation approach. The first tier allocation will be "intraSMC," i.e., shared expenses and assets will first be allocated to cost centers that have been set up within SMC. The second-tier allocation will be done "inter-affiliate," i.e., once shared capital costs and expenses have been allocated to a cost center within SMC, allocations will be made to the affiliates based on appropriate allocation factors.

Shenandoah proposes that assets to be transferred to SMC, such as computer systems, shared tools and equipment, and furniture, will be transferred to SMC at net book value. No operating telephone assets of Shenandoah will be transferred to SMC, and they will remain the property of Shenandoah. Shenandoah proposes to implement this new structure and Services Agreement by January 1, 2005.

SMC will provide the following services to Shenandoah: executive management; engineering and technical; construction; installation and repair; operations; accounting and finance; information technology; mail room; regulatory and legal; building and grounds; training and safety; compensation, benefits, and recruiting; sales, marketing, and public relations; and customer service.

Shenandoah will provide the following services to its affiliates: floor space in the Main Building located at 124 South Main Street and in the Newman Service Building located at 3075 South Ox Road, both in Edinburg, Virginia, based on current market rates; fiber optic facilities to Shenandoah Cable at a negotiated flat bulk rate of \$240,000 annually pursuant to a 1999 agreement; and regulated telecommunications services to various affiliates under the same rates, terms, and conditions of its tariff as would be provided to any non-affiliated customer.

As a result of the proposed transfer of assets, all employees will become employees of SMC. Neither Shenandoah nor any of its affiliates will have employees. Each affiliate, including Shenandoah, will retain assets that are used solely by that affiliate. For example, telephone switches, wires, and poles used solely by Shenandoah and Shenandoah Cable's equipment used solely by Shenandoah Cable will not transfer to SMC.

All non-shared direct costs will be charged to and paid by each affiliate and will not flow through SMC. Any expense that can be identified as an expense solely attributable to a particular affiliate will be paid by that affiliate and not flowed through SMC. As invoices come in to Accounts Payable, they will be evaluated to see if they are specific to one affiliate. If so, the invoice will be paid directly by the designated affiliate. If the invoice is one which is

not specific to an affiliate, that invoice will go into SMC to be allocated based on predetermined allocators. Examples of costs that will not flow through SMC are as follows: the wholesale cost of long distance minutes will be paid for directly by Long Distance; the cost of utilities for all PCS stores will be paid for directly by PCS; cable television programming costs will be paid for directly by Shenandoah Cable; maintenance contracts on telephone switching equipment will be paid for directly by that affiliate; and third-party Internet support costs will be paid directly by Shentel.

NOW THE COMMISSION, upon consideration of the application and representations of the Applicants and having been advised by its Staff, is of the opinion and finds that the above-described Services Agreement is in the public interest. However, we believe that, regarding the Services Agreement, Shenandoah should continue to evaluate services obtained from affiliates to ensure that services are obtained at the lower of cost or market. If services can be obtained at a lower cost from an affiliate, it should obtain those services from the affiliate. Otherwise, Shenandoah should go to the market to obtain such services. Services provided by Shenandoah that are subject to a tariff should be provided at the rates, terms, and conditions pursuant to its tariff. Non-tariffed services should be provided to affiliates at the greater of cost or market. Costs allocated among affiliates will not include a return component. We also believe it is appropriate for Shenandoah to transfer non-telephone assets to SMC at net book value. However, to continue to protect the public interest, we believe Shenandoah should file a new application with the Commission for approval under the Affiliates Act whenever new affiliates are added as signatories and made a part of the Services Agreement or when there are changes in allocation factors. However, we find that SCS and NTC may become signatories to and made a part of the Services Agreement provided that Shenandoah file a revised executed copy of the Services Agreement within thirty days of the date of this Order.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to § 56-77 of the Code of Virginia, approval is hereby granted for the proposed Services Agreement under the terms and conditions and for the purposes as described herein, subject to certain conditions described herein, to include SCS and NTC provided that Shenandoah file with the Commission a revised executed copy of the Services Agreement to include SCS and NTC as signatories to and made a part of the Services Agreement within thirty (30) days of the date of this Order, subject to administrative extension by the Commission's Director of Public Utility Accounting.
- 2) Services provided by Shenandoah to affiliates pursuant to a tariff shall be provided to the affiliates under the rates, terms, and conditions pursuant to such tariff. Non-tariffed services provided by Shenandoah to its affiliates shall be provided at the greater of cost or market. Services obtained by Shenandoah from its affiliates shall be provided at the lower of cost or market. Services for which no market exists shall be provided at cost.
- 3) Any changes in the terms and conditions of the Services Agreement from those described herein, including new affiliates added to the Services Agreement and changes in allocation processes, shall require Commission approval.
- 4) For purposes of cost recovery during any rate proceeding, Shenandoah shall bear the burden of proving that the pricing policy as described in Ordering Paragraph (2) was followed and shall maintain such records to support such compliance for Staff review upon request.
- 5) 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.
- 6) 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.
- 7) Shenandoah shall continue to file its Annual Report of Affiliate Transactions with the Commission's Director of Public Utility Accounting by April 1 of each year, subject to administrative extension by the Director of Public Utility Accounting. The transactions covered by the Services Agreement shall be included in such report.
- 8) If General Rate Case Filings are not based on a calendar year, then Shenandoah shall include the affiliate information contained in the Annual Report of Affiliate Transactions in such filings.
- 9) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUC-2004-00127  
OCTOBER 18, 2004**

APPLICATION OF  
AMERICAN FIBER SYSTEMS VA, INC.

For cancellation of certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

**ORDER CANCELLING CERTIFICATES**

On October 5, 2004, American Fiber Systems VA, Inc. ("American Fiber Systems" or the "Company"), filed a letter application with the State Corporation Commission ("Commission") requesting cancellation of its certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services ("Certificates"). The Commission granted Certificate Nos. T-551 and TT-147A to American Fiber Systems in Case No. PUC-2000-00324 on April 19, 2001.

In the application, American Fiber Systems states that due to changes in its corporate business plan, the Company did not enter the Virginia market and seeks to voluntarily surrender its Certificates without prejudice.

NOW UPON CONSIDERATION of the matter, American Fiber Systems finds that the Certificates granted to American Fiber Systems should be cancelled. The Commission further finds that any local exchange or interexchange telecommunications tariffs on file with the Division of Communications should be cancelled.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed and assigned Case No. PUC-2004-00127.
- (2) Certificate No. T-551 authorizing American Fiber Systems VA, Inc., to provide local exchange telecommunications services throughout the Commonwealth is hereby cancelled.
- (3) Certificate TT-147A authorizing American Fiber Systems VA, Inc., to provide interexchange telecommunications services throughout the Commonwealth is hereby cancelled.
- (4) Any tariffs associated with Certificate Nos. T-551 and TT-147A on file with the Division of Communications are hereby cancelled.
- (5) There being nothing further to be done, this matter shall be dismissed from the Commission docket of active cases and the papers filed herein placed in the Commission's file for ended causes.

**CASE NO. PUC-2004-00130  
OCTOBER 29, 2004**

APPLICATION OF  
GOBEAM SERVICES OF VIRGINIA, INC.

To cancel existing certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

**ORDER CANCELLING CERTIFICATES**

By application filed October 12, 2004, GoBeam Services of Virginia, Inc. ("GoBeam" or "Company"), informed the State Corporation Commission ("Commission") that it had transferred control to DIECA Communications, Inc. d/b/a Covad Communications Company, and requested that the Commission cancel the certificates of public convenience and necessity for competitive local exchange and interexchange telecommunications services issued to GoBeam on May 18, 2001, in Case No. PUC-2001-00041.

In its application, GoBeam states that its change of control was approved by the Commission in a June 25, 2004, Order Granting Approval in Joint Petition of DIECA Communications, Inc. d/b/a Covad Communications Company and GoBeam Services of Virginia.<sup>1</sup> GoBeam further states that it is not providing retail services in Virginia and currently does not maintain any facilities or equipment in Virginia.

NOW THE COMMISSION, having considered the application, is of the opinion and finds that certificates of public convenience and necessity, Nos. T-558 and TT-152A, issued to GoBeam should be cancelled.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is hereby docketed and assigned Case No. PUC-2004-00130.
- (2) Certificate of public convenience and necessity, No. T-558, issued to GoBeam, is hereby cancelled.
- (3) Certificate of public convenience and necessity, No. TT-152A, issued to GoBeam, is hereby cancelled.
- (4) Any tariffs associated with Certificate Nos. T-558 or TT-152A on file with the Division of Communications 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.

<sup>1</sup> Case No. PUC-2004-00051.

**CASE NO. PUC-2004-00133  
NOVEMBER 19, 2004**

JOINT PETITION OF  
RCN TELECOM SERVICES OF WASHINGTON, D.C., INC.  
and  
STARPOWER COMMUNICATIONS, LLC

For approval of transfer of control

**ORDER GRANTING APPROVAL**

On October 28, 2004, RCN Telecom Services of Washington, D.C., Inc. ("RCN-DC"), and Starpower Communications, LLC ("Starpower") (collectively, the "Petitioners"), filed a joint petition with the State Corporation Commission ("Commission"), requesting approval of the acquisition of

additional ownership of Starpower by RCN-DC, increasing RCN-DC's ownership from 50 percent to 100 percent. As a result of the proposed transaction, Starpower will become a wholly owned indirect subsidiary of RCN-DC.

RCN-DC is a corporation formed under the laws of the District of Columbia. RCN-DC is directly owned by RCD Internet Services, Inc., with 52 percent ownership, and RCN Telecom Services, Inc., with 48 percent ownership. Both companies are direct and wholly owned subsidiaries of the RCN Corporation ("RCN") formed under the laws of Delaware. Thus, RCN-DC is a wholly owned indirect subsidiary of RCN.

Starpower is a Delaware limited liability company formed under a joint venture agreement between and owned jointly by RCN-DC and Pepco Communications, LLC ("Pepcom"), with each holding 50 percent ownership interest in Starpower. The joint petition states that this joint venture agreement was the result of arm's length negotiations between two unaffiliated companies, RCN-DC and Pepcom.

Pepcom is a Delaware limited liability company and a wholly owned subsidiary of Pepco Holdings, Inc., a publicly traded company formed under the laws of Delaware as a holding company corporation.

On March 24, 1998, the Commission authorized Starpower to provide local exchange and interexchange telecommunications services pursuant to certificates of public convenience and necessity issued in Case No. PUC-1998-00004. Starpower, with headquarters located in Lanham, Maryland, provides video and telecommunications services to commercial and residential customers in Maryland, Virginia, and the District of Columbia.

Under the joint venture agreement between RCN-DC and Pepcom, one owner seeking to sell its interest must provide notice to the other owner of the proposed sale, and the non-selling owner has the option to purchase the selling owner's interest upon the same terms and conditions as may be proposed by any third-party purchaser.

On July 28, 2004, Pepcom advised RCN-DC that it had received an offer to purchase Pepcom's ownership interest in Starpower for \$29 million. RCN-DC notified Pepcom on October 15, 2004, that it elected to exercise its right under the joint venture agreement to purchase Pepcom's ownership interest in Starpower.

The joint petition asserts that the acquisition of additional ownership interest in Starpower by RCN-DC will not impair or jeopardize Starpower's provision of telecommunications services to the public, and it will have no effect on its rates or terms and conditions of service. Starpower will continue to provide the same telecommunications services to customers in Virginia under the same rates, terms, and conditions as in the previously accepted tariffs on file with the Commission's Division of Communications.

THE COMMISSION, upon consideration of the joint petition, representations of the Petitioners, and having been advised by its Staff, is of the opinion and finds that the acquisition of an additional 50 percent ownership by RCN-DC and, therefore, sole ownership of Starpower by RCN-DC, as described herein, 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 of Virginia, approval is hereby granted for the acquisition of additional ownership interest of 50 percent in Starpower by RCN-DC, resulting in 100 percent ownership by RCN-DC.
- 2) The Petitioners shall file a report of the action taken pursuant to the approval granted herein within thirty (30) days of consummation of the transaction, subject to administrative extension by the Commission's Director of Public Utility Accounting. Such report shall include the date the transaction took place.
- 3) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUC-2004-00135  
DECEMBER 29, 2004**

JOINT PETITION OF  
BRIDGECOM HOLDINGS, INC.,  
and  
BROADVIEW NETWORKS OF VIRGINIA, INC.,

For approval of a transfer of control

**ORDER GRANTING APPROVAL**

On November 10, 2004, BridgeCom Holdings, Inc. ("BridgeCom Holdings"), and Broadview Networks of Virginia, Inc. ("Broadview VA") (together the "Petitioners"), filed a joint petition with the State Corporation Commission ("Commission") requesting approval pursuant to § 56-88.1 of the Code of Virginia ("Code") to complete a series of transactions that will result in the transfer of control of Broadview VA, an entity holding certificates of public convenience and necessity ("CPCNs") to provide local exchange and interexchange telecommunications services in Virginia.

BridgeCom Holdings is a private Delaware corporation that owns two telecommunications companies, BridgeCom International, Inc. ("BridgeCom"), and TruCom Corporation ("TruCom"). All three companies have principal offices located in Valhalla, New York. BridgeCom is a Delaware corporation, which does not hold a CPCN and does not provide telecommunications services in Virginia. TruCom is a New York corporation, which does not hold a CPCN and does not provide telecommunications services in Virginia.

BridgeCom Holdings is ultimately owned by MCG Capital Corporation ("MCG"), a corporation formed under the laws of the State of Delaware. MCG is a publicly held financial services company that provides financing and advisory services to a variety of companies throughout the United States.

Broadview VA is a Virginia corporation with offices located in New York, New York. Broadview VA is a wholly owned subsidiary of Broadview Networks Inc., which, in turn, is a wholly owned subsidiary of Broadview Network Holdings, Inc., a privately held New York corporation. Although Broadview VA holds a CPCN in Virginia, it currently does not have any customers in Virginia.

Petitioners request Commission approval to complete a series of transactions that will result in a change of control of Broadview VA. In particular, BridgeCom Holdings and Broadview Holdings, the ultimate corporate parent of Broadview VA, have entered into an Agreement and Plan of Merger ("Agreement"). Pursuant to that Agreement, MCG IH II, Inc. ("MCG IH"), the parent of BridgeCom Holdings, will merge with and into BV-BC Acquisition Corporation ("BV-BC"), a newly formed subsidiary of Broadview Holdings, with BV-BC surviving. MCG's interest in Broadview Holdings will be held directly by MCG. MCG IH will no longer exist as an intermediate corporation between MCG and Broadview Holdings, and BV-BC will become an intermediate corporation between BridgeCom Holdings and Broadview Holdings.

In return for transferring its interest in BridgeCom Holdings to Broadview Holdings, MCG will receive a substantial equity interest along with 60% of the voting control of Broadview Holdings. As a result of the proposed transactions, MCG will acquire indirect control of Broadview Holdings and Broadview VA. Current Broadview Holdings shareholders will continue to hold significant minority interests in Broadview Holdings and, therefore, indirectly, in Petitioners.

In connection with the proposed transactions, Petitioners expect that Broadview Holdings will enter into certain senior secured debt financing arrangements in the amount of no more than \$90 million. Those debt arrangements will be secured by all of the assets of Petitioners, and Petitioners will guarantee those debt obligations. In addition, Broadview Holdings will enter into additional unsecured financing arrangements in which Broadview Holdings will borrow up to \$55 million in unsecured debt.

Except for the debt financing arrangements, the proposed transactions will be completed at the holding company level, and consummation of the transactions will not result in any change in the CPCN or the name under which Broadview VA may provide telecommunications services in Virginia.

NOW THE COMMISSION, upon consideration of the joint petition and representations of Petitioners and having been advised by its Staff, is of the opinion and finds that the above-described transfer of control 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 to consummate the transactions as described herein to allow indirect control of Broadview VA to be transferred to MCG.
- (2) The Petitioners shall file a report of the action taken pursuant to the approval granted herein within thirty (30) days of consummation of the transactions, subject to administrative extension by the Director of Public Utility Accounting. Such report shall include the date the transactions took place.
- (3) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUC-2004-00137  
DECEMBER 1, 2004**

JOINT PETITION OF  
COX ENTERPRISES, INC.,  
COX COMMUNICATIONS, INC.,  
and  
COX VIRGINIA TELCOM, INC.

For approval of a change of control

**ORDER GRANTING APPROVAL**

On November 2, 2004, Cox Communications, Inc. ("CCI"), Cox Virginia Telcom, Inc. ("Cox Telcom"), and Cox Enterprises, Inc. ("CEI") (collectively the "Petitioners"), filed a joint petition with the State Corporation Commission ("Commission") requesting approval pursuant to Chapter 5 of Title 56 of the Code of Virginia ("Code") to transfer control of Cox Telcom to CEI.

CCI, a publicly held Delaware corporation, is a multi-service broadband communications company that offers communications and entertainment services to 6.6 million residential customers in 22 states and serves more than 100,000 commercial customers. Its services include cable television, local and long distance telephone, high-speed Internet access, and commercial voice and data services. CCI is an indirect, majority-owned subsidiary of CEI. CEI, through its indirect, wholly owned subsidiaries, Cox Holdings, Inc. ("Holdings"), and Cox DNS, Inc., currently owns approximately 60% of the outstanding Class A common stock of CCI and 100% of the Class C common stock of CCI, which together represent approximately 73% of the voting power of CCI.

Cox Telcom is a Virginia public service corporation headquartered in Virginia Beach, Virginia. Cox Telcom is a wholly owned subsidiary of CCI, which holds certificates of public convenience and necessity to provide interexchange and local exchange telecommunications services within Virginia.

CEI is a privately held Delaware corporation. Its major operating subsidiaries include CCI, Cox Newspapers, Inc., Cox Television, Cox Radio, Inc., and Manheim Auctions, Inc. CEI currently indirectly owns approximately 60% of the equity of CCI and Cox Telcom.

Petitioners request that the Commission grant the approval necessary to allow for the indirect transfer of control of Cox Telcom to CEI, pursuant to an Agreement and Plan of Merger whereby CEI will acquire additional shares of common stock in CCI for a set price per share. Pursuant to the Agreement and Plan of Merger, CEI will acquire an indirect controlling interest in Cox Telcom. CEI will become the sole shareholder of CCI, holding a 100% indirect controlling interest in Cox Telcom.

Under the terms of the proposed transaction, Holdings and CCI are offering to purchase all outstanding shares of Class A common stock of CCI not beneficially owned by CEI or Holdings, including all shares issued upon exercise of options, at a price of \$34.75 net per share in cash without interest. This offer is subject to the non-waivable condition that at least a majority of the outstanding shares not beneficially owned by CEI or its affiliates or the directors and executive officers of CCI must be validly tendered and not withdrawn before the tender offer expires. After the tender offer, CEI-M Corporation, Inc. ("CEI-M"), a newly created, wholly owned subsidiary of Holdings, will merge with and into CCI. If, after the tender offer, CEI beneficially owns at least 90% of each class of CCI's voting securities, CEI-M will merge with and into CCI in a short-form merger.<sup>1</sup> If, after the tender offer, CEI beneficially owns less than 90% of each class of CCI's voting securities, CCI will call a meeting of stockholders, and CEI will vote its CCI shares in favor of, and thereby approve, the merger.

Following the proposed merger, CCI will be the surviving corporation, and the separate existence of CEI-M will cease. CCI will no longer have any publicly owned equity securities outstanding. Petitioners represent that the proposed transaction will be completed at the parent company level and, therefore, will not impair or jeopardize adequate service at just and reasonable rates to Cox Telcom's customers. Petitioners further represent that Cox Telcom will continue to have authority to operate in Virginia and will retain its customer contracts with no change in rates, terms, and conditions of service. CEI already holds approximately 73% of the voting power of CCI and Cox Telcom. The proposed merger will provide CEI with approximately an additional 27% of the voting power.

NOW THE COMMISSION, upon consideration of the joint petition and representations of Petitioners and having been advised by its Staff, is of the opinion and finds that the above-described transfer of control of Cox Telcom 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 to consummate the transaction as described herein to allow for the indirect transfer of control of Cox Telcom to CEI.
- (2) The Petitioners shall file a report of the action taken pursuant to the approval granted herein within thirty (30) days of consummation of the transaction, subject to administrative extension by the Commission's Director of Public Utility Accounting. Such report shall include the date the transactions took place.
- (3) There appearing nothing further to be done in this matter, it hereby is dismissed.

<sup>1</sup> Section 253 of the Delaware General Corporation Law permits Delaware corporations to engage in short-form mergers, which is basically a merger in which the parent corporation merges with a 90% or more owned subsidiary, with the parent corporation being the surviving corporation. Such mergers do not require stockholder approval either from the parent or subsidiary corporation's stockholders.

**CASE NO. PUC-2004-00147  
DECEMBER 22, 2004**

APPLICATION OF  
MOUNTAINET TELEPHONE COMPANY  
and  
SCOTT COUNTY TELEPHONE COOPERATIVE, INC.

For Authority to Transfer Direct Control of MountaiNet Telephone Company to SCTC Management Group, Inc.

**ORDER GRANTING MOTION TO WITHDRAW APPLICATION**

On December 3, 2004, pursuant to the Utility Transfers Act, Chapter 5 (§§ 56-88 *et seq.* of Title 56) of the Code of Virginia, MountaiNet Telephone Company ("MountaiNet Telephone") and Scott County Telephone Cooperative, Inc. ("Scott County"), filed a joint application and request for expedited treatment ("Application") with the State Corporation Commission ("Commission") seeking approval of the transfer of MountaiNet Telephone to SCTC Management Group, Inc. ("SCTC"). The Application states that Scott County is the sole shareholder of MountaiNet, Inc., which in turn is the sole shareholder of MountaiNet Telephone. The Applicants intend to form a new corporation, SCTC, which will be a wholly owned subsidiary of Scott County and, in turn, the sole shareholder of MountaiNet, Inc. As the transaction involves the interjection of one layer of ownership between Scott County and MountaiNet, Inc., MountaiNet, Inc., remains the sole shareholder of MountaiNet Telephone, and Scott County remains the ultimate owner of MountaiNet Telephone. The Application requested expedited treatment and requested Commission approval of the transaction no later than December 31, 2004.

On December 21, 2004, MountaiNet Telephone and Scott County filed with the Commission a Motion to Withdraw Joint Application stating that pursuant to Virginia Code Ann. § 56-88.1, this transaction involves no acquisition or disposal of control of MountaiNet Telephone since the ultimate owner of MountaiNet Telephone remains Scott County.

NOW THE COMMISSION, having considered the pleadings and applicable law, is of the opinion and finds that this matter should be dismissed. The transaction as described in the Application does not require Commission approval pursuant to the Utility Transfers Act since neither the ultimate nor the direct ownership of MountaiNet Telephone will change as a result of the proposed transaction.

Accordingly, IT IS ORDERED THAT:

- (1) MountaiNet Telephone and Scott County's Motion to Withdraw Joint Application is hereby granted.
- (2) The Application shall be lodged in the Commission's file for ended causes.

**CASE NO. PUC-2004-00151  
DECEMBER 23, 2004**

JOINT PETITION OF  
FAIRPOINT COMMUNICATIONS, INC.,  
THOMAS H. LEE EQUITY FUND IV, L.P.,  
KELSO INVESTMENT ASSOCIATES V, L.P.,  
and  
KELSO EQUITY PARTNERS V, L.P.

For approval to relinquish control

**ORDER GRANTING APPROVAL**

On December 13, 2004, Kelso Investment Associates V, L.P., and Kelso Equity Partners V, L.P. (collectively "Kelso"), FairPoint Communications, Inc. ("FairPoint"), and Thomas H. Lee Equity Fund IV, L.P. ("THL") (collectively, the "Petitioners"), filed a joint petition with the State Corporation Commission ("Commission") requesting approval, pursuant to Chapter 5 of Title 56 (the "Utility Transfers Act") of the Code of Virginia ("Code"), to consummate a series of transactions through which the relinquishment of control of Peoples Mutual Telephone Company ("Peoples Mutual") by THL and Kelso will occur.

Peoples Mutual, a wholly owned subsidiary of FairPoint, is a public service corporation with its principal place of business in Gretna, Virginia. Peoples Mutual is an incumbent local exchange carrier providing local exchange telecommunications services in Pittsylvania County, Virginia. FairPoint is a Delaware business corporation with its headquarters located in Charlotte, North Carolina. Kelso & Company, a private equity investment firm headquartered in New York, New York, manages Kelso. Kelso owns approximately 36.4% of FairPoint, and THL, a Boston-based investment firm, owns approximately 42.9% of FairPoint. Therefore, Kelso and THL are considered to have control of Peoples Mutual as defined in the Utility Transfers Act.

In Case No. PUC-2004-00046, the Commission issued an Order Granting Approval ("Order") on May 7, 2004, to allow THL and Kelso to relinquish control of Peoples Mutual through the issuance of Income Deposit Securities ("IDS transactions"). Since the Commission's Order was issued, the financial markets have been slow to accept Income Deposit Securities as viable, saleable instruments.

The Petitioners now request that the Commission grant authority to permit Petitioners to modify their original proposal to consummate a series of transactions through which the relinquishment of control of Peoples Mutual by THL and Kelso will occur. The financial markets' slow acceptance of Income Deposit Securities has led FairPoint to modify its proposal and raise the required capital for its financial restructuring through a more traditional initial public offering along with traditional bank indebtedness ("IPO transactions"). Following completion of the IPO transactions, neither THL nor Kelso will control Peoples Mutual. Specifically, THL's ownership will be reduced to approximately 11.4% or less, and Kelso's ownership of FairPoint will be reduced to approximately 9.7% or less as a result of the IPO transactions. Therefore, neither THL nor Kelso will continue to "control" Peoples Mutual, as defined in § 56-88.1 of the Code of Virginia.

Petitioners represent that the purpose of the proposed IPO transactions is to allow FairPoint to recapitalize and strengthen its financial support. The Petitioners represent that the IPO transactions contemplated by FairPoint will result in lower financial leverage for FairPoint than would have resulted from the IDS transactions, and FairPoint will retain more financial flexibility with a somewhat more conservative capital structure.

As with the proposed IDS transactions, Peoples Mutual will not pay any of the administrative costs associated with the IPO transactions, and no securities issued by Peoples Mutual will be affected by the IPO transactions. The Petitioners represent that the IPO transactions will have no impact on the rates of, or service provided by, Peoples Mutual. Petitioners believe that FairPoint will be in a stronger financial position following the IPO transactions, and this strength will inure to the benefit of Peoples Mutual.

NOW THE COMMISSION, upon consideration of the joint petition and representations of Petitioners and having been advised by its Staff, is of the opinion and finds that the above-described transfer of control 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 to consummate the IPO transactions as described herein to allow Thomas H. Lee Equity Fund IV, L.P., Kelso Investment Associates V, L.P., and Kelso Equity Partners V, L.P., to relinquish control of Peoples Mutual Telephone Company.
- (2) The Petitioners shall file a report of the action taken pursuant to the approval granted herein within thirty (30) days of consummation of the transactions, subject to administrative extension by the Director of Public Utility Accounting. Such report shall include the date the relinquishment of control took place.
- (3) There appearing nothing further to be done in this matter, it hereby is dismissed.



**The Commission issued 26 orders in 2004 approving interconnection agreements or amendments to agreements between telecommunications companies in the Commonwealth. The full text of these orders can be found on LexisNexis and on the Commission's website <http://www.scc.virginia.gov/caseinfo.htm>. Effective July 21, 2004, in Case No. PUC-2003-00171, the Commission revised the Interconnection Agreement rules whereby interconnection agreements between companies that are not specifically rejected are deemed approved by operation of law. These rules can be found by clicking on the link found at <http://www.scc.virginia.gov/division/puc/industry.htm>.**

1. Case No. PUC-1996-00124, Application of Verizon South Inc. and MCImetro Access Transmission Services of Virginia, Inc., Order Approving Amendment dated May 7, 2004.
2. Case No. PUC-1997-00007, Application of Verizon South Inc. and MCI WorldCom Communications of Virginia, Inc., Order Approving Amendment dated May 7, 2004.
3. Case No. PUC-1997-00028, Application of Verizon Virginia Inc. and Intermedia Communications, Inc., Order Approving Amendment dated June 18, 2004.
4. Case No. PUC-2002-00225, Application of United Telephone-Southeast, Inc. and Central Telephone Company of Virginia and Sprint PCS, Order Approving Amendment dated February 6, 2004.
5. Case No. PUC-2002-00229, Application of United Telephone-Southeast, Inc. and Central Telephone Company of Virginia, Inc. and CAT Communications International, Inc., Order Approving Amendment dated May 19, 2004.
6. Case No. PUC-2003-00116, Application of Verizon South Inc. and Cypress Communications Holding Company of Virginia, Inc., Order Approving Amendment dated March 25, 2004.
7. Case No. PUC-2003-00135, Application of Verizon Virginia Inc. and Cypress Communications Holding Company of Virginia, Inc., Order Approving Amendment dated March 25, 2004.
8. Case No. PUC-2003-00187, Application of United Telephone-Southeast, Inc. and Central Telephone Company of Virginia and XO Virginia, LLC, Order Approving Agreement dated February 3, 2004.
9. Case No. PUC-2003-00188, Application of United Telephone-Southeast, Inc. and Central Telephone Company of Virginia and MCI WORLDCOM Communications of Virginia, Inc., Order Approving Agreement dated February 11, 2004.
10. Case No. PUC-2004-00005, Application of NTELOS Telephone Inc. and Triton PCS Operating Company, L.L.C., Order Approving Agreement dated March 31, 2004.
11. Case No. PUC-2004-00006, Application of NTELOS Telephone Inc. and Sprint Communications Company L.P., Order Approving Agreement dated March 31, 2004.
12. Case No. PUC-2004-00008, Application of NTELOS Telephone Inc. and VA PCS Alliance, Order Approving Agreement dated March 31, 2004.
13. Case No. PUC-2004-00015, Application of Shenandoah Telephone Company and NTELOS Network, Inc., Order Approving Agreement dated April 6, 2004.
14. Case No. PUC-2004-00032, Application of Central Telephone Company of Virginia and United Telephone-Southeast, Inc. and Level 3 Communications, LLC, Order Approving Agreement dated April 26, 2004.
15. Case No. PUC-2004-00039, Application of Verizon Virginia Inc. and MCI WORLDCOM Communications of Virginia, Inc., Order Approving Amendment dated June 18, 2004.
16. Case No. PUC-2004-00040, Application of Verizon Virginia Inc. and MCImetro Transmission Services of Virginia, Inc., Order Approving Amendment dated June 18, 2004.
17. Case No. PUC-2004-00082, Application of United Telephone-Southeast, Inc. and Central Telephone Company of Virginia and TelCove of Virginia, LLC, Order Approving Agreement dated August 2, 2004.
18. Case No. PUC-2004-00083, Application of NTELOS Telephone Inc. and United States Cellular Corporation, Order Approving Agreement dated August 2, 2004.
19. Case No. PUC-2004-00084, Application of NTELOS Telephone Inc. and T-Mobile USA, Inc., Order Approving Agreement dated August 2, 2004.

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20. Case No. PUC-2004-00085, Application of United Telephone-Southeast, Inc. and Central Telephone Company of Virginia and Kinex Telecom, Inc., Order Approving Agreement dated July 26, 2004.
21. Case No. PUC-2004-00086, Application of Verizon Virginia Inc. and KDL of Virginia, Inc., Order Approving Agreement dated July 26, 2004.
22. Case No. PUC-2004-00087, Application of Verizon South Inc. and Trans National Communications International of Virginia, LLC, Order Approving Agreement and Amendment 1 dated July 26, 2004.
23. Case No. PUC-2004-00088, Application of Verizon Virginia Inc. and PNG Telecommunications of Virginia, LLC, Order Approving Agreement and Amendment No. 1 dated August 2, 2004.
24. Case No. PUC-2004-00089, Application of Verizon South Inc. and PNG Telecommunications of Virginia, LLC, Order Approving Agreement and Amendment No. 1 dated August 2, 2004.
25. Case No. PUC-2004-00090, Application of Verizon Virginia Inc. and Trans National Communications International of Virginia, LLC, Order Approving Agreement and Amendment No. 1 dated August 2, 2004.
26. Case No. PUC-2004-00091, Application of Verizon South Inc. and KDL of Virginia, Inc., Order Approving Agreement and Amendment dated July 26, 2004

## DIVISION OF ENERGY REGULATION

### CASE NO. PUE-1997-00420 MARCH 9, 2004

APPLICATION OF  
ROANOKE GAS COMPANY

For authorization to implement a Pilot Gas Cost Hedging Program

#### DISMISSAL ORDER

By Order dated July 24, 1997, the Commission authorized Roanoke Gas Company ("Roanoke" or "Company") to engage in a pilot program to employ financial hedges for up to 25% of its normal winter demand for natural gas service. The program was authorized for a one-year term, beginning August 1, 1997. By Orders dated April 27, 1998, and January 9, 2001, the pilot program was extended twice for a total of a four-year period through January 31, 2003.

Pursuant to the Commission's Orders in this case, the Company has filed its required reports. According to the Company's April 15, 1998 report, it negotiated financial hedging contracts on a total of 700,000 decatherms for the 1997-1998 winter heating season. The financial instruments had the effect of capping Roanoke's price for the contracted gas at \$3.50 per decatherm and establishing a floor for the gas of \$3.15 per decatherm. These contracts, according to the Company resulted in increased gas costs of approximately \$171,000 for the 1997-1998 winter heating season, which the Company attributed to warmer than normal temperatures.

In anticipation of the winter heating seasons of 1998-1999 and 1999-2000, the Company entered into financial hedges for natural gas. Based on the reports filed with the Commission and information provided by our Staff, these transactions resulted in an increase in natural gas costs of approximately \$169,200 and \$116,600<sup>1</sup> for the 1998-1999 and 1999-2000 winter heating seasons, respectively. Based on the reports, it appears Roanoke did not enter into any financial hedging transactions for the 2000-2001 winter heating season. However, the Company did enter into financial hedging transactions for the 2001-2002 and 2002-2003 winter heating seasons. These transactions resulted in an increase in gas costs for the 2001-2002 winter heating season of \$1,713,000<sup>2</sup> and a decrease in gas costs of approximately \$2,600,000 for the winter heating season of 2002-2003.

On October 7, 2003, Roanoke filed a letter with the Commission in which it stated that it no longer needs prior approval to enter into gas cost hedges due to a language change in its tariff that incorporates hedging costs and benefits as part of the gas cost calculation. Our Staff has advised us that Roanoke, in its last general rate case, Case No. PUE-2002-00373, inserted language in its tariff that effectively gives the Company authority to conduct hedging activities. The Commission issued a Final Order on January 7, 2003, approving the Company's tariffs. As indicated in its October 7, 2003 letter, based on the new language in its tariff, Roanoke believes this case should be dismissed. Our Staff has advised us that it does not oppose the dismissal of this case.

On consideration of the foregoing, IT IS ORDERED, that there appearing nothing further to be done in this matter, it hereby is dismissed.

<sup>1</sup> The Company reports that the incremental cost of gas as a result of the hedging totaled \$86,460 and the cost for the financial hedges themselves totaled \$45,300, which totals \$131,760. However, the report indicates that the total increase in gas costs as a result of the hedging activities was \$116,600. Our Staff has advised us that the \$116,600 is the Virginia portion of a total Company cost of \$131,760.

<sup>2</sup> According to the report dated April 12, 2002, filed with the Commission on February 5, 2004, the financial hedging transactions resulted in an increase in gas costs of \$1,653,000. However, a subsequent summary report indicates that the increase in gas cost totaled \$1,713,000. Our Staff has advised us that the \$1,653,000 figure excluded a contract and that gas costs increased by a total of \$1,713,000.

### CASE NO. PUE-1999-00436 MARCH 1, 2004

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

v.

COLUMBIA GAS OF VIRGINIA, INC.,  
Defendant

#### DISMISSAL ORDER

On April 20, 2000, the State Corporation Commission ("Commission") entered an Order of Settlement ("April 20, 2000, Order") that, among other things, directed Columbia Gas of Virginia, Inc. ("Columbia" or the "Company"), to undertake certain remedial actions and to file various reports and affidavits, all as provided on pages 6-9 of the April 20, 2000, Order. The April 20, 2000, Order was amended on August 31, 2000, in order to grant Columbia's request to extend the time for the completion of the independent audit and report on the Company's management, policies and procedures, operation, maintenance, and facilities related to the Company's cathodic protection corrosion control program.

On August 27, 2001, the Commission further revised the April 20, 2000, Order, granting Columbia's request for an extension of time to correct any deficiencies noted in the independent consultant's final report and extending the date by which Columbia must file an affidavit certifying that the

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Company had corrected any deficiencies noted in the consultant's report as required by Paragraph 2 of the April 20, 2000, Order. The August 27, 2001, Order also extended the date for Columbia to report on its actions and expenditures related to customer owned service lines.

On July 1, 2002, the Commission created the Division of Utility and Railroad Safety ("Division") out of the Commission's Division of Railroad Regulation and a portion of the Division of Energy Regulation. This new Division, together with its Director, assumed the responsibility for, among other things, the administration and enforcement of the Commission's pipeline safety regulations.

On October 25, 2002, the Commission further amended the April 20, 2000, Order. The October 25, 2002, Order directed the Company to file the reports and information required by the April 20, 2000, Order with the Director of the Division of Utility and Railroad Safety rather than the Director of the Division of Energy Regulation.

On November 26, 2002, the Commission granted the Company's request for an extension of time in which Columbia could complete the remediation of the pipeline in the South River adjacent to The Hopeman Parkway.

On February 24, 2004, Columbia filed a Motion to Dismiss Case ("Motion"). In the Motion, Columbia represented that it had performed the remedial and corrective actions and otherwise complied with the requirements of the April 20, 2000, Order and subsequent orders. The Company also stated there were no further actions required of it in this proceeding. Counsel for Columbia advised that the Division did not have any objection to the Motion.

NOW UPON CONSIDERATION of the foregoing, the Commission is of the opinion and finds based on the Company's representations that the Company's February 24, 2004, Motion should be granted and that this case should be dismissed from the Commission's docket of active proceedings.

Accordingly, IT IS ORDERED THAT:

- (1) The Company's February 24, 2004, Motion is hereby granted.
- (2) This case shall be dismissed, and the papers herein shall be lodged in the Commission's file for ended causes.

**CASE NO. PUE-2000-00550  
AUGUST 30, 2004**

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

Ex Parte: In the matter concerning the application of Appalachian Power Company d/b/a American Electric Power-Virginia for approval of a plan to transfer functional and operational control of certain transmission facilities to a regional transmission entity

**ORDER GRANTING APPROVAL**

On December 19, 2002, Appalachian Power Company d/b/a American Electric Power-Virginia ("AEP-VA" or "Company") filed with the State Corporation Commission ("Commission") a Substitute Application ("Application") requesting approval to transfer functional and operational control of its transmission facilities to a regional transmission entity ("RTE"). The application was not complete until supplemental filings were made by AEP-VA in April 2003.

Sections 56-577 and 56-579 of the Virginia Electric Utility Restructuring Act ("Restructuring Act"), Chapter 23 (§ 56-576 *et seq.*) of Title 56 of the Code of Virginia ("Code"), require Virginia's incumbent electric utilities to file applications with, and to seek approval from, the Commission to transfer the management and control of their transmission assets to RTEs.

Section 56-579 A 1 of the Restructuring Act was amended by the 2003 General Assembly to delay transfers to RTEs until July 1, 2004, and to require such transfers by January 1, 2005, subject to Commission approval. Section 56-579 A 1, as amended, provides in pertinent part:

No such incumbent electric utility shall transfer to any person any ownership or control of, or any responsibility to operate, any portion of any transmission system located in the Commonwealth prior to July 1, 2004, and without obtaining, following notice and hearing, the prior approval of the Commission, as hereinafter provided. However, each incumbent electric utility shall file an application for approval pursuant to this section by July 1, 2003, and shall transfer management and control of its transmission assets to a regional transmission entity by January 1, 2005, subject to Commission approval as provided in this section.

In addition, § 56-579 F of the Restructuring Act was amended by the 2003 General Assembly with the addition of the following:

Any request to the Commission for approval of such transfer of ownership or control of or responsibility for transmission facilities shall include a study of the comparative costs and benefits thereof, which study shall analyze the economic effects of the transfer on consumers, including the effects of transmission congestion costs. The Commission may approve such a transfer if it finds, after notice and hearing, that the transfer satisfies the conditions contained in this section.

Pursuant to § 56-579 A 2 of the Restructuring Act, the Commission developed and established rules and regulations under which incumbent utilities owning, operating, controlling, or having an entitlement to transmission capacity within the Commonwealth may transfer all or part of such control,

ownership, or responsibility to an RTE, 20 VAC 5-320-10 et seq. ("RTE Rules").<sup>1</sup> The RTE Rules establish elements of an RTE structure essential to the public interest and which are to be considered by the Commission in determining whether to authorize transfer of control of incumbent electric utilities' transmission assets to RTEs. The RTE Rules require the examination of, among other things, an RTE's reliability practices, pricing and access policies, and independent governance. The Application, therefore, must be considered pursuant to the directives set forth in the Restructuring Act and must comply with the RTE Rules.

AEP-VA now seeks approval of the transfer of control of its transmission facilities to PJM Interconnection, LLC ("PJM"), an existing regional transmission organization ("RTO")<sup>2</sup> with day-ahead and real-time markets for energy<sup>3</sup> and ancillary services.<sup>4</sup> The history of this proceeding is extensive. The Company filed with the Commission its original application to join an RTE on October 16, 2000. Since AEP-VA's original application was filed with the Commission, numerous significant events have occurred at both the state and federal level. These events have resulted in delays in the approval of the transfer of control of the transmission systems of both AEP-VA and Virginia Electric and Power Company d/b/a Dominion Virginia Power ("Dominion Virginia Power") to an RTE.

The Company's original application sought approval from this Commission to transfer the operational and functional control of its transmission facilities to the Alliance RTO, an RTO that was to be created pursuant to federal regulations issued by the Federal Energy Regulatory Commission ("FERC").<sup>5</sup> The FERC issued a number of rulings in the Alliance RTO proceedings. On July 27, 2001, this Commission by order suspended the original procedural schedule based on anticipated filings by the Alliance Companies at the FERC. After over two years of consideration, including an initial ruling conditionally approving the Alliance RTO, the FERC disapproved the Alliance RTO on December 20, 2001, and dismissed in whole the Alliance Companies' proposal.<sup>6</sup> On January 29, 2002, because of the FERC's ruling that dismissed the Alliance RTO proposal, this Commission issued an order denying a motion to reestablish a procedural schedule in AEP-VA's and Dominion Virginia Power's RTE dockets.

On April 25, 2002, the FERC issued an order directing the Alliance Companies to make compliance filings identifying which RTO they planned to join and stating whether their participation would be collective or individual.<sup>7</sup> On May 28, 2002, American Electric Power Corporation ("AEP") made a compliance filing with FERC on behalf of its operating companies.<sup>8</sup> In its filing AEP stated that it had entered into a Memorandum of Understanding with PJM on May 7, 2002, indicating its intent to participate in PJM either individually or in conjunction with other Alliance Companies.<sup>9</sup> On July 31, 2002, the FERC issued an order conditionally accepting AEP's choice to join PJM.<sup>10</sup>

Significantly, also on July 31, 2002, the FERC issued a notice of proposed rulemaking to establish a national Standard Market Design ("SMD") for wholesale electricity markets ("SMD NOPR").<sup>11</sup> The SMD NOPR requires, among other things, all public utilities to turn over the operation of their transmission facilities to an Independent Transmission Provider ("ITP").<sup>12</sup>

<sup>1</sup> Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: In the matter concerning participation of incumbent electric utilities in regional transmission entities, Case No. PUE-1999-00349, 2000 S.C.C. Ann. Rept. 430.

<sup>2</sup> The phrases Regional Transmission Entity or RTE and Regional Transmission Organization or RTO may be used interchangeably.

<sup>3</sup> PJM's energy market, which also serves as the basis for PJM's congestion management system, utilizes Locational Marginal Pricing ("LMP").

<sup>4</sup> The following transmission owners are members of PJM: Allegheny Electric Cooperative, Inc.; Allegheny Power System; Atlantic City Electric Company; Baltimore Gas & Electric Company; Commonwealth Edison Company ("ComEd"); Delmarva Power & Light Company; Jersey Central Power & Light Company; Metropolitan Edison Company; PECO Energy Company; Pennsylvania Electric Company; PPL Electric Utilities Corporation; Potomac Electric Power Company; Public Service Electric & Gas Company; and UGI Utilities, Inc. These transmission owning companies provide service in the states of Delaware, Illinois, Maryland, New Jersey, Pennsylvania, Virginia, West Virginia and in the District of Columbia.

<sup>5</sup> Alliance Companies, et al., Docket Nos. ER99-3144-003, ER99-3144-004 and ER99-3144-005. The proposed Alliance RTO was to consist of the following member companies: American Electric Power Service Corporation ("AEP Service Corp."); Consumers Energy Company; ComEd; The Dayton Power and Light Company ("Dayton Power"); The Detroit Edison Company; FirstEnergy Corp. on behalf of the Cleveland Electric Illuminating Company, Ohio Edison Company, Pennsylvania Power Company, and the Toledo Edison Company; the Northern Indiana Public Service Company; and Dominion Virginia Power (collectively the "Alliance Companies"). The proposed Alliance RTO was to include incumbent electric utilities who provide service in the states of Illinois, Indiana, Kentucky, Michigan, Missouri, Ohio, Pennsylvania, North Carolina, Tennessee, Virginia, and West Virginia.

<sup>6</sup> Alliance Companies, et al., 97 FERC ¶ 61,327 (2001). In its Order dismissing the Alliance Companies' application, the FERC found the proposed Alliance did not comply with key requirements of the FERC's Order 2000.

<sup>7</sup> Alliance Companies, et al., 99 FERC ¶ 61,105 (2002).

<sup>8</sup> Alliance Companies, et al., Docket No. EL02-65-005. AEP's operating companies include Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, and Wheeling Power Company. The other Alliance Companies made compliance filings on or about May 28, 2002, as well.

<sup>9</sup> To supplement its May 28, 2002, filing, on June 25, 2002, in Alliance Companies, et al., Docket No. EL02-65-008, AEP, ComEd, and Illinois Power Company (collectively, the "participating companies"), filed a Memorandum of Understanding among and between PJM, National Grid, and the participating companies. On July 15, 2002, in Alliance Companies, et al., Docket Nos. EL02-65-007 and RT01-88-021, the participating companies, Dayton Power, and Dominion Virginia Power filed an update stating their intent to finalize their agreements to operate collectively or individually under PJM and requesting the FERC to immediately affirm their decisions to join PJM.

<sup>10</sup> Alliance Companies, et al., 100 FERC ¶ 61,137 (2002).

<sup>11</sup> Remedying Undue Discrimination Through Open Access Transmission Service and Standard Electricity Market Design, Notice of Proposed Rulemaking, 67 Fed. Reg. 55452 (2002) (to be codified at 18 C.F.R. pt. 35) (proposed July 31, 2002). Virginia Code § 56-579 C provides that the Commission, to the fullest extent permitted under federal law, shall participate in FERC proceedings concerning RTEs. On January 31, 2003, this Commission filed comments on the SMD NOPR.

Following the issuance of the SMD NOPR, AEP took no further formal action to join an RTE until December 3, 2002, when it filed an application at the FERC requesting that its transmission rates be increased at the time it joins PJM ("AEP Transmission Rate Filing").<sup>13</sup> Then, on December 11, 2002, AEP, on behalf of its operating companies and in conjunction with ComEd, Dayton Power, Dominion Virginia Power, and PJM, filed a request with the FERC asking that certain companies be allowed to participate in PJM as transmission owners ("PJM Expansion Filing").<sup>14</sup> The request further asked that PJM's transmission owners agreements, Operating Agreement, and Open Access Transmission Tariff be modified accordingly.<sup>15</sup>

As already stated, AEP-VA filed its current Application with this Commission on December 19, 2002, for approval to participate in PJM. On December 20, 2002, the FERC issued a ruling on PJM's application at the FERC for RTO status granting PJM full RTO status subject to the satisfaction of certain conditions.<sup>16</sup>

On March 7, 2003, the Commission issued an Order for Notice ("March 7 Order") that, among other things, directed the Company to provide notice to the public of its Application, provided the opportunity for interested persons not already participating in the proceeding to participate, and directed the Company to file certain additional information after the FERC issued a final rule in its SMD NOPR.<sup>17</sup> The March 7 Order stated that the Commission could not fully consider the Application and make a final determination on its merits until the FERC issued a final SMD rule whose impacts on PJM's operations could be evaluated. The March 7 Order also noted:

We find in our initial review of the Application and its compliance with the RTE Rules, that the Application fails to address the issue of acquisition of control of transmission facilities from transmission-owning or prospective transmission-owning members of PJM, as required by 20 VAC 5-320-100 4 g and h of the RTE Rules. In addition, the Application does not provide a detailed description of the Company's facilities that will be subject to PJM's control as required by 20 VAC 5-320-100 9 of the RTE Rules. Therefore, we require AEP-VA to supplement its Application to provide the information required by the RTE Rules, as detailed above, on or before April 15, 2003.<sup>18</sup>

The Commission further explained in the March 7 Order that any final SMD rule could directly affect the structure and operations of PJM, and that the SMD NOPR asserts expansive jurisdiction over both the transmission and generation of electricity. Thus, the March 7 Order concluded that the SMD NOPR has far-reaching jurisdictional implications and the potential to alter profoundly the nature of electricity regulation on the federal and state levels.

As noted above, § 56-579 of the Restructuring Act was amended in the 2003 General Assembly session. On November 7, 2003, the Commission entered an Order ("November 7 Order"), which amended the March 7 Order to require the Company to file certain information by January 9, 2004. Pursuant to the new requirements of § 56-579 of the Restructuring Act that applications include a study of the comparative costs and benefits of a proposed transfer, the November 7 Order required the Company to provide quantifications of relevant cost and benefit information under specific scenarios. The November 7 Order also affirmed the provision of the March 7 Order finding that the Commission would not fully consider the Company's Application until the FERC issues its final rule on SMD. In addition, the November 7 Order explained that in the event that the SMD NOPR was delayed beyond the deadline set forth in § 56-579 of the Restructuring Act, we would reexamine our decision to wait until a final SMD rule was issued.

On December 30, 2003, the Commission entered an Interim Order on Motion for Amendments ("December 30 Order") that, among other things, granted the Company's motion not to delay this proceeding pending a final SMD. The December 30 Order concluded that changed circumstances made it appropriate to revise the March 7 and November 7 Orders. Specifically, the December 30 Order noted that the United States Congress released a draft Conference Report on the Energy Policy Act of 2003, which would have prohibited any SMD rule from taking effect before December 31, 2006. Thus, in light of the prospects that FERC may be prevented by federal law from implementing final SMD rules until January 2007, and that FERC may not proceed with its SMD NOPR in any event, we granted the Company's request that the absence of final SMD rules not delay consideration of its Application.

On January 15, 2004, we issued an Order on Motion that, among other things, established the remaining procedural schedule in this case and scheduled a public hearing on the Company's Application for July 27, 2004.

<sup>12</sup> The SMD NOPR would require each public utility that owns, controls, or operates facilities used for the transmission of electric energy in interstate commerce to: (1) meet the definition of an ITP itself; (2) turn over the operation of its transmission facilities to an RTO that is an ITP; or (3) contract with an ITP to operate the utility's transmission facilities. The FERC stated in the SMD NOPR that it expects most, if not all, public utilities will become members of RTOs.

<sup>13</sup> American Electric Power Service Corporation, Docket No. ER03-242-000.

<sup>14</sup> New PJM Companies and PJM Interconnection, L.L.C., Docket Nos. ER03-262-000 and ER01-262-001. AEP, ComEd, and Dayton Power seek approval to participate in PJM as transmission owners. Dominion Virginia Power did not seek to participate in PJM as a transmission owner in the December 11, 2002, filing.

<sup>15</sup> The Commission participated at the FERC in both the AEP Transmission Rate Filing and the PJM Expansion Filing.

<sup>16</sup> PJM Interconnection, L.L.C., et al., 101 FERC ¶ 61,345 (2002).

<sup>17</sup> In the March 7 Order, the Commission also granted the Company leave to substitute the Application in lieu of its original application filed October 16, 2000, which sought approval to join the now defunct Alliance RTO.

<sup>18</sup> March 7 Order at 10, 11.

On January 20, 2004, the Company filed supplemental direct testimony of J. Craig Baker, Senior Vice President – Regulation and Public Policy for AEP Service Corp.<sup>19</sup> Mr. Baker's supplemental direct testimony provides background information pertaining to this case, presents a company-specific cost/benefit analysis supporting its request to transfer functional control of its transmission facilities located in Virginia to PJM, and addresses various additional issues raised by prior orders of the Commission. Mr. Baker explains that the centerpiece of the Company's cost/benefit study is a simulated dispatch analysis conducted at AEP's request by Cambridge Energy Research Associates ("CERA") that analyzes the effects of system operational changes associated with AEP's planned participation in PJM. Mr. Baker testifies that depending upon the case being compared to the AEP stand-alone scenario, the net benefit to the Company from 2004-2014 can be expected to be between \$53 million and \$195 million.

On January 20, 2004, the Company also filed the direct testimony of Hoff Stauffer, a Senior Consultant at CERA and a Research Director for the CERA Transmission Advisory Service. Mr. Stauffer states that the purpose of his testimony is to sponsor, on behalf of the Company, the report entitled "Economic Assessment of AEP's Participation in PJM." This report describes AEP's cost/benefit analysis.

On May 24, 2004, the Division of Consumer Counsel of the Office of the Attorney General ("Consumer Counsel") filed the direct testimony of Seth W. Brown, Principal and the Manager of Transmission Services at GDS Associates. Mr. Brown addresses the rate and non-rate impacts on electric ratepayers in Virginia of AEP joining PJM. He discusses the reasonableness of the Company's evidence on the costs and benefits of joining PJM. Mr. Brown states that Consumer Counsel supports Commission approval of the Company's Application to transfer functional control of its transmission facilities to PJM. However, Mr. Brown testifies that such approval should be conditioned upon any combination of mechanisms available to assure that the benefits identified or otherwise realized by the Company do, and that certain costs incurred by the Company do not, in fact, get passed through to Virginia ratepayers. Mr. Brown states that such potential mechanisms include the following items:

- 1.a. Modification of AEP-VA's Definitional Framework for Fuel Expenses to include a sharing, with Virginia ratepayers, of off-system sales margins that exceed the level currently reflected in the Company's base rates.
- 1.b. At such time as AEP-VA files for a base rate case, the Company shall have the opportunity to recover all net administrative and congestion costs.
2. The Commission should order AEP, in conformance with the applicable PJM procedures, to select a "hold harmless" portfolio of [Financial Transmission Rights ("FTRs")] so as to minimize any "unhedgable congestion" associated with deliveries from its generation and its economic purchases to its network and native load. To the extent that AEP selects FTRs from its generation to hedge potential economic off-system sales, the amount of FTRs available to hedge against congestion costs for AEP's network and native load obligations should not be reduced.
3. Because AEP did not factor into its cost/benefit analysis the deferred RTO integration costs, the Commission should find that such costs are part of AEP's sunk costs of consummating its Central and South West merger and therefore not subject to future recovery from Virginia ratepayers.
4. Because AEP did not factor into its cost/benefit analysis any FERC return-on-equity incentives for joining a FERC-approved RTO, the Commission should condition its approval on AEP-VA not being able to recover from Virginia ratepayers increases in transmission rates due to any such FERC incentives.

On May 24, 2004, the Old Dominion Committee for Fair Utility Rates ("Committee") filed the direct testimony of Ali Al-Jabir, an energy and regulatory consultant with the firm of Brubaker & Associates, Inc. Mr. Al-Jabir addresses the regulatory treatment of the costs and benefits associated with the Company's membership in PJM and the impact of this regulatory treatment on AEP-VA's retail customers. Mr. Al-Jabir states that absent base rate changes pursuant to a petition from the Company, the capped rate provisions of the Restructuring Act preclude the Company's Virginia retail customers from realizing the benefits of the Company's membership in PJM. Mr. Al-Jabir asserts that, conversely, under the Restructuring Act AEP-VA may seek to recover PJM administrative costs and congestion costs without recognizing any offsetting benefits. Thus, Mr. Al-Jabir concludes that the Company's membership in PJM could produce a net increase in costs for capped rate customers. Mr. Al-Jabir states that the Commission should not approve the Application if it would harm Virginia retail customers by increasing their rates. Mr. Al-Jabir requests that the Commission impose a "hold harmless" condition on any approval, which would require that retail capped rates not be increased solely due to the Company's integration into PJM.

On May 24, 2004, PJM filed the direct testimony of Andrew L. Ott, Executive Director of PJM's Market Services Division. Mr. Ott states that the purpose of his testimony is to provide observations concerning AEP's study of the costs and benefits associated with joining PJM. Mr. Ott testifies that AEP's study and his analysis of that study demonstrate that there are clear and quantifiable net benefits to customers from AEP fully joining PJM. Mr. Ott finds AEP's analysis to be conservative in that it does not fully account for the benefits of an integrated security constrained economic dispatch, which derives efficiencies over and above what can be gained by today's system of bilateral trading largely over the telephone. Mr. Ott also identifies concerns he has with the modeling of AEP's partial integration case, which he believes presents a picture of this scenario that tends to overstate its benefits.

On May 24, 2004, PJM also filed the direct testimony of Robert O. Hinkel, PJM's General Manager of RTO Integration and Coordination. Mr. Hinkel states that his testimony is intended to provide an overview of PJM and its real-time track record in maintaining and improving reliability and encouraging infrastructure development. Mr. Hinkel also addresses the primary benefits that PJM membership will bring to the Company's Virginia customers and to the Commonwealth as a whole. Specifically, Mr. Hinkel's testimony addresses the following topics: RTO functions; the history and mission of PJM; PJM's governance structure; maintenance of short- and long-term reliability of the grid; description of PJM's energy markets; benefits of membership in PJM; interface with the Commission; and costs associated with AEP's partial integration case.

<sup>19</sup> AEP-VA submitted the direct testimony of Mr. Baker as Appendix B to its Substitute Application filed on December 19, 2002. Mr. Baker's direct testimony, among other things, explains AEP's plan to transfer functional control of its transmission facilities in its eastern pricing zone to PJM, describes how AEP's plan complies with Virginia law requiring such a transfer, and describes how such plan satisfies the Commission's RTE Rules.

On May 24, 2004, Coral Power, L.L.C. ("Coral"), filed the direct testimony of James J. Cifaratta, Vice President – Assets for Shell Trading Gas & Power. Mr. Cifaratta's responsibilities include managing Coral's Energy Conversion Agreement ("ECA") with Tenaska Virginia Partners, L.P. ("Tenaska"). Mr. Cifaratta states that under the ECA, Coral has the exclusive right to provide natural gas to Tenaska's 885 MW generating facility in Fluvanna County and has the exclusive right to obtain all of the electric energy generated from that facility. Mr. Cifaratta addresses Coral's support for AEP-VA's Application to join PJM, as originally proposed in the Company's Substitute Application. Mr. Cifaratta discusses his concerns with the impacts resulting from any delay in the participation by AEP's operating companies in PJM's markets. Mr. Cifaratta also describes the additional economic and reliability benefits that the Company's full participation in PJM's markets can provide to Virginia consumers and how Coral can enhance those benefits through its participation in the region's wholesale electric markets.

On May 24, 2004, Dominion Virginia Power filed the direct testimony of William L. Thompson, Director – Electric Transmission Systems Operations Center for Dominion Virginia Power. Mr. Thompson supports the Company's Application to join PJM and explains the importance of AEP-VA's integration into PJM to Dominion Virginia Power's proposal to integrate into PJM. Mr. Thompson testifies that integration of AEP-VA and Dominion Virginia Power into PJM will internalize the transmission seam between these two companies within the PJM market and will enhance reliability for Dominion Virginia Power's customers.

On May 24, 2004, Dominion Virginia Power also filed the direct testimony of Robert B. Stoddard, a Vice President of Charles River Associates, Inc. Mr. Stoddard supports the Company's Application to join PJM. Mr. Stoddard states that the integration of AEP-VA and Dominion Virginia Power into PJM will facilitate economic growth in the Commonwealth. Mr. Stoddard also asserts that AEP-VA's integration into PJM is fundamental to providing the benefits of PJM integration to Dominion Virginia Power's customers. Mr. Stoddard testifies that joint participation in PJM by these two companies will support and enhance contracting between these two parties, will enable AEP-VA and Dominion Virginia Power to buy and sell economy power without having to enter into bilateral contracts, and will make more trades at the margin mutually beneficial by eliminating a pancaked transmission wheeling charge.

On June 25, 2004, the Commission's Staff ("Staff") filed the direct testimony of Cody D. Walker, an Assistant Director in the Commission's Division of Energy Regulation. Mr. Walker's testimony: (1) provides an overview of PJM; (2) discusses whether the Company's Application satisfies the Commission's RTE Rules; (3) discusses whether AEP-VA has any alternatives to joining PJM; (4) discusses the implications of the Company's integration into PJM; and (5) discusses the costs and benefits of AEP-VA's participation in PJM. Mr. Walker states that the Company's request to join PJM sufficiently satisfies the RTE Rules. Mr. Walker asserts that the Company's integration into PJM may have certain negative implications with respect to reliability and that the Staff has reservations about the effectiveness of market monitoring in general. Mr. Walker explains his concern that PJM's LMP pricing could significantly raise rates for AEP-VA's retail customers. Mr. Walker also concludes that PJM represents one of the best, if not the best, available RTO models. In addition, Mr. Walker testifies that the Staff engaged Henwood Energy Services, Inc. ("Henwood"), to provide an independent assessment of the costs and benefits of the Company's and Dominion Virginia Power's proposed integration into PJM. Mr. Walker states that Henwood's assessment finds that the Company's participation in a fully expanded PJM, when viewed from an overall net present value perspective, will produce very slight negative results – approximately two percent of the total costs of serving load. Mr. Walker notes that the cost/benefit analysis submitted by the Company produces an even smaller positive result. Thus, Mr. Walker concludes that, given the extremely complex nature of the models utilized in these studies and the numerous critical assumptions therein, the Staff's and the Company's studies can be viewed as producing the same basic conclusion: AEP-VA's integration into PJM will have a de minimis impact on the Company's net costs and benefits.

Mr. Walker also testifies that, under the Restructuring Act, the public policy of the Commonwealth is that Virginia utilities should transfer functional control of transmission systems to RTEs, and that PJM appears to be the only feasible option that can satisfy the January 1, 2005, statutory target established in the Restructuring Act. Thus, if the Commission determines that the Company should satisfy the Restructuring Act through integration into PJM, Mr. Walker recommends that AEP-VA's Application be approved with specific conditions attached to such approval. Mr. Walker lists potential conditions for the Commission's consideration, which address: (1) certain reporting requirements for AEP-VA; (2) modification of PJM's curtailment protocols in order to protect native retail load; (3) changes to PJM agreements requiring load serving entities to file a notice at FERC prior to changing from a single load aggregation zone for the establishment of LMP; and (4) retention of the Commission's jurisdiction over any subsequent transfer of operation and control of the Company's transmission facilities by AEP-VA or any other operator. In addition, Mr. Walker testifies that to the extent this proceeding results in a specified flowback of some portion of any economic RTE-related benefits to retail customers as proposed by Consumer Counsel, such flowback should be accomplished through an RTE benefit rate rider credit as opposed to changing AEP-VA's Definitional Framework of Fuel Expenses.

On June 25, 2004, the Staff filed the direct testimony of Mark R. Griffith, a Vice President in the Strategic Consulting and Advisory Services business unit at Henwood. Mr. Griffith analyzes the costs and benefits associated with the Company's Application to join PJM. Mr. Griffith sponsors Henwood's cost/benefit report, which is referenced by Mr. Walker, entitled "Analysis of Costs and Benefits of [Dominion Virginia Power] and AEP Joining PJM" ("Henwood report").<sup>20</sup> Mr. Griffith explains how he approached his analysis and presents a summary of his findings.

On June 25, 2004, the Staff also filed the direct testimony of Howard M. Spinner, the Director of the Commission's Division of Economics and Finance. Mr. Spinner addresses key issues surrounding LMP for electric energy as practiced in the energy markets administered by PJM. Mr. Spinner asserts that there are problems with PJM's LMP model as a means for allocating scarce electrical resources and that there are questions as to the ability of PJM's market monitoring unit to ensure good results. Mr. Spinner also testifies that the reliability implications of the Company's Application appear not to be a decisive factor. Mr. Spinner concludes that, realizing that the Company's integration into PJM at this time will assist it in satisfying the January 1, 2005, legislative target for RTE integration established by the Restructuring Act, and also recognizing that AEP's generating units remain legally connected to the Company's Virginia retail customers, he believes that the Commission could conclude that the Company's Application is in the public interest.

On July 9, 2004, the Company filed the rebuttal testimony of Mr. Baker. Mr. Baker observes that not a single witness in this case recommends that the Commission deny outright the Company's Application. Rather, Mr. Baker states that the issues raised by the testimonies of the Staff and the other parties revolve around whether, and if so how, the Commission should condition its approval of AEP-VA's Application. Mr. Baker argues that the conditions recommended by Consumer Counsel witness Brown and Committee witness Al-Jabir are some or all of the following: unreasonable, unnecessary, unlawful, and unacceptable to AEP-VA. Mr. Baker agrees with Staff witness Walker that AEP's integration into PJM can be expected to have a de minimis effect on the Company's costs and monetary benefits through 2014. Mr. Baker indicates that, with some clarifications and modifications, three of the four

<sup>20</sup> On July 15, 2004, the Staff filed a corrected version of the Henwood report. The Staff notes, however, that the results and conclusions for AEP in the Henwood report submitted by Mr. Griffith on June 25, 2004, are unchanged by the corrected version. Rather, the Staff states that the principal corrections concern the proposed integration of Dominion Virginia Power into PJM.



proposed conditions recommended by the Staff are reasonable and generally acceptable to AEP-VA. Mr. Baker states that the Company cannot accept the Staff's condition involving changes to PJM agreements requiring load serving entities to file a notice at FERC prior to changing from a single load aggregation zone for the establishment of LMP. Mr. Baker also explains that he disagrees with PJM witness Ott's conclusion that the Company's cost/benefit study understates the benefits that AEP-VA can be expected to realize as a result of AEP joining PJM. Mr. Baker concludes that the Commission should approve the Company's Application with limited, if any, conditions.

A public evidentiary hearing was held on July 27, 2004. Anthony J. Gambardella, Esquire, and James R. Bacha, Esquire, appeared on behalf of AEP-VA. C. Meade Browder, Jr., Esquire, and D. Mathias Roussy, Jr., Esquire, appeared on behalf of Consumer Counsel. Edward L. Petrini, Esquire, appeared on behalf of the Committee. Ralph L. Axselle, Jr., Esquire, Craig A. Glazer, Esquire, and Phillip T. Golden, Esquire, appeared on behalf of PJM. Edward L. Flippen, Esquire, and Michael C. Regulinski, Esquire, appeared on behalf of Dominion Virginia Power. Thomas B. Nicholson, Esquire, appeared on behalf of Coral. James C. Roberts, Esquire, appeared on behalf of Edison Mission Energy, Edison Mission Marketing & Trading, Inc., and Midwest Generation EME, LLC (collectively, "Edison Mission Energy"). Howard W. Dobbins, Esquire, appeared on behalf of the Virginia Municipal League, the Virginia Association of Counties Steering Committee, and the Town of Wytheville (collectively, "VML/VACo"). William H. Chambliss, Esquire, Arlen K. Bolstad, Esquire, Katherine A. Hart, Esquire, and John K. Shumate, Esquire, appeared on behalf of the Staff. Upon agreement of the participants, all of the pre-filed testimony was accepted into the record without cross-examination.

In addition, the Commission received into evidence a Stipulation<sup>21</sup> executed by the following participants: AEP-VA; the Staff; Consumer Counsel; the Committee; PJM; and Edison Mission Energy.<sup>22</sup> The Stipulation recommends that the Commission issue an order approving the Application subject to the terms and conditions contained in the Stipulation. The terms and conditions of the Stipulation address, among other things: (1) the Company's recovery of certain RTE-related costs; (2) the Company's agreement to incorporate an RTE Credit Rider into its Virginia rates, and the conditions upon which such rider will automatically expire; (3) PJM's commitment to initiate a stakeholder process regarding any requests by load serving entities to change from a single load aggregation zone for the establishment of LMP pricing; (4) PJM's agreement to implement certain curtailment protocols designed to protect the Company's retail and wholesale customers for which AEP has a generation capacity obligation so long as AEP has maintained adequate generation capacity in accordance with applicable requirements; (5) certain reporting requirements for the Company, which shall cease with the filing of its report in calendar year 2007 unless each Virginia incumbent electric utility that is a member of PJM as of September 30, 2007, is required to file reports containing similar information after 2007; and (6) certain reporting requirements for PJM, which shall end in 2010.

Two public witnesses testified at the hearing. The first public witness was Irene E. Leech of Elliston. Ms. Leech presented oral testimony and provided a written statement. Ms. Leech is a faculty member at Virginia Polytechnic Institute and State University teaching consumer affairs, is part of a National Science Foundation research project dealing with the electricity system, is President of the Virginia Citizens Consumer Council, and is a Vice President of the Consumer Federation of America. Ms. Leech has been served by Craig-Botetourt Electric Cooperative ("Craig-Botetourt") for the last 20 years and testified at the hearing as a private citizen. Ms. Leech is concerned that Craig-Botetourt, which is a wholesale customer of AEP-VA and not part of AEP-VA's native load, will, by virtue of the expiration of the wholesale power contract between AEP-VA and Craig-Botetourt, be immediately exposed to multiple cost increases and will receive none of the benefits, should any exist. Ms. Leech stated that if this market experiment does not work, by voluntarily allowing AEP-VA to join PJM, Virginia will cede all authority for changes to the federal government and the Company, and will not even be able to tell its citizens "we tried to protect you." Ms. Leech indicated that rates for consumers in southwest Virginia should be expected to increase. In addition, Ms. Leech is concerned about the diminished ability of consumer representatives to participate in matters the purview of which would be transferred to PJM and to the FERC, the disincentives in PJM for construction of new transmission, and the loss of transmission reliability. Ms. Leech concluded that it is not in the public interest to transfer the Company's transmission assets to PJM at this time.

The second public witness was Urchie B. Ellis of Richmond. Mr. Ellis is a retired lawyer, is a customer of Dominion Virginia Power, and was representing himself. Mr. Ellis stated that the instant case could impact a pending proceeding in which Dominion Virginia Power has sought Commission authority to join PJM. Mr. Ellis explained that he heard the Stipulation with shock and distress, and that he hopes the Commission will reject it. Mr. Ellis does not see anything in the Stipulation that benefits the residential public. Mr. Ellis believes that the Stipulation gives PJM carte blanche authority to cut-off power to Virginia at any time. Mr. Ellis stated that the current grid system has been functioning for years without failure, and that he wants somebody who is going to protect Virginia making the decisions. Mr. Ellis sees no reason to take the risk or to pay the expense to join PJM. In addition, Mr. Ellis finds nothing in the Stipulation guaranteeing that the Company's customers are going to continue to receive their existing low rates. Mr. Ellis sees no reason why Virginia should run the risk that rates will be increased. Mr. Ellis believes that there is great risk to the general public, and that Virginia consumers have the best protection, as to adequacy of service and as to rates, with continued maximum regulation by the Commission. Mr. Ellis concluded that the public interest is not served by the Application at this time.

On August 2, 2004, the Commission issued an Order Requesting Comments, which proposed to modify ¶ 6(c) of the Stipulation to read as follows: "The foregoing curtailment protocols shall apply except in extraordinary circumstances such as where load shedding would be necessary to prevent isolation of facilities within the Eastern Interconnection, to prevent voltage collapse, or in order to restore frequency following a system collapse. This paragraph shall be implemented consistent with North American Electric Reliability Council and applicable reliability council standards." The following participants subsequently filed comments indicating that they did not object to the proposed modification: AEP-VA; Consumer Counsel; the Committee; PJM; Edison Mission Energy; VML/VACo; Coral; and the Staff.

NOW THE COMMISSION, having considered the record, the pleadings, and the applicable law, is of the opinion and finds as follows. We modify ¶ 6(c) of the Stipulation as proposed in our August 2, 2004, Order Requesting Comments. We approve the Company's Application to transfer functional and operational control of its transmission facilities to PJM, subject to the terms and conditions contained in the Stipulation as thus modified.

We recognize that there is testimony raising concerns over the integration of AEP-VA into PJM. Those concerns include, for example: (1) PJM's LMP pricing could significantly raise rates to ratepayers in southwest Virginia (Walker, Exh. 6 at 44-45; Spinner, Exh. 6 at 8); (2) some customers may be adversely impacted by changes in how transmission costs are allocated and recovered (Walker, Exh. 6 at 15); (3) any breakdown in communication within

<sup>21</sup> Exh. 2. The Stipulation is attached to this Order Granting Approval.

<sup>22</sup> At the hearing, counsel for Dominion Virginia Power, counsel for Coral, and counsel for VML/VACO each stated that they did not object to the Stipulation.

PJM could have significant implications for reliability (Walker, Exh. 6 at 31); and (4) the Staff expressed reservations about the effectiveness of market monitoring in general (Walker, Exh. 6 at 27; Spinner, Exh. 6 at 33-51, 59).

Section 56-579 A 1 of the Restructuring Act, however, requires that an incumbent electric utility "shall transfer management and control of its transmission assets to a regional transmission entity by January 1, 2005, subject to Commission approval as provided in this section" (emphasis added). Accordingly, it is the policy of this Commonwealth, as directed by the General Assembly, that incumbent electric utilities shall transfer management and control of transmission assets to an RTE by New Year's Day 2005. In this regard, we agree with Staff witness Walker that PJM represents one of the best, if not the best, available RTE models and is the only feasible option at this time for AEP-VA to satisfy the requirements of the Restructuring Act. Walker, Exh. 6 at 27, 45-46.

In addition, § 56-579 F of the Restructuring Act provides as follows:

Any request to the Commission for approval of such transfer of ownership or control of or responsibility for transmission facilities shall include a study of the comparative costs and benefits thereof, which study shall analyze the economic effects of the transfer on consumers, including the effects of transmission congestion costs. The Commission may approve such a transfer if it finds, after notice and hearing, that the transfer satisfies the conditions contained in this section.

This statute does not include an express standard upon which the Commission is to approve or to disapprove the Application based on the results of a cost/benefit study. The statute does not make a positive net benefit finding a prerequisite for approval of the Application. Rather, there may be some implication that the Commission should reject the Application if the cost/benefit study shows a significant detriment. In contrast, the Restructuring Act includes an express requirement that incumbent electric utilities transfer management and control of transmission assets to an RTE by January 1, 2005, subject to Commission approval. Va. Code § 56-579 A 1. The Company submitted a cost/benefit study pursuant to this statute, and the Staff also filed a cost/benefit study. Witnesses for both the Company and the Staff agree that AEP-VA's integration into PJM can be expected to have a de minimis impact on the Company's net costs and benefits. Baker, Exh. 14 at 2; Walker, Exh. 6 at 40. We agree that the cost/benefit studies do not establish a significant economic detriment. Accordingly, based on the evidence in this case and the Stipulation, we find that the Restructuring Act requires our approval of the Application.

A separate provision of the Restructuring Act added by the 2004 Session of the General Assembly (§ 56-582 B (vi)), addresses the Company's ability to increase capped rates for the recovery of certain "incremental costs for transmission or distribution system reliability and compliance with state or federal environmental laws or regulations . . ." Consumer Counsel witness Brown expressed concern that this provision of the Restructuring Act may permit the Company to recover PJM administrative charges and congestion costs from ratepayers, but that there is no mechanism in the Restructuring Act allowing ratepayers to receive any of the cost benefits realized from joining an RTE. Brown, Exh. 12 at 28-30. Similarly, Committee witness Al-Jabir stated that, under the Restructuring Act, AEP-VA could seek to increase its capped rates to recover PJM administrative and congestion costs without recognizing any offsetting benefits – resulting in a net increase in costs for capped rate customers. Al-Jabir, Exh. 11 at 3.

In this regard, we note that ¶ 4 of the Stipulation provides an RTE Credit Rider to eligible Virginia retail customers. This rate credit does not protect consumers from the impacts of LMP pricing or from changes in the allocation and recovery of transmission costs. Rather, Consumer Counsel explained at the hearing that the RTE Credit Rider reflects approximately one-half of the net benefits projected by the Company in its cost/benefit analysis. Browder, Tr. 92-94. Under this provision of the Stipulation, a retail customer using an average of 1,200 kWh per month would receive a maximum monthly credit of \$0.20. Stipulation, Attachment 1; Bolstad, Tr. 75-76. The RTE Credit Rider extends through 2010, unless such rider automatically expires upon the occurrence of certain events enumerated in the Stipulation; one of those events is a base rate change resulting from a base rate case filed by AEP-VA. In a related provision of the Stipulation, ¶ 1 therein provides that the Company will only seek to recover certain PJM administrative costs, congestion costs, and ancillary service costs through a base rate case, i.e., not through § 56-582 B (vi) of the Restructuring Act. Furthermore, ¶ 3 of the Stipulation states that certain RTE benefits (off-system sales profits and financial transmission rights revenues) will be considered in any base rate case filed by the Company. Section 56-582 C of the Restructuring Act only permits a base rate case if such is initiated by AEP-VA, and this is not (nor could it be) changed by the Stipulation. Accordingly, the Company retains the statutory right to seek an increase in base rates if, for example, it finds that it is experiencing net costs not contemplated in the development of the Stipulation.

Finally, Mr. Ellis asks the Commission to ensure that the public interest is being served by the Application at this time. Ellis, Tr. 112. In this regard, we note that § 56-579 of the Restructuring Act – unlike other provisions of Title 56 of the Code – does not explicitly provide the Commission with a general grant of broad discretion to find that any such transfer is in the public interest. Rather, § 56-579 A 2 directs the Commission to develop rules and regulations under which the incumbent electric utility may transfer control, ownership, or responsibility of transmission capacity to an RTE, upon such terms and conditions that the Commission determines will, among other things, "[g]enerally promote the public interest." As discussed above, the Commission developed the RTE Rules as required by this statute; the RTE Rules establish elements of an RTE structure essential to the public interest. The RTE Rules require the examination of, for example, an RTE's reliability practices, pricing and access policies, and independent governance. We agree with Staff witness Walker that the Company's request to join PJM sufficiently satisfies the RTE Rules.

We find that the Company's request to transfer functional and operational control of its transmission facilities to PJM, subject to the terms and conditions contained in the Stipulation as modified herein, satisfies the RTE Rules and the directives set forth in the Restructuring Act.

Accordingly, IT IS ORDERED THAT:

(1) Paragraph 6(c) of the Stipulation shall be modified to read as follows: "The foregoing curtailment protocols shall apply except in extraordinary circumstances such as where load shedding would be necessary to prevent isolation of facilities within the Eastern Interconnection, to prevent voltage collapse, or in order to restore frequency following a system collapse. This paragraph shall be implemented consistent with North American Electric Reliability Council and applicable reliability council standards."

(2) The Stipulation as modified in Ordering Paragraph (1), above, is made part of this Order Granting Approval, and the parties thereto shall comply with its provisions.

(3) AEP-VA's Application to transfer functional and operational control of its transmission facilities to PJM is hereby approved, subject to the terms and conditions contained in the Stipulation as modified in Ordering Paragraph (1), above.

(4) Consistent with the recommendation in ¶ 16 of the Stipulation, the Clerk of the Commission shall send an attested copy of this Order Granting Approval, including the attachment Stipulation, to the Secretary of the Federal Energy Regulation Commission in relation to FERC Docket No. ER03-262-0009.

(5) This case is continued generally.

NOTE: A copy of the 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-2000-00551  
NOVEMBER 10, 2004**

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

Ex Parte: In the matter concerning the application of Virginia Electric and Power Company d/b/a Dominion Virginia Power for approval of a plan to transfer functional and operational control of certain transmission facilities to a regional transmission entity

**ORDER GRANTING APPROVAL**

On June 27, 2003, Virginia Electric and Power Company d/b/a Dominion Virginia Power ("DVP," "Virginia Power," or "Company") filed with the State Corporation Commission ("Commission") an amended application ("Application") requesting approval to transfer functional and operational control of its transmission facilities to a regional transmission entity ("RTE").

Sections 56-577 and 56-579 of the Virginia Electric Utility Restructuring Act ("Restructuring Act"), Chapter 23 (§ 56-576 *et seq.*) of Title 56 of the Code of Virginia ("Code"), require Virginia's incumbent electric utilities to file applications with, and to seek approval from, the Commission to transfer the management and control of their transmission assets to an RTE.

Section 56-579 A 1 of the Restructuring Act was amended by the 2003 General Assembly to delay transfers to RTEs until July 1, 2004, and to require such transfers by January 1, 2005, subject to Commission approval. Section 56-579 A 1, as amended, provides in pertinent part:

No such incumbent electric utility shall transfer to any person any ownership or control of, or any responsibility to operate, any portion of any transmission system located in the Commonwealth prior to July 1, 2004, and without obtaining, following notice and hearing, the prior approval of the Commission, as hereinafter provided. However, each incumbent electric utility shall file an application for approval pursuant to this section by July 1, 2003, and shall transfer management and control of its transmission assets to a regional transmission entity by January 1, 2005, subject to Commission approval as provided in this section.

In addition, § 56-579 F of the Restructuring Act was amended by the 2003 General Assembly with the addition of the following:

Any request to the Commission for approval of such transfer of ownership or control of or responsibility for transmission facilities shall include a study of the comparative costs and benefits thereof, which study shall analyze the economic effects of the transfer on consumers, including the effects of transmission congestion costs. The Commission may approve such a transfer if it finds, after notice and hearing, that the transfer satisfies the conditions contained in this section.

Pursuant to § 56-579 A 2 of the Restructuring Act, the Commission developed and established rules and regulations under which incumbent utilities owning, operating, controlling, or having an entitlement to transmission capacity within the Commonwealth may transfer all or part of such control, ownership, or responsibility to an RTE, 20 VAC 5-320-10 *et seq.* ("RTE Rules").<sup>1</sup> The RTE Rules establish elements of an RTE structure essential to the public interest, which are to be considered by the Commission in determining whether to authorize transfer of control of incumbent electric utilities' transmission assets to an RTE. The RTE Rules require the examination of, among other things, an RTE's reliability practices, pricing and access policies, and independent governance. The Application, therefore, must be considered pursuant to the directives set forth in the Restructuring Act and must comply with the RTE Rules.

Virginia Power now seeks approval of the transfer of control of its transmission facilities to PJM Interconnection, LLC ("PJM"), an existing regional transmission organization ("RTO")<sup>2</sup> with day-ahead and real-time markets for energy<sup>3</sup> and ancillary services. The history of this proceeding is extensive. The Company filed with the Commission its original application to join an RTE on October 16, 2000. Since DVP's original application was filed with the Commission, numerous significant events have occurred at both the state and federal level. These events resulted in delays in the approval of the transfer of control of the transmission systems of both DVP and Appalachian Power Company d/b/a American Electric Power-Virginia ("AEP-VA") to an RTE.

<sup>1</sup> Commonwealth of Virginia, *ex rel.* State Corporation Commission, *Ex Parte*: In the matter concerning participation of incumbent electric utilities in regional transmission entities, Case No. PUE-1999-00349, 2000 S.C.C. Ann. Rept. 430.

<sup>2</sup> The phrases Regional Transmission Entity or RTE and Regional Transmission Organization or RTO may be used interchangeably.

<sup>3</sup> PJM's energy market, which also serves as the basis for PJM's congestion management system, utilizes Locational Marginal Pricing ("LMP").

The Company's original application sought approval from this Commission to transfer the operational and functional control of its transmission facilities to the Alliance RTO, an RTO that was to be created pursuant to federal regulations issued by the Federal Energy Regulatory Commission ("FERC").<sup>4</sup> The FERC issued a number of rulings in the Alliance RTO proceedings. On July 27, 2001, this Commission by order suspended the original procedural schedule based on anticipated filings by the Alliance Companies at the FERC. After over two years of consideration by our federal counterpart, including several initial rulings conditionally approving the Alliance RTO, the FERC disapproved the Alliance RTO on December 20, 2001, and dismissed in whole the Alliance Companies' proposal.<sup>5</sup> On January 29, 2002, because of the FERC's ruling that dismissed the Alliance RTO proposal, this Commission issued an order denying a motion to reestablish a procedural schedule in Virginia Power's and AEP-VA's RTE dockets.

On April 25, 2002, the FERC issued an order directing the Alliance Companies to make compliance filings identifying which RTO they planned to join and stating whether their participation would be collective or individual.<sup>6</sup> On May 28, 2002, DVP made its compliance filing with the FERC. In its filing, the Company explained that it had filed a statement with the FERC on March 5, 2002, indicating that it was continuing the process of consulting with this Commonwealth and the State of North Carolina to determine their support for DVP joining the Alliance Companies within the Midwest Independent System Operator, or for other RTO efforts. DVP further stated that the Company also was actively working with PJM, on an individual basis, as well as collectively with the Alliance Companies. Subsequently, DVP and PJM entered into a Memorandum of Understanding dated June 24, 2002, to establish PJM South.

On July 31, 2002, the FERC issued a notice of proposed rulemaking to establish a national Standard Market Design ("SMD") for wholesale electricity markets ("SMD NOPR").<sup>7</sup> The SMD NOPR requires, among other things, all public utilities to turn over the operation of their transmission facilities to an Independent Transmission Provider ("ITP").<sup>8</sup>

On October 1, 2002, the Company and PJM entered into an agreement to implement PJM South. On December 10, 2002, DVP filed with the FERC a rate reciprocity agreement under which DVP sought to charge rates to its transmission customers as if DVP were already a PJM member ("DVP RRA Filing").<sup>9</sup> On December 11, 2002, DVP in conjunction with ComEd, Dayton Power, American Electric Power Corporation ("AEP"), and PJM, filed a request with the FERC asking that certain companies be allowed to participate in PJM as transmission owners ("PJM Expansion Proceeding").<sup>10</sup> The request further asked that PJM's transmission owners' agreements, Operating Agreement, and Open Access Transmission Tariff be modified accordingly.<sup>11</sup> On December 20, 2002, the FERC issued a ruling on PJM's application for RTO status, granting PJM full RTO status subject to the satisfaction of certain conditions.<sup>12</sup>

On January 7, 2003, DVP filed a Motion to Dismiss its application in this docket to transfer functional and operational control of its transmission assets to the Alliance RTO. In our order issued February 5, 2003, the Commission dismissed DVP's application to join the Alliance, but ordered that the docket remain open to receive a future RTE application from the Company.

On April 1, 2003, the FERC rejected DVP's RRA Filing, finding that rate adjustments to ensure revenue neutrality were unreasonable in the current circumstance where DVP would not be transferring operational control of its transmission facilities until some time in the future.<sup>13</sup> On April 28,

<sup>4</sup> Alliance Companies, et al., Docket Nos. ER99-3144-003, ER99-3144-004 and ER99-3144-005. The proposed Alliance RTO was to consist of the following member companies: American Electric Power Service Corporation; Consumers Energy Company; Commonwealth Edison Company ("ComEd"); The Dayton Power and Light Company ("Dayton Power"); The Detroit Edison Company; FirstEnergy Corp. on behalf of the Cleveland Electric Illuminating Company, Ohio Edison Company, Pennsylvania Power Company, and the Toledo Edison Company; the Northern Indiana Public Service Company; and Virginia Power (collectively the "Alliance Companies"). The proposed Alliance RTO was to include incumbent electric utilities who provide service in the states of Illinois, Indiana, Kentucky, Michigan, Missouri, Ohio, Pennsylvania, North Carolina, Tennessee, Virginia, and West Virginia.

<sup>5</sup> Alliance Companies, et al., 97 FERC ¶ 61,327 (2001). In its Order dismissing the Alliance Companies' application, the FERC found that the proposed Alliance did not comply with key requirements of the FERC's Order No. 2000.

<sup>6</sup> Alliance Companies, et al., 99 FERC ¶ 61,105 (2002).

<sup>7</sup> Remedying Undue Discrimination Through Open Access Transmission Service and Standard Electricity Market Design, Notice of Proposed Rulemaking, 67 Fed. Reg. 55452 (2002) (to be codified at 18 C.F.R. pt. 35) (proposed July 31, 2002). Virginia Code § 56-579 C provides that the Commission, to the fullest extent permitted under federal law, shall participate in FERC proceedings concerning RTEs. On January 31, 2003, this Commission filed comments on the SMD NOPR.

<sup>8</sup> The SMD NOPR would require all public utilities that own, control, or operate facilities used for the transmission of electric energy in interstate commerce to: (1) meet the definition of an ITP itself; (2) turn over the operation of its transmission facilities to an RTO that is an ITP; or (3) contract with an ITP to operate the utility's transmission facilities. The FERC stated it expects that most, if not all, public utilities will become members of RTOs.

<sup>9</sup> Virginia Electric and Power Company, Docket No. ER03-242-000.

<sup>10</sup> New PJM Companies and PJM Interconnection, L.L.C., Docket Nos. ER03-262-000 and ER03-262-001. Virginia Power did not seek to participate in PJM as a transmission owner in the December 11, 2002, filing. AEP, Commonwealth Edison, and Dayton Power sought approval to participate in PJM as transmission owners.

<sup>11</sup> The Commission filed comments in both the DVP RRA filing and the PJM Expansion Proceeding.

<sup>12</sup> PJM Interconnection, L.L.C., et al., Docket Nos. RT01-2-001, RT01-2-002, 101 FERC ¶ 61,345 (2002).

<sup>13</sup> Virginia Electric and Power Company, Docket No. ER03-257-000, 103 FERC ¶ 61,010 (2003).

2003, the FERC issued its White Paper in the SMD NOPR proceeding.<sup>14</sup> In its White Paper, the FERC attempted to address concerns articulated by some state and regional entities protesting the SMD NOPR, but advocated, among other things, mandatory RTO participation by all public utilities.

On September 26, 2003, the Commission issued an Order for Notice ("September 26 Order") in this proceeding that, among other things: (1) directed the Company to provide notice to the public of its Application; (2) provided the opportunity for interested persons not already participating in the proceeding to participate; (3) directed the Company to file additional cost/benefit information; and (4) directed the Company to file certain additional information after the FERC issued a final rule in its SMD NOPR. The September 26 Order stated that the Commission could not fully consider the Application and make a final determination on its merits until the FERC issued a final SMD rule and until that rule's impact on PJM's operations could be evaluated. The Commission explained that any final SMD rule could directly affect the structure and operations of PJM, and that the SMD NOPR asserts expansive jurisdiction over both the transmission and generation of electricity. Thus, the September 26 Order concluded that the SMD NOPR has far-reaching jurisdictional implications and the potential to alter profoundly the nature of electricity regulation on the federal and state levels.

On December 22, 2003, the Commission issued an Order on Motion for Modification ("December 22 Order") that, among other things: (1) denied DVP's request to eliminate certain informational requirements directed by the September 26 Order; (2) granted DVP an extension by which to file such additional information from November 26, 2003, to February 1, 2004; (3) granted the Company's motion not to delay this proceeding pending a final SMD; and (4) established the remaining procedural schedule for this matter. The December 22 Order concluded that changed circumstances made it appropriate to revise the September 26 Order. Specifically, the December 22 Order noted that the United States Congress released a draft Conference Report on the Energy Policy Act of 2003, which would have prohibited any SMD rule from taking effect before December 31, 2006. Thus, in light of the prospects that FERC may be prevented by federal law from implementing final SMD rules until January 2007, and that FERC may not proceed with its SMD NOPR in any event, we granted the Company's request that the absence of final SMD rules not delay consideration of its Application. On January 22, 2004, the Commission issued an Order granting the Company's request to further extend the date for filing its additional information from February 1, 2004, to March 15, 2004.

On March 15, 2004, Virginia Power filed: (1) a Compliance Report on the additional information required by the September 26 Order; (2) supplemental direct testimony of William L. Thompson, Director/ Electric Transmission Systems Operations Center; (3) supplemental direct testimony of Ronnie Bailey, Manager – Electric Transmission Planning; (4) supplemental direct testimony of David F. Koogler, Director – Regulation and Competition; and (5) supplemental direct testimony of Robert Stoddard, Vice President in the Energy and Environment practice at Charles River Associates Incorporated. Mr. Thompson testifies that the Northeast Blackout of August 14, 2003, amplifies the strengths to be gained from a reliability perspective if the Company joins PJM. Mr. Bailey also testifies that the August 14, 2003, blackout strengthens DVP's reasons for joining PJM because, among other things, the blackout demonstrates the need for improved regional planning. Mr. Koogler provides updated information on transmission rates and explains that the integration of AEP and DVP into PJM will eliminate the need for competitive service providers to secure specific firm transmission paths from AEP or existing PJM members to gain entry into the Company's transmission zone. Mr. Stoddard discusses cost and reliability impacts of centralized dispatch based on LMP, presents a sensitivity case to the Company's cost/benefit study reflecting PJM's current operation of a key transmission line, and makes three corrections to the Company's cost/benefit study.

On May 11, 2004, as amended on July 6, 2004, Virginia Power and PJM submitted for approval by the FERC, pursuant to Section 205 of the Federal Power Act ("FPA"), 16 U.S.C. § 824d, their joint proposal to establish PJM South.<sup>15</sup>

On June 25, 2004, the Company filed in the instant case a Supplemental Report updating its cost/benefit study to reflect Senate Bill No. 651, which was passed by the 2004 General Assembly. Specifically, the Supplemental Report reflects: (1) freezing the fuel factor at its current level until July 1, 2007; (2) including a one-time adjustment to the fuel factor for the period July 1, 2007, to December 31, 2010; and (3) continuing capped rates through December 31, 2010. The Supplemental Report provides a High End Quantitative Benefit Case ("high end case") and a Low End Quantitative Benefit Case ("low end case") for the study period of January 1, 2005, through December 31, 2014. The high end case assumes that, on July 1, 2007, all of DVP's retail customers choose an alternative supplier and leave capped rates. Under the high end case, the present value of quantitative net benefits to Virginia retail customers is \$463.5 million over the ten-year study period. The low end case assumes that all of DVP's retail customers remain on capped rates until December 31, 2010. Under the low end case, the present value of quantitative net benefits to Virginia retail customers is \$255 million over the ten-year study period.

On July 15, 2004, the Division of Consumer Counsel of the Office of the Attorney General ("Consumer Counsel") filed the direct testimony of Seth W. Brown, Principal and the Manager of Transmission Services at GDS Associates. Mr. Brown states that Consumer Counsel supports Commission approval of DVP's application to transfer functional control of its transmission facilities to PJM. However, Mr. Brown testifies that Commission approval should be conditioned upon any combination of mechanisms available to assure that the qualitative and quantitative net benefits identified by DVP are equitably shared with Virginia ratepayers. Mr. Brown contends that such potential mechanisms include:

1. Consistent with DVP's representations in its Application and the applicable PJM procedures, DVP should be required to select a "hold harmless" portfolio of financial transmission rights ("FTRs") so as to minimize any "unhedgable congestion" associated with deliveries from its generation and its economic purchases to its network and native load. To the extent that DVP selects FTRs from its generation to hedge potential economic off-system sales, the amount of FTRs available to hedge against congestion costs for DVP's network and native load obligations should not be reduced.
2. Consistent with DVP's representation in its Application and the applicable PJM procedures, DVP should be required to maintain a single "load aggregation zone" for congestion pricing purposes.

<sup>14</sup> Remedying Undue Discrimination Through Open Access Transmission Service and Standard Electricity Market Design, Notice of Proposed Rulemaking, Notice of White Paper issued April 28, 2003.

<sup>15</sup> PJM Interconnection, L.L.C., and Virginia Electric and Power Company, Docket Nos. ER04-829-000 and ER04-829-001 ("PJM South").

3. Consistent with DVP's representation in its Application, approval should be conditioned on PJM's commitment not to shed load in the DVP Zone to address generating capacity deficiencies that might arise in other areas of PJM.
4. Approval of DVP's Application should be conditioned on DVP maintaining its current transmission charge as its zonal license plate charge in PJM in order to realize the net benefits quantified in the Company's cost/benefit study.
5. As DVP did not factor into its cost benefit analyses any deferred RTO integration and development costs, if the Company does not supplement its application to incorporate these costs, DVP should be denied recovery of such costs.
6. Because DVP did not factor into its cost/benefit analyses any FERC return-on-equity incentives for joining a FERC-approved RTO, if DVP does not supplement its application to incorporate these costs, DVP should be denied recovery from Virginia ratepayers of any increases in transmission rates due to such FERC incentives.
7. Any conditions should be considered that reasonably flow from the Company's cost/benefit study, which categorizes DVP's PJM administrative costs as both a charge against shareholder benefits during the capped rate period and as a regulatory asset to be collected from ratepayers after the capped rate period.

On July 15, 2004, the Virginia Committee for Fair Utility Rates ("Committee") filed the direct testimony of Burnice C. Dooley, a partner in the firm of Dooley & Vicars, CPAs, LLP. Mr. Dooley states that DVP's cost/benefit study assumes PJM administrative charges are deferred through 2010 and recovered over the balance of the study period. As a result, the Company's cost/benefit study assigns no PJM administrative charges to the period from 2005 through 2010; instead, all PJM administrative charges, including those incurred from 2005 through 2010, are assigned to the period after 2010. Mr. Dooley concludes that under this assumption, DVP's customers are, in effect, accruing a liability to pay for the PJM administrative charges. Mr. Dooley states that if the cost/benefit study had reflected the annual effect of this accrued liability through 2010, net customer benefits would disappear in the low end case (and result in net customer costs) but there would still be considerable benefits in the high end case. Mr. Dooley explains that DVP has sought FERC approval to defer recognition of PJM administrative charges for accounting purposes until after the expiration of the capped rate period (i.e., December 31, 2010), and that DVP will later seek recovery of such costs through a rate filing with FERC. Mr. Dooley testifies that if FERC grants both requests, the Company could flow such charges to Virginia retail customers after the expiration of capped rates. Mr. Dooley also notes that Virginia Power is not requesting a similar cost deferral for its retail customers in North Carolina. Mr. Dooley recommends that the Commission condition any approval in this case on DVP agreeing not to seek to defer PJM administrative charges for retail ratemaking purposes. Mr. Dooley asserts that this would be consistent with Virginia Power's statements during the recent General Assembly Session that the Restructuring Act – and in particular, capped rates – shifts risks for cost increases from Virginia Power's customers to its shareholders. Mr. Dooley concludes that deferring the PJM administrative charges until after the expiration of capped rates imposes the risk of such cost increases on customers, not on shareholders.

On July 15, 2004, Coral Power, L.L.C. ("Coral"), filed the direct testimony of James J. Cifaratta, Vice President – Assets for Shell Trading Gas & Power. Mr. Cifaratta's responsibilities include managing Coral's Energy Conversion Agreement ("ECA") with Tenaska Virginia Partners, L.P. ("Tenaska"). The ECA is associated with Tenaska's 885 MW natural gas fired, combined cycle generating facility in Fluvanna County ("Fluvanna Facility"). Mr. Cifaratta addresses Coral's support for DVP's Application to join PJM. Mr. Cifaratta discusses the important role that PJM's independence plays in developing and enhancing confidence in the region's electricity markets. Mr. Cifaratta identifies his concerns with the impacts resulting from any delay in the participation by DVP in PJM's markets. Finally, Mr. Cifaratta describes the additional reliability and economic benefits that full participation in the markets administered by PJM can provide to consumers in the Virginia region, and he discusses how Coral can enhance those benefits through its participation in the region's wholesale electric markets with the Fluvanna Facility.

On August 16, 2004, the Commission's Staff ("Staff") filed the direct testimony of Cody D. Walker, an Assistant Director in the Commission's Division of Energy Regulation. Mr. Walker's testimony: (1) provides an overview of PJM; (2) discusses whether the Company's Application satisfies the Commission's RTE Rules; (3) discusses whether DVP has any alternatives to joining PJM; (4) discusses the implications of the Company's integration into PJM; and (5) discusses the costs and benefits of DVP's participation in PJM. Mr. Walker states that the Company's request to join PJM sufficiently satisfies the RTE Rules provided that the Company can secure FERC approval of its application to form PJM South. Mr. Walker asserts that the Company's integration into PJM may have certain negative implications with respect to reliability and that the Staff has reservations about the effectiveness of market monitoring in general. However, Mr. Walker concludes that PJM represents one of the best, if not the best, available RTO models. In addition, Mr. Walker testifies that the Staff engaged Henwood Energy Services, Inc. ("Henwood"), to provide an independent assessment of the costs and benefits of the Company's and AEP-VA's proposed integration into PJM. Mr. Walker explains that Henwood's assessment finds that the Company's participation in a fully expanded PJM, when viewed from an overall net present value perspective, will produce very slight positive results of 0% to 1% of the total costs of serving load. Mr. Walker further explained during the evidentiary hearing that the Henwood analysis shows that the impact on ratepayers would range from a negative impact of \$85 million to a positive impact of \$62.2 million if DVP is ultimately allowed to recover deferred PJM administrative charges from ratepayers.

In addition, Mr. Walker testifies that, under the Restructuring Act, the public policy of the Commonwealth is that Virginia utilities should transfer functional control of transmission systems to RTEs, and that PJM appears to be the only feasible option that can satisfy the January 1, 2005, statutory target established in the Restructuring Act. Thus, if the Commission determines that the Company should satisfy the Restructuring Act through integration into PJM, Mr. Walker recommends that DVP's Application be approved with specific conditions attached to such approval. Mr. Walker lists potential conditions for the Commission's consideration, which address: (1) certain reporting requirements for DVP; (2) modification of PJM's curtailment protocols in order to protect native retail load; (3) retention of the Commission's jurisdiction over any subsequent transfer of operation and control of the Company's transmission facilities by DVP or any other operator; and (4) DVP obtaining FERC approval of its participation in PJM and complying with any conditions associated with such approval.

On August 16, 2004, the Staff filed the direct testimony of Mark R. Griffith, a Vice President in the Strategic Consulting and Advisory Services business unit at Henwood. Mr. Griffith analyzes the costs and benefits associated with the Company's Application to join PJM. Mr. Griffith sponsors the Staff's cost/benefit study, which is referenced by Mr. Walker. Mr. Griffith explains how he approached his analysis and presents a summary of his findings.

On August 16, 2004, the Staff also filed the direct testimony of Howard M. Spinner, the Director of the Commission's Division of Economics and Finance. Mr. Spinner addresses key issues surrounding LMP for electric energy as practiced in the energy markets administered by PJM. Mr. Spinner asserts that there are problems with PJM's LMP model as a means for allocating scarce electrical resources and that there are questions as to the ability of PJM's market monitoring unit to ensure good results. Mr. Spinner also testifies that the reliability implications of the Company's Application appear not to be a decisive factor. Mr. Spinner concludes that, realizing that the Company's integration into PJM at this time will assist it in satisfying the January 1, 2005, legislative target for RTE integration established by the Restructuring Act, and also recognizing that DVP's generating units remain legally connected to the Company's Virginia retail customers, he believes that the Commission could conclude that the Company's Application is in the public interest.

On September 17, 2004, the Company filed the rebuttal testimony of: (1) Mr. Stoddard; (2) Joseph E. Bowring, Manager of PJM's Market Monitoring Unit; and (3) Christine M. Schwab, Director of PJM Integration with Dominion Resources Services, Inc. Mr. Stoddard responds to the cost/benefit study submitted by the Staff and asserts that, compared to the overall cost of serving load during the study period, the estimated net benefits in DVP's cost/benefit study and in the Staff's cost/benefit study differ by only a few percentage points. Mr. Bowring responds to certain observations by Staff witness Spinner regarding the operation of PJM markets and the role of market monitoring. Mr. Bowring agrees that wholesale power markets require careful market monitoring, and he believes that an organized, centrally dispatched, security constrained, independently operated, transparent wholesale marketplace is superior to a standalone bilateral wholesale marketplace.

Ms. Schwab responds to the direct testimonies of Staff witness Walker, Consumer Counsel witness Brown, and Committee witness Dooley. Ms. Schwab agrees with Mr. Walker's recommended conditions, with certain clarifications and modifications. Ms. Schwab states that Mr. Brown's recommended condition numbers 2 and 3 regarding a single load zone and PJM's commitment not to shed load are acceptable with certain clarifications and modifications. Ms. Schwab testifies that the Company is unwilling to waive its rights under federal law to change its transmission rate, as is suggested by Mr. Brown's condition number 4. Ms. Schwab states that Mr. Brown's first condition regarding an FTR "hold harmless" portfolio is unnecessary given capped rates and default service. Ms. Schwab rejects Consumer Counsel's remaining conditions, stating that they are unjust, unreasonable, contrary to state and/or federal law and would deny the Company rights to which it is entitled under state or federal law. In addition, Ms. Schwab asserts that Committee witness Dooley's recommendation to condition approval upon DVP foregoing, for retail ratemaking purposes, the deferral of PJM administrative costs is unjust, unreasonable, contrary to federal law and would deny the Company a right to which it is entitled under federal law.

On October 5, 2004, the FERC issued an Order Establishing PJM South, Subject to Conditions.<sup>16</sup> On October 6, 2004, DVP filed a Motion for Continuance with this Commission, wherein the Company requested that the public hearing scheduled for October 12, 2004, be retained to accept a stipulation or partial stipulation in this matter, but that the hearing otherwise be continued.

On October 12, 2004, prior to commencement of the public hearing, Virginia Power filed a Motion in Limine. The Motion in Limine requested that the Commission: (1) limit the testimony of Committee witness Dooley by ordering that his testimony and recommendation that the Company agree not to seek deferral of PJM administrative charges is not relevant to this proceeding; and (2) take notice of the Company's objection at the public hearing in accordance with controlling legal authorities by recognizing that Mr. Dooley's proposed condition dealing with FERC's authority over rate treatment and related accounting issues is not relevant to this proceeding.

A public hearing was convened on October 12, 2004. At the hearing, the Commission received a Partial Stipulation executed by the following participants: DVP; the Staff; Consumer Counsel; PJM; Coral; Old Dominion Electric Cooperative; Chaparral (Virginia), Inc. ("Chaparral"); and the Municipal Electric Power Association of Virginia, Central Virginia Electric Cooperative, and Craig-Botetourt Electric Cooperative.<sup>17</sup> The Partial Stipulation recommends that the Commission accept the terms and conditions therein as conditions to any Order the Commission issues approving the Company's Application. The terms and conditions of the Partial Stipulation address, among other things: (1) certain reporting requirements for the Company, which shall cease with the filing of such reports in calendar year 2007 unless each Virginia incumbent electric utility that is a member of PJM as of September 30, 2007, is required to file reports containing substantially similar information after 2007; (2) certain reporting requirements for PJM, which shall end in 2010; (3) PJM's agreement to implement certain curtailment protocols designed to protect the Company's retail and wholesale customers for which DVP has a generation capacity obligation so long as DVP has maintained adequate generation capacity in accordance with applicable requirements; and (4) PJM's commitment to initiate a stakeholder process regarding any requests by load serving entities to change from a single load aggregation zone for the establishment of LMP pricing.

The Commission also received the testimony of one public witness at the hearing. The written statement of Irene E. Leech, President of the Virginia Citizens Consumer Council ("VCCC"), was read into the record and identified as Exhibit C. VCCC opposes DVP's proposal to join PJM and does not believe that it is the best option for consumers. VCCC believes that Virginia consumers will pay significantly higher prices for electricity if this transfer is approved. VCCC does not believe that the transfer is in the public interest and does not believe that the legislation passed by the Virginia General Assembly is too narrow to allow the public interest to be considered. VCCC states that allowing DVP to join PJM puts Virginia citizens' electric system at a significantly higher security risk. VCCC asserts that if FERC forces all states to join an RTO, there will be another RTO to our south, where electricity prices are much closer to historical Virginia prices and where the market will be more fair to consumers. VCCC contends that if the transfer is approved, there must be provisions that allow the Commission to force a change in RTO membership should conditions change, including the creation of another RTO that provides more public benefit. VCCC also states that taking this irrevocable step at this stage in the national process makes careful, conservative Virginia a guinea pig in the initial stages of a tremendously risky national experiment. VCCC asserts that, if the transfer is approved, the costs of PJM membership should be borne by DVP and its shareholders, not consumers who are being placed in a higher cost market with this move. VCCC states that, if the transfer is approved, there must be some way to protect consumers who buy their electricity from electric cooperatives or public power. VCCC asserts that, if the transfer is approved, there must be provisions to assure adequate, fully funded, irrevocable consumer representation in the PJM governance process. VCCC also states that the Commission should assure that it has the authority to hold the utility and PJM to fair service standards and quality for consumers over time – not just during a limited number of years. In sum, VCCC opposes the proposed transfer because it is only in the business interest, not the public interest.

<sup>16</sup> PJM South, Order Establishing PJM South, Subject to Conditions issued October 5, 2004 ("PJM South Order").

<sup>17</sup> Exh. D. The Partial Stipulation is attached to this Order Granting Approval.

Finally, during the October 12, 2004, hearing, the Commission also: (1) established a schedule for written responses to the Motion in Limine and for DVP's reply thereto; (2) granted the Company's Motion for Continuance; and (3) scheduled the hearing to reconvene on October 25, 2004.

On October 19, 2004, responses in opposition to the Motion in Limine were filed by the Committee, Consumer Counsel, and the Staff. On October 21, 2004, DVP filed a reply to such responses.

The public evidentiary hearing was reconvened on October 25 and 26, 2004. James C. Roberts, Esquire, Edward L. Flippin, Esquire, and Michael C. Regulinski, Esquire, appeared on behalf of the Company. Judith Williams Jagdmann, Esquire, C. Meade Browder, Jr., Esquire, and D. Mathias Roussy, Jr., Esquire, appeared on behalf of Consumer Counsel. Louis R. Monacell, Esquire, and Edward L. Petrini, Esquire, appeared on behalf of the Committee. Donald J. Sipe, Esquire, appeared on behalf of MeadWestvaco Corporation ("MeadWestvaco"). Michael E. Kaufmann, Esquire, appeared on behalf of Chaparral. Thomas B. Nicholson, Esquire, appeared on behalf of Coral. Ralph L. Axselle, Jr., Esquire, Craig A. Glazer, Esquire, and Phillip T. Golden, Esquire, appeared on behalf of PJM. Mr. Urchie B. Ellis, Esquire, appeared *pro se*. William H. Chambliss, Esquire, Arlen K. Bolstad, Esquire, Glenn P. Richardson, Esquire, and Katherine A. Hart, Esquire, appeared on behalf of the Staff. After hearing oral argument on DVP's Motion in Limine, the Commission denied the motion. Thereafter, upon agreement of the participants, certain pre-filed testimony was accepted into the record without cross-examination. The remaining pre-filed testimony was accepted into the record subject to cross-examination.

NOW THE COMMISSION, having considered the record, the pleadings, and the applicable law, is of the opinion and finds as follows. We approve the Company's Application to transfer functional and operational control of its transmission facilities to PJM, subject to the terms and conditions contained in the Partial Stipulation.

We recognize that there is testimony raising concerns over the integration of DVP into PJM. For example, those concerns include that: (1) PJM's LMP pricing could raise rates to Virginia ratepayers; (2) some customers may be adversely impacted by changes in how transmission costs are determined, allocated, and recovered; (3) any breakdown in communication within PJM could have significant implications for reliability; (4) market monitoring within PJM may not be effective; and (5) DVP's plan to defer RTO start-up costs and PJM administrative costs until the expiration of capped rates shifts the risk of cost increases during this period from shareholders to ratepayers.

Section 56-579 A 1 of the Restructuring Act, however, requires that an incumbent electric utility "shall transfer management and control of its transmission assets to a regional transmission entity by January 1, 2005, subject to Commission approval as provided in this section" (emphasis added). Accordingly, it is the policy of this Commonwealth, as directed by the General Assembly, that incumbent electric utilities shall transfer management and control of transmission assets to an RTE by New Year's Day 2005. In this regard, we agree with Staff witness Walker that PJM represents one of the best, if not the best, available RTE models and is the only feasible option at this time for DVP to satisfy the requirements of the Restructuring Act.

In addition, § 56-579 F of the Restructuring Act provides as follows:

Any request to the Commission for approval of such transfer of ownership or control of or responsibility for transmission facilities shall include a study of the comparative costs and benefits thereof, which study shall analyze the economic effects of the transfer on consumers, including the effects of transmission congestion costs. The Commission may approve such a transfer if it finds, after notice and hearing, that the transfer satisfies the conditions contained in this section.

This statute does not include an express standard upon which the Commission is to approve or to disapprove the Application based on the results of a cost/benefit study. The statute does not make a positive net benefit finding a prerequisite for approval of the Application. Rather, there may be some implication that the Commission should reject the Application if the cost/benefit study shows a significant detriment. In contrast, the Restructuring Act includes an express requirement that incumbent electric utilities transfer management and control of transmission assets to an RTE by January 1, 2005, subject to Commission approval. Va. Code § 56-579 A 1. The Company submitted a cost/benefit study pursuant to this statute, and the Staff also filed a cost/benefit study. The Company's cost/benefit study estimates that integration into PJM will result in net benefits. The Staff's cost/benefit study produces a slight net benefit if it is assumed that DVP does not recover deferred PJM administrative costs after the expiration of capped rates. If DVP recovers such deferred costs after capped rates expire, the Staff's results range from a slight net cost to a slight net benefit. In any event, the range of net costs and benefits produced by the Staff's cost/benefit study is only a few percentage points of the Company's total costs of serving load. Accordingly, we find that the cost/benefit studies do not establish a significant economic detriment.

Committee witness Dooley recommends that the Commission condition any approval in this case on Virginia Power agreeing not to seek FERC's approval to defer PJM administrative charges for retail ratemaking purposes.<sup>18</sup> The Company argues that this Commission does not have the authority to require such a condition. The Company states that it has requested FERC approval to defer such costs for accounting purposes, and that FERC has exclusive jurisdiction over the accounting and ratemaking treatment of these transmission-related costs. The Committee counters, however, that no FERC order prevents the Commission from imposing Mr. Dooley's recommended condition, and that DVP cites no authority to that effect.

In this regard, we agree with the Staff's explanation that the resolution of FERC's accounting and ratemaking treatment of PJM administrative charges properly lies with the FERC. Staff further notes that Virginia Power may seek FERC's approval for recovery of such charges through a future filing with FERC under Section 205 of the FPA, or that FERC could perhaps determine its ratemaking treatment of such charges through a proceeding under Section 206 of the FPA initiated by complaint or by FERC's own motion. We will not adopt Mr. Dooley's recommendation, which would require the Company not to pursue rights that it may possess under federal law. We agree with the Staff that FERC's accounting and ratemaking treatment of these charges remains an open question. Likewise, this Commission's treatment of such charges also remains an open question. This Commission has the

<sup>18</sup> Mr. Dooley also states that DVP has not requested similar deferred accounting treatment for its retail customers in North Carolina, and he concludes that this creates an inequity for Virginia consumers. However, as recognized by FERC in its recent order on PJM South, North Carolina has not implemented a retail open access program. PJM South Order at 4, n.14. Thus, the Company explains that it is not asking for deferred accounting for customers in North Carolina because – unlike Virginia – retail rates in North Carolina have not been unbundled. *See, e.g., Tr. at 494; PJM South*, Joint Application to Establish PJM South at 17, n.36. Indeed, we note that the Commission's Addendum to 2002 Status Report on Competition, dated January 3, 2003, and presented to the Governor and General Assembly, recommended that retail rates be re-bundled in Virginia. This recommendation was not implemented, so that the Company is correct that Virginia's retail rates remain unbundled. Mr. Dooley's comparison between North Carolina and Virginia is not apposite.



authority to prescribe how the Company maintains its books and records for Virginia jurisdictional purposes. In addition, as noted during the hearing, the Commission has approved the Company's tariffs for the unbundled transmission component of capped retail rates. The Company has not sought, and the Commission has not granted, authority to treat any RTO start-up or PJM administrative charges as a deferred regulatory asset. Accordingly, DVP must continue to expense these charges for Virginia jurisdictional purposes unless it seeks and obtains approval from this Commission to treat such charges otherwise.

Further in this regard, MeadWestvaco argued at the hearing that, if FERC permits DVP to defer PJM administrative charges and to recover such after the expiration of capped rates, this Commission may take into account the Company's earnings under capped rates and credit such earnings against payment of the deferred charges.<sup>19</sup> MeadWestvaco asserted that the only thing this Commission must assure, to pass constitutional muster, is that over a reasonable period of time – and such time being within the Commission's discretion to determine – DVP has a reasonable opportunity to recover any FERC-approved costs.<sup>20</sup> If MeadWestvaco is correct, then the condition recommended by Mr. Dooley is unnecessary because this Commission, at a later date, may determine whether any deferred PJM administrative charges already have been recovered in retail rates over a reasonable period of time. We do not, however, reach these questions. As pointed out by Virginia Power, this is not a ratemaking proceeding.

Next, we note that both Mr. Ellis and Ms. Leech oppose the Company's application as contrary to the public interest. However, § 56-579 of the Restructuring Act – unlike other provisions of Title 56 of the Code – does not explicitly provide the Commission with a general grant of broad discretion to find that any such transfer is in the public interest. Rather, § 56-579 A 2 directs the Commission to develop rules and regulations under which the incumbent electric utility may transfer control, ownership, or responsibility of transmission capacity to an RTE, upon such terms and conditions that the Commission determines will, among other things, "[g]enerally promote the public interest." As discussed above, the Commission developed the RTE Rules as required by this statute; the RTE Rules establish elements of an RTE structure essential to the public interest. The RTE Rules require the examination of, for example, an RTE's reliability practices, pricing and access policies, and independent governance. We agree with Staff witness Walker that the Company's request to join PJM sufficiently satisfies the RTE Rules.

In sum, we find that the Company's request to transfer functional and operational control of its transmission facilities to PJM, subject to the terms and conditions contained in the Partial Stipulation, satisfies the RTE Rules and the directives set forth in the Restructuring Act. Accordingly, based on the evidence in this case and the Partial Stipulation, we find that the Restructuring Act requires our approval of the Application.

Accordingly, IT IS ORDERED THAT:

- (1) Virginia Power's Application to transfer functional and operational control of its transmission facilities to PJM is hereby approved, subject to the terms and conditions contained in the Partial Stipulation.
- (2) The Partial Stipulation is made part of this Order Granting Approval, and the parties thereto shall comply with its provisions.
- (3) This case is continued generally.

NOTE: A copy of the "Partial 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.

<sup>19</sup> MeadWestvaco cited the following cases for this proposition: Monongahela Power Company v. Schriber, 322 F.Supp.2d 902 (S.D. Ohio 2004); and Pacific Gas and Electric Company v. Lynch, 216 F.Supp.2d 1016 (N.D. Cal. 2002) ("Pacific Gas").

<sup>20</sup> MeadWestvaco argued that in Pacific Gas: (1) the state public utility commission did not increase the retail rate to reflect an increase in the wholesale rate; and (2) the court found that the filed rate doctrine is not violated if, after looking at past over-recoveries by the utility, the state public utility commission finds that there was not an undercollection of FERC-approved costs over a reasonable period of time.

## CASE NO. PUE-2000-00736 OCTOBER 8, 2004

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

Ex Parte: The Potomac Edison Company d/b/a Allegheny Power - Regional Transmission Entities

### ORDER GRANTING APPROVAL

On October 16, 2000, the Potomac Edison Company d/b/a Allegheny Power Company ("AP" or the "Company") filed a motion wherein it requested that the Commission accept the October 5, 2000, Memorandum of Agreement between itself and PJM Interconnection, L.L.C. ("PJM"), an independent system operator ("ISO"), as a statement of AP's commitment to join or establish a regional transmission entity ("RTE"). The Company represented that, assuming a successful negotiation of a final agreement, it would file an application to transfer control, ownership, or responsibility for its transmission capacity to PJM as required by 20 VAC 5-320-90 of the Commission's regulations regarding incumbent electric utilities' transfer of the ownership or control of transmission assets or entitlements thereto, to RTEs, 20 VAC 5-320-10 *et seq.*, entered in Case No. PUE-1999-00349,<sup>1</sup> within 90 days of the anticipated creation of PJM West,<sup>2</sup> or by no later than September 15, 2001.

<sup>1</sup> Commonwealth of Virginia, At the relation of the State Corporation Commission, Ex Parte: In the matter concerning participation of incumbent electric utilities in regional transmission entities, Case No. PUE-1999-00349, 2000 S.C.C. Ann. Rep. 430 ("RTE Rules").

<sup>2</sup> The agreement in principle called for an affiliation between the existing PJM control area called "PJM East" with the control area G1 operated by AP and any other entities that may in the future participate in the alliance known as "PJM West."

In the event the Commission found AP's commitment under the Memorandum of Agreement to develop PJM West was insufficient to meet the requirements of the Virginia Electric Utility Restructuring Act (the "Act"), Chapter 23 (§ 56-576 *et seq.*) of Title 56 of the Code of Virginia, or the Commission's regulations concerning a utility's obligation to join or establish an RTE by January 1, 2001, AP requested that the Commission delay implementation of the Act's requirements and waive the filing of an application under Rule 20 VAC 5-320-90 until September 15, 2001.

In its December 20, 2000, procedural Order, the Commission assigned Case No. PUE-2000-00736 to these issues, directed the Company to give public notice of its request, and invited interested persons to comment or request a hearing on the Company's request.

In its May 21, 2001, Order, after consideration of the Commission Staff's ("Staff") April 16, 2001, report investigating AP's request, the Commission granted a waiver of Rule 20 VAC 5-320-120 to allow the Company to file its transfer application after October 16, 2000, and directed the Company to file information required by Rule 20 VAC 5-320-90 on or before July 15, 2001. The Commission further directed the Company to file its application to transfer control of its transmission assets on or before September 15, 2001.

On July 6, 2001, the Company, by counsel, filed a Motion to extend the filing deadline for AP's application and the supporting information required by Rule 20 VAC 5-320-90 from July 15, 2001, to July 25, 2001. On July 12, 2001, the Commission granted AP's Motion, extended the date by which AP was to file the information required by Rule 20 VAC 5-320-90, and directed that all other provisions of the Commission's May 21, 2001, Order were to remain in effect.

On July 25, 2001, AP, by counsel, filed the information required by Rule 20 VAC 5-320-90 as part of its application to transfer management and control of its transmission facilities to PJM under the arrangement known as PJM West. In these documents, the Company noted that on July 12, 2001, the Federal Energy Regulatory Commission ("FERC") issued an Order accepting the PJM West arrangement subject to certain conditions.

In its August 16, 2001, Order Prescribing Notice and Inviting Comments and/or Requests for Hearing, the Commission directed the Company to give notice to the public of its application through publication in newspapers of general circulation throughout its service territory, invited interested parties to file comments and to request a hearing on the application, and directed the Staff to file a report detailing the results of its investigation of the Company's application on or before October 26, 2001. The Company and interested parties were invited to file a response to the Staff report on or before November 12, 2001.

On October 26, 2001, the Staff filed its Report. In that Report, the Staff recommended that the Commission either delay acting on, or grant only conditional approval of, AP's request to transfer management and control of its transmission facilities in order to permit Staff to review any FERC order in what was, at the time, proposed by FERC to constitute the Northeast RTO. Staff reported that it was unknown what would occur as a result of the FERC-ordered mediation involving the New York ISO, ISO New England, and PJM.<sup>3</sup>

On November 8, 2001, the Division of Consumer Counsel, Office of the Attorney General, filed a letter in support of the Staff Report. In a letter response dated November 8, 2001, AP, by counsel, noted its general agreement with the Staff's recommendations.

Since the Staff Report and responses were filed, PJM and AP submitted a compliance filing to FERC. On January 30, 2002, FERC issued an Order on the compliance filing that, among other things, permitted AP and PJM to form PJM West, effective March 1, 2002, as requested by AP and PJM. See PJM Interconnection, L.L.C. and Allegheny Power, Docket No. RT01-98-002, 98 FERC ¶ 61,072.

On May 9, 2002, the Commission entered an Order directing the Company to update its application to include detailed information about further developments relevant to the application. The Commission directed its Staff to review the application as updated and to file with the Commission a supplemental report, detailing the results of its investigation, on or before July 12, 2002. AP and any interested persons were directed to file any response to the Staff Report on or before August 2, 2002.

On July 12, 2002, the Staff filed its Supplemental Report. In its Supplemental Report, the Staff summarized recent developments at the FERC. Staff reported that there were two phases to the PJM West arrangement. In Phase I, implemented on April 1, 2002, functional control of AP's transmission facilities was transferred to the PJM Office of Interconnection that will control facilities in accordance with the terms of the PJM West Transmission Owners Agreement.

Under Phase II of the same agreement, one or more PJM West transmission owners may become an independent transmission company ("ITC") that would individually meet some or all requirements of FERC Order No. 2000. Phase II of the PJM arrangement would commence only after the creation of an ITC and approval by FERC under § 203 of the Federal Power Act of the delineation of functions between the ITC and PJM. Staff expressed concern that the filings made to date lacked sufficient detail regarding the Phase II development of a for-profit transmission company. Staff recommended that the Company make proper filings with the Commission and the FERC prior to implementation of Phase II of the PJM arrangement. Staff reserved judgment on the issue of whether the Phase II proposal complied with the Act and the RTE Rules.

The Staff also commented that as of June 25, 2002, Virginia Electric and Power Company ("Dominion" or "Virginia Power") and PJM had executed an agreement to have 6,000 miles of transmission lines operated on a regional basis by PJM. Under the terms of this agreement, Dominion would establish PJM South and would allow Dominion's control area to be operated separately under the single PJM energy market. As of the date of the Staff's Supplemental Report, neither Dominion nor American Electric Power had made a formal filing pursuant to §§ 203 and 205 of the Federal Power Act. Staff recommended that the Commission delay approval of AP's application pursuant to § 56-577 B of the Code of Virginia until more information was known about the ITC proposal for PJM West, Dominion's PJM South proposal, and the outcome of PJM and Midwest ISO discussions to form a single energy market across the PJM and Midwest regions.

No responses to the Staff's Supplemental Report were filed.

<sup>3</sup> Subsequently, FERC apparently concluded not to go forward with this mediation and the Northeast RTO plan was abandoned.

Subsequent to the Staff's Supplemental Report, several events occurred. The FERC issued a ruling on PJM's application for RTO<sup>4</sup> status granting PJM full RTO status subject to the satisfaction of certain conditions.<sup>5</sup> Additionally, the FERC issued a notice of proposed rulemaking ("NOPR") to establish a national Standard Market Design ("SMD") for wholesale electricity markets.<sup>6</sup> The SMD NOPR requires, among other things, that all public utilities turn over the operation of their transmission facilities to an Independent Transmission Provider.<sup>7</sup>

Additionally, the 2003 General Assembly amended §§ 56-577 and -579 of the Act, effective April 2, 2003. Among other things, § 56-579 F of the Code of Virginia was amended to provide that

[a]ny request to the Commission for approval of . . . [the] transfer of ownership or control of or responsibility for transmission facilities shall include a study of the comparative costs and benefits thereof, which study shall analyze the economic effects of the transfer on consumers, including the effects of transmission congestion costs. The Commission may approve such a transfer if it finds, after notice and hearing, that the transfer satisfies the conditions contained in this section.

The 2003 General Assembly also amended § 56-579 A 1 of the Code of Virginia to delay the transfer of the management and control of Virginia utilities' transmission assets to an RTE until after July 1, 2004, and to require that such transfers be completed by January 1, 2005, subject to the approval of the Commission following notice and hearing.

On April 28, 2003, the FERC issued a White Paper modifying certain features of the SMD NOPR. The White Paper noted that, although the FERC would not assert jurisdiction over transmission rates associated with bundled retail service, it would subject transmission service to retail customers to the same terms and conditions as other transmission service. The White Paper also described the development and operation of market mechanisms to manage transmission congestion and a real-time spot market to resolve energy imbalances.

On consideration of these events, the Commission entered an Order on May 30, 2003, that directed AP to describe how its participation in PJM, as it may be modified under a final SMD rule, would impact issues relating to: (i) resource adequacy; (ii) pricing for ancillary generation services; and (iii) regional planning. The Commission also ordered the Company to develop an analysis of these issues from the perspective of the Allegheny Power System ("APS"), APS' affiliated corporate entities, APS' shareholders, AP's Virginia customers, and Virginia ratepayers as a whole.

The Commission further directed the Company to develop, as soon as practicable, but no later than 90 days after a final SMD rule was adopted, a study of the costs, benefits, and resulting cash flows that would arise from the transfer of AP's transmission assets. The Company was directed to submit a report detailing the methodology, key assumptions, and results of the cost-benefit analysis from the perspective of AP, AP's affiliated entities, AP's shareholders, AP's Virginia customers, and Virginia ratepayers as a whole.

We also required AP to examine the transmission congestion costs incurred under PJM's system of Locational Marginal Pricing ("LMP"). To this end, we directed AP to provide an analysis, as soon as practicable, but no later than 90 days after a final SMD rule was issued, that included, but was not limited to: (1) an estimate of the congestion costs that load-serving entities within AP's Virginia service territory have incurred since LMP was implemented; (2) an estimate of future congestion costs; (3) which facilities, including which lower voltage transmission facilities, would be subject to LMP-based congestion pricing; (4) the potential effect of LMP on future wholesale power costs; and (5) a study of the effectiveness of Financial Transmission Rights for hedging such congestion costs.

On April 9, 2004, we issued an Order setting AP's application for hearing, and requiring AP to file a cost/benefit analysis of its membership in an RTE.

On June 18, 2004, AP filed the direct testimony of Cynthia A. Menhorn, Director-Regulation and Rates for Allegheny Energy Service Corporation. Ms. Menhorn's testimony responded to six questions propounded in our April 9, 2004, Order regarding the costs/benefits of AP's participation in PJM.

On August 23, 2004, Staff filed the direct testimony of Marc A. Tufaro, Utilities Analyst in the Commission's Division of Energy Regulation. Mr. Tufaro's testimony provided a history of this case, provided an overview of PJM and its structure, discussed whether AP's application satisfies the Commission's rules regarding participation in an RTE, and examined the costs and benefits of AP's participation in PJM.

On September 14, 2004, AP filed reply comments to Mr. Tufaro's August 23, 2004, testimony. AP stated that the conditions recommended by Staff for AP's membership in PJM are acceptable to AP.

A public evidentiary hearing was held on September 28, 2004. Philip J. Bray, Esquire, appeared on behalf of AP. Ralph L. Axselle, Jr., Esquire, and Philip T. Golden, Esquire, appeared on behalf of PJM. Michael C. Regulinski, Esquire, and Edward L. Flippen, Esquire, appeared on behalf of Virginia Power. C. Meade Browder, Jr., Esquire, and D. Mathias Roussy, Jr., Esquire, appeared on behalf of the Office of Attorney General, Division of Consumer Counsel. William H. Chambliss, Esquire, and John K. Shumate, Jr., Esquire, appeared on behalf of Staff. Upon agreement of the participants, all of the prefiled testimony was accepted into the record without cross-examination.

<sup>4</sup> RTO, FERC's preferred acronym, is synonymous with RTE as referenced in the Virginia Restructuring Act and the Commission's rules governing RTE participation.

<sup>5</sup> *PJM Interconnection, L.L.C., et al.*, 101 FERC ¶ 61,345 (2002).

<sup>6</sup> *Remedying Undue Discrimination Through Open Access Transmission Service and Standard Electricity Market Design*, Notice of Proposed Rulemaking, Docket No. RM01-12-000, 67 Fed. Reg. 55452 (2002) (to be codified at 18 C.F.R. Part 35) (proposed July 31, 2002).

<sup>7</sup> *Id.* at 55470.

In addition, the Commission received into evidence a Stipulation<sup>8</sup> executed by the following participants: AP; PJM; and the Staff. Counsel for Virginia Power and the Office of Attorney General each stated that they did not object to the Stipulation. The Stipulation recommends that the Commission issue an order approving the application subject to the terms and conditions contained in the Stipulation. The terms and conditions of the Stipulation address, among other things: (1) certain reporting requirements for the Company, which shall cease with the filing of its report in calendar year 2007, unless each Virginia incumbent electric utility that is a member of PJM as of September 30, 2007, is required to file reports containing similar information after 2007; (2) certain reporting requirements for PJM, which shall end in 2010; and (3) PJM's agreement to implement certain curtailment protocols designed to protect the Company's retail and wholesale customers for which AP has a generation capacity obligation so long as AP has maintained adequate generation capacity in accordance with application requirements.

NOW THE COMMISSION, having considered the record, the pleadings, and the applicable law, finds that the Company's request to transfer functional and operational control of its transmission facilities to PJM, subject to the terms and conditions contained in the Stipulation satisfies the RTE Rules and the directives set forth in the Restructuring Act.

Accordingly, IT IS ORDERED THAT:

- (1) The Stipulation is made part of this Order Granting Approval, and the parties thereto shall comply with its provisions.
- (2) AP's Application to transfer functional and operational control of its transmission facilities to PJM is hereby approved, subject to the terms and conditions contained in the Stipulation.
- (3) This case is continued generally.

NOTE: A copy of the 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.

<sup>8</sup> Exh. 2. This Stipulation is attached to this Order Granting Approval.

**CASE NO. PUE-2001-00072  
MARCH 25, 2004**

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

v.

DAVID G. PETRUS, RECEIVER FOR AUBON WATER COMPANY

**ORDER ADOPTING  
STIPULATION AND DISMISSING RULE**

On December 16, 2003, the State Corporation Commission issued a Rule To Show Cause ("Rule")<sup>1</sup> against David G. Petrus, Receiver for Aubon Water Company ("Receiver"). An Answer to the Rule was filed January 9, 2004, and a hearing on the Rule was vacated on March 3, 2004, following several continuances, to allow the Receiver and Staff to negotiate a stipulation as to the Receiver's performance of his duties.

On March 22, 2004, the Staff and Receiver filed their Stipulation. By their Stipulation, Staff and Receiver jointly move the Commission to dismiss the pending Rule against the Receiver. The Staff and Receiver stipulate to certain ongoing monthly reporting requirements for the Receiver, which are intended to replace all previous quarterly reporting requirements. The stipulated monthly reports by the Receiver are to contain specific items identified in the Stipulation and are to be delivered to Staff on the 10th day of each month, beginning May 10, 2004, until termination of the receivership or removal of the Receiver.

The Commission is of the opinion that the Stipulation by the Staff and Receiver should be treated as a joint motion to accept Stipulation and to dismiss the Rule. We find the Stipulation should be accepted and made an order of the Commission, and that the pending Rule should be dismissed.

Accordingly, IT IS THEREFORE ORDERED THAT:

- (1) The Stipulation of the Staff and Receiver is hereby adopted and made an order of the Commission.
- (2) The Receiver, David G. Petrus, is hereby ordered to comply with the reporting requirements of the Stipulation, the same as if set out herein.
- (3) The Rule issued against David G. Petrus is hereby dismissed.
- (4) This case is continued generally subject to review, audits, and appropriate directive of the Commission.

<sup>1</sup> Order Denying Staff Motion and Issuing Rule to Show Cause.

**CASE NO. PUE-2001-00296  
DECEMBER 3, 2004**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of establishing rules and regulations pursuant to the Virginia Electric Utility Restructuring Act for customer minimum stay periods

**ORDER CLOSING PROCEEDING**

On October 9, 2001, the State Corporation Commission ("Commission") issued an order in this proceeding that adopted rules governing minimum stay periods. The rules permit local distribution companies, under certain circumstances, to require large commercial and industrial customers who return from a competitive service provider to capped rate service to remain a customer of the utility for a minimum period of 12 months. The Commission further directed the Staff to investigate and to file a report evaluating possible alternatives to the minimum stay requirement. Such report was to be filed by March 31, 2003.

On March 12, 2003, the Commission granted a Staff motion requesting that the Commission delay the investigation and associated report until after consideration of the issue by the General Assembly. The deadline was deferred until further order of the Commission.

Chapter 827 of the 2004 Acts of Assembly amended the Virginia Electric Utility Restructuring Act, Chapter 23 (§ 56-576 et seq.) of Title 56 of the Code of Virginia, and created a statutory exception to the minimum stay requirement. The new legislation allows large commercial and industrial customers to return to an incumbent utility or default provider and not be subjected to the minimum stay requirement, provided that the customer agrees to pay market-based rates for electric energy. The General Assembly further directed the Commission to establish a methodology for determining market-based costs and rates and to adopt rules and regulations to implement the exception to the minimum stay requirement. On June 16, 2004, the Commission established a proceeding to implement this new statutory provision in Case No. PUE-2004-00068.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that a Staff Report evaluating alternatives to minimum stay periods is no longer required and that the instant proceeding may be closed.

Accordingly, IT IS ORDERED THAT this case be dismissed and the papers herein be placed in the file for ended causes.

**CASE NO. PUE-2001-00306  
NOVEMBER 5, 2004**

COMMONWEALTH OF VIRGINIA ex rel.  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of considering requirements relating to wires charges pursuant to the Virginia Electric Utility Restructuring Act

**FINAL ORDER**

On November 19, 2001, the State Corporation Commission ("Commission") entered an Order ("November 19, 2001, Order") in this docket establishing generation market price methodologies for the purposes of establishing wires charges for Dominion Virginia Power ("DVP" or "Company") and Appalachian Power Company ("APCO"). Subsequently, on May 24, 2002, the Commission entered an order establishing wires charge methodologies for the Virginia electric cooperatives.

Pursuant to Ordering Paragraph (5) of the November 19, 2001, Order, incumbent electric utilities seeking to impose wires charges in calendar year 2003 and beyond were required to make annual filings by July 1 of each year for any proposed revisions in their fuel factor, as well as for "corresponding changes in capped rates and market price proposals." Further, Ordering Paragraph (6) of the November 19, 2001, Order, kept this docket open for consideration of any issues that may arise concerning future market price determinations and wires charges. Subsequent to the Commission's November 19, 2001, Order, those incumbent electric utilities seeking to impose wires charges have been making annual filings by July 1 of each year as directed by the Commission.

On July 1, 2004, DVP filed an application to revise its market prices for generation and resulting wires charges for calendar year 2005. DVP does not propose any changes to the Commission's current methodology to derive market prices for generation and resulting wires charges. However, DVP does propose a plan that would allow the Staff to administratively authorize the inclusion of supplemental off-peak pricing data, on an as needed basis, in order to address any deficiencies in the availability of off-peak pricing data used to calculate market prices for generation and resulting wires charges.

DVP notes in its application that the availability of off-peak forward contract price information was limited when it calculated its 2004 market prices and wires charges. In its December 18, 2003 compliance filing, which established its 2004 wires charges, the Company used calendar year off-peak forward contract price information that conformed to the Commission-approved methodology and sources of price information. Using these sources, the Company was able to obtain price information for the calendar year off-peak forward contract from the Intercontinental Exchange for only three of the ten days specified by the Commission. Of these three observations of price information, only two provided information that permitted calculations in accordance with the Commission-approved methodology. However, the Company was able to obtain on-peak forward contract price information for all ten days specified by the Commission.

In order to address the potential lack of sufficient off-peak price information for DVP's 2005 wires charge compliance filing, DVP proposes to supplement the calendar year off-peak contract prices with a weighted average of monthly, bi-monthly, and quarterly off-peak contract prices from the Intercontinental Exchange. DVP proposes that this supplemental information follow the same approved methodology used for the calendar year off-peak

contract. Using the monthly, bi-monthly, and quarterly off-peak contracts, the midpoint of the bid and offer prices will be averaged over the ten days selected by the Commission. A weighted average price per MWh will be calculated over all off-peak hours for the year using the midpoints of the bid and offer prices averaged over the ten days selected by the Commission. This weighted average price over all off-peak hours for the year can then be compared with the average of the calendar year off-peak contract prices for the ten day period selected by the Commission. The midpoint of these two values will be used to establish the off-peak price for the year. DVP further proposes to file this supplemental off-peak price information as a part of its compliance filing. DVP's application provides an attachment with an example of the calculation of the off-peak price for PJM West using the calendar year off-peak contract and the supplemental information proposed in its application.

On July 1, 2004, APCO filed a letter with the Commission stating that it does not propose to implement wires charges for any of its customers during calendar year 2005. Accordingly, APCO states that no change in its tariffs is necessary because the tariffs currently in effect reflect wires charges set at zero for all customers. Finally, APCO states that while it currently imposes no wires charges, it reserves the right to impose wires charges after 2005 if circumstances warrant such action.

The Virginia electric distribution cooperatives<sup>1</sup> and the Virginia, Maryland & Delaware Association of Electric Cooperatives (collectively, "Cooperatives") filed joint comments in this proceeding on July 1, 2004. In their comments, the Cooperatives state they continue to support the methodology approved by the Commission in its May 24, 2002, Order establishing wires charges for the Virginia electric cooperatives. The Cooperatives also continue their support of the Commission's method of establishing market prices based on forward price data from relevant trading hubs.

On July 16, 2004, the Commission issued an Order for Notice and Comment establishing a procedural schedule for the filing of comments or requests for hearing by interested persons. The Commission further directed its Staff to investigate the filings by DVP, APCO, and the Cooperatives, and to file a report containing its findings and recommendations. DVP, APCO, and the Cooperatives were also given an opportunity to file responses to the Staff Report.

On September 3, 2004, the Commission Staff filed its report. DVP filed its response to the Staff Report on September 10, 2004. No comments or requests for hearing were filed by interested persons.

The Staff Report recommends that the methodologies currently employed to determine market prices and resulting wires charges be retained to calculate wires charges for 2005. The Staff further believes that given the limited availability of off-peak forward contract price information experienced in the past, DVP's proposal to supplement off-peak pricing data is reasonable and should be approved.

The Staff Report also notes that the pricing data limitations described by DVP also affect APCO and the Cooperatives. The Staff therefore recommends that DVP's proposed method of supplementing pricing information be applied generally to the market price and wires charges calculations of all incumbent electric utilities seeking to collect wires charges.

Finally, the Staff requests that the Commission relieve the Staff of its responsibility to monitor DVP's recallable and non-recallable capacity sales as required by the Commission's October 11, 2002, Order in this matter. The Staff asserts that this information appears to be no longer necessary since the Commission prohibited DVP from seeking recovery in a fuel factor proceeding of any lost revenues resulting from the implementation of a capacity adder in its market price calculations.

On September 10, 2004, DVP filed its response to the Staff Report. DVP supports the Staff's recommendation to extend DVP's proposal to supplement off-peak pricing data to other incumbent utilities seeking to collect wires charges. DVP also expresses support for the Staff's request for relief from the monitoring of capacity sales, but indicates that such information would be provided if the Commission finds it necessary in the future.

NOW THE COMMISSION, upon consideration of the pleadings, is of the opinion and finds that DVP's proposed method of supplementing calendar year off-peak pricing data is reasonable and should be approved. As proposed, the supplemental data is merely an extension of the approved data collection procedure from the Intercontinental Exchange, a currently approved source for such data. Moreover, since DVP proposes that the inclusion of such data will be left to the Staff's discretion, DVP's proposal will allow Staff to evaluate the adequacy of the available off-peak forward contract information on an annual basis. Accordingly, we find the proposed method is consistent with the currently approved methodology for collecting pricing information and should be approved.

We further agree that DVP's proposal of supplementing calendar year off-peak pricing data should be extended to the market price and wires charges calculations of all incumbent electric utilities seeking to collect wires charges from their retail customers. Since the data limitations described by DVP affect the calculation of market prices and wires charges for APCO and the Cooperatives, we find DVP's proposed method of supplementing off-peak pricing data should be applied generally to all incumbent electric utilities.

Finally, we find it appropriate to relieve Staff of the responsibility to continue monitoring DVP's sales of recallable and non-recallable capacity.

Accordingly, IT IS ORDERED THAT:

(1) The methodology to derive the market prices for generation and resulting wires charges for DVP for calendar year 2005 shall remain the same as approved in our September 23, 2003, Order for calendar year 2004.

(2) DVP's proposal to supplement off-peak pricing data is hereby accepted.

<sup>1</sup> A&N Electric Cooperative, BARC Electric Cooperative, Community Electric Cooperative, Craig-Boutetourt Electric Cooperative, Mecklenburg Electric Cooperative, Northern Neck Electric Cooperative, Northern Virginia Electric Cooperative, Prince George Electric Cooperative, Rappahannock Electric Cooperative, Shenandoah Valley Electric Cooperative, and Southside Electric Cooperative, Inc. Central Virginia Electric Cooperative and Powell Valley Electric Cooperative did not join in the Cooperative's comments. Central Virginia Electric Cooperative has elected not to implement wires charges and Powell Valley Electric Cooperative is currently not subject to implementing wires charges.

(3) DVP's proposal to supplement off-peak pricing data shall also be extended to the market price and wires charges calculations of all incumbent utilities seeking to collect wires charges.

(4) The base forward market information used in establishing wires charges shall be collected from the trading data from the following ten days: September 20, 2004; September 24, 2004; September 30, 2004; October 6, 2004; October 20, 2004; October 25, 2004; October 26, 2004; October 27, 2004; October 28, 2004; and October 29, 2004.

(5) The Staff shall no longer be required to monitor DVP's recallable and non-recallable capacity sales, unless the Commission determines otherwise.

(6) Incumbent electric utilities seeking to impose wires charges in calendar year 2006 and beyond shall make annual filings by July 1 of each year for any proposed revisions in their fuel factor and corresponding change in capped rates, and for market price proposals.

(7) This docket shall remain open for the receipt of reports to be filed herein and for consideration of other matters concerning market price determination and wires charges, as they may arise.

**CASE NO. PUE-2001-00353  
MAY 20, 2004**

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

Ex Parte: Delmarva Power & Light Company - Regional Transmission Entities

**ORDER**

On October 16, 2000, Delmarva Power & Light Company ("Delmarva" or "Company") filed a motion with the State Corporation Commission ("Commission") in Docket No. PUE-2000-00086, the Company's functional separation case, requesting that the Commission determine that Delmarva's membership in PJM Interconnection, L.L.C. ("PJM") constituted compliance with provisions of the Virginia Electric Utility Restructuring Act ("Act")<sup>1</sup> and the Commission's implementing regulations thereunder,<sup>2</sup> requiring incumbent electric utilities to transfer control of their electric transmission facilities to regional transmission entities.

In procedural orders issued subsequent to Delmarva's motion, the Commission created the instant docket in which to consider Delmarva's motion and its obligations under the Act with regard to regional transmission entities, directed Delmarva to publish notice of its motion, and invited public comments, responses, or requests for hearing. The Staff of the State Corporation Commission ("Staff") filed a response generally supporting the motion, but noting the uncertainty concerning efforts then underway before the Federal Energy Regulatory Commission ("FERC") to expand PJM through consolidation with similar organizations operating in New York and the New England states. This state of flux caused the Commission to direct Delmarva to supplement its filing regarding the federal actions then pending and provided for a Staff report and opportunity for responses to the Staff report. On June 18, 2002, the Company filed a supplement to its motion and on July 12, 2002, the Staff filed its report. No comments, responses, or requests for hearing from interested parties were filed in response to these procedural orders.

The July 12, 2002, Staff report concluded, among other things, that PJMs experience in reliably planning, operating, maintaining, and upgrading its member transmission systems; its independence from its members; its established stakeholder process; and its then-current congestion management regimen generally satisfied provisions of the RTE rules and would support a finding that Delmarva's membership in PJM constituted compliance with §§ 56-577 and 56-579 of the Act. At the time of the report, PJM was organized as an independent system operator and had been provisionally approved by FERC as a regional transmission organization.

During its 2003 Session, the Virginia General Assembly enacted amendments to § 56-579, which as enacted in 1999 had required that no "incumbent electric utility shall transfer to any person any ownership or control of, or any responsibility to operate, any portion of any transmission system located in the Commonwealth without obtaining prior approval of the Commission," but that each incumbent electric utility should effect such transfer on or before January 1, 2001. Events overtook that initial statutory requirement, notably uncertainty stemming from federal initiatives at the FERC and in Congress.

The 2003 amendments provided that each incumbent utility should file an application for the transfer of operational control of its transmission facilities on or before July 1, 2003; that no transfer could occur prior to July 1, 2004; and that all transfers must occur prior to January 1, 2005, subject to Commission approval. Lastly, the 2003 amendments required that any request for approval of transfer of ownership, or control of or responsibility for the transmission facilities "shall include a study of the comparative costs and benefits thereof, which study shall analyze the economic effects of the transfer on consumers, including the effects of transmission congestion costs."<sup>3</sup>

On May 30, 2003, we issued an Order on Supplemental Filings, directing Delmarva to file supplemental materials responsive to this change in the Act. We suspended the Company's filing, however, until no later than 90 days after the FERC's adoption of a rule then pending before it that would have established a standard market design ("SMD") for all RTO participants, including Delmarva. Again, events overtook this requirement of our Order, since following its issuance the United States Congress released a draft Conference Report on the Energy Policy Act of 2003. That legislation would have

<sup>1</sup> Chapter 23 (§ 56-576 et seq.) of Title 56 of the Code of Virginia.

<sup>2</sup> 20 VAC 5-320-10 et seq. ("RTE rules").

<sup>3</sup> § 56-579 F.

prohibited any SMD rule from taking effect before December 31, 2006. While the comprehensive Energy Policy Act has not been enacted, neither has the FERC moved forward with its SMD proposals, presumably due to the controversy the proposals have engendered in Congress.

In light of the uncertain prospects for any final SMD rule, we relieved our utilities from awaiting its appearance before supplementing applications for the transfer of control of their transmission facilities. We removed that condition imposed on Delmarva in our March 4, 2004, Order in this docket. In that Order we concluded that the Company should first supplement its filing with a legal memorandum supported by affidavits of Company officials, as necessary, responding to the initial question whether, given Delmarva's long-standing membership in PJM, the Commission has authority under § 56-579 of the Act to grant "prior approval" to a transfer that appears to have occurred well before the enactment of this statute.

On March 26, 2004, Delmarva filed its Response to our March 4 Order. The Company asserted that on July 1, 1999, the effective date of the Act, it had already transferred "the management and control of its transmission system" in the Commonwealth to the PJM Interconnection, L.L.C., and that this transfer had occurred on March 31, 1997. Thus, the Company contended, that because it retained no management or control over its transmission system, there was nothing to which the Commission could give "prior approval" as envisioned by § 56-579 of the Act. The Company further argued that Virginia law made clear that newly enacted statutes, such as the Act, could only be given prospective effect and could not be applied retroactively, citing Duffy v. Hartsock, 187 Va. 406, 417, 46 S.E.2d 570, 574-75 (1948), unless the legislation clearly expressed the intent that it be applied retroactively, or if the legislation affected only procedural and not contractual or other substantive rights.

On April 14 and 16, 2004, respectively, the Staff and the Office of the Attorney General's Division of Consumer Counsel ("Attorney General") filed Responses to Delmarva's filing. Both the Staff and the Attorney General concurred in the Company's legal analysis of the Act and the question of the Commission's authority to grant "prior approval" to an event that occurred prior to the passage of the Act itself. The Staff concluded that the circumstances that would justify retroactive application of §§ 56-577 and 56-579 are not present in this case. Nonetheless, Staff represented that its acquiescence to Delmarva's request in this case should not be interpreted to represent its position on any other issues that may be raised in other transfer applications pending before us; any transfers of operation and control over Delmarva's facilities to any other RTE; transfer of any further degree of operation and control by Delmarva to PJM; or to the proposed withdrawal by Delmarva from PJM or any other RTE.

The Attorney General disagreed with two narrow legal points of Delmarva's response, namely that because its transmission system is geographically isolated from other such facilities in the Commonwealth by virtue of being located exclusively on the Eastern Shore, the Company should be relieved of compliance with §§ 56-577 and 56-579 because its facilities are not part of "the Commonwealth's interconnected grid as that term appears in the definitional section of the Act, § 56-576. The Attorney General does not agree that the Act should be read as narrowly as Delmarva contends. The Attorney General further contends that although not proper under the circumstances present here, Delmarva's contention that it has present contractual obligations that should not be upset by retroactive application of otherwise ambiguous statutory enactments must fall to the paramount right of the state to exercise its police power to protect the general welfare of the people. The Attorney General does not oppose a Commission finding that a "prior approval" requirement is not applicable under the circumstances presented in this matter.

NOW THE COMMISSION, having reviewed the pleadings and the record herein, as well as the applicable statutes and rules, finds that Delmarva does not now possess, nor did possess as of July 1, 1999, management and control of its transmission facilities within the Commonwealth of Virginia; that the management and control of such facilities is now, and has since at least March 31, 1997, been possessed by PJM; that we are without authority to give "prior approval" to the transfer of management and control that occurred over two years prior to the passage of the Act, which directs all jurisdictional utilities to make such transfers subject to the prior approval of the Commission; that, notwithstanding the Commission's lack of jurisdiction under the limited factual circumstances presented herein, Delmarva's membership in PJM appears to satisfy the requirements of our RTE Rules and is not contrary to the public interest; and that this matter should accordingly be dismissed. We reject the Company's contention that its transmission facilities do not fall within the general jurisdiction of the Act, due to their geographical location on the Eastern Shore. To the contrary, we find that those facilities do comprise a part of "Commonwealth's interconnected grid" and we retain jurisdiction over any subsequent transfer of operation and control of them by Delmarva or any other operator.

Accordingly, IT IS ORDERED THAT this matter is dismissed, and the papers transferred to the file for ended causes.



**CASE NOS. PUE-2001-00365, PUE-2001-00366, PUE-2001-00367,  
PUE-2001-00368, PUE-2001-00369, and PUE-2001-00370,  
MARCH 3, 2004**

REQUEST OF  
ALLEGHENY POWER

For waiver of certain provisions of the Rules Governing Retail Access to Competitive Energy Services

REQUEST OF  
DELMARVA POWER & LIGHT COMPANY

For waiver of certain provisions of the Rules Governing Retail Access to Competitive Energy Services

JOINT REQUEST OF  
THE VIRGINIA COOPERATIVES

For additional time to comply with the Rules Governing Retail Access to Competitive Energy Services

REQUEST OF  
APPALACHIAN POWER COMPANY D/B/A AMERICAN ELECTRIC POWER

For additional time to comply with the Rules Governing Retail Access to Competitive Energy Services

REQUEST OF  
WASHINGTON GAS LIGHT COMPANY  
and  
THE SHENANDOAH DIVISION OF WASHINGTON GAS LIGHT COMPANY

For clarification or waiver and for additional time to comply with the Rules Governing Retail Access to Competitive Energy Services

REQUEST OF  
VIRGINIA ELECTRIC AND POWER COMPANY

For additional time to comply with the Rules Governing Retail Access to Competitive Energy Services

**ORDER DISMISSING CASES**

On June 19, 2001, the State Corporation Commission ("Commission") entered an order in Case No. PUE-2001-00013 adopting the Rules Governing Retail Access to Competitive Energy Services, 20 VAC 5-312-10 *et seq.* ("Retail Access Rules"), effective August 1, 2001, to be applicable with the implementation of full or phased-in retail access to competitive energy services in the service territory of each local distribution company. Parties needing additional time to comply with certain rules were required to submit requests in writing to the Commission on or before July 9, 2001.

Allegheny Power, Delmarva Power & Light Company, the Virginia Electric Cooperatives,<sup>1</sup> Appalachian Power Company d/b/a American Electric Power, Washington Gas Light Company and the Shenandoah Gas Division of Washington Gas Light Company, and Virginia Electric and Power Company filed requests for clarification, waiver, and/or additional time to comply with the Retail Access Rules by the July 9, 2001, deadline.

On August 28, 2001, the Commission issued an Order addressing the requests of each local distribution company and providing clarification on certain provisions of the Retail Access Rules. The Commission granted some of the requests for waiver and/or additional time for compliance with the Retail Access Rules and denied others. The Commission found several such requests to be unnecessary.<sup>2</sup>

NOW THE COMMISSION, having considered these matters, finds that there is nothing further to be done and that these cases should be closed.

Accordingly, IT IS ORDERED THAT these matters 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.

<sup>1</sup> The Virginia Cooperatives include A&N Electric Cooperative, BARC Electric Cooperative, Central Virginia Electric Cooperative, Community Electric Cooperative, Craig-Botetourt Electric Cooperative, Mecklenburg Electric Cooperative, Northern Neck Cooperative, Inc., Northern Virginia Electric Cooperative, Powell Valley Electric Cooperative, Prince George Electric Cooperative, Rappahannock Electric Cooperative, Shenandoah Valley Electric Cooperative, Southside Electric Cooperative, Inc., and the Virginia, Maryland & Delaware Association of Electric Cooperatives.

<sup>2</sup> Detailed findings are contained in the Commission's August 28, 2001, Order on Requests for Clarification, Waiver and/or Additional Time to Comply with the Rules Governing Retail Access to Competitive Energy Services, 2001 S.C.C. Ann. Rept. 603.

**CASE NO. PUE-2001-00371  
AUGUST 11, 2004**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION

v.  
UTILIQUEST, LLC,  
Defendant

**ORDER GRANTING MOTION, SUSPENDING  
BALANCE OF PENALTY, AND DISMISSING PROCEEDING**

On October 17, 2001, the State Corporation Commission ("Commission") entered an Order of Settlement ("Order") wherein the Commission fined Utiliquest, LLC ("Utiliquest" or the "Company") \$346,000, for various alleged violations of the Underground Utility Damage Prevention Act, Chapter 10.3 (§ 56-265.14 et seq.) of Title 56 of the Code of Virginia. Ordering Paragraph (4) of the Order provided that \$260,000 of the \$346,000 civil penalty would be suspended and vacated in whole or in part, provided that the Company completed the remedial actions set out in the Order in a timely manner. Undertaking Paragraph (2) (c) provided for, among other things, that the Company would hire an outside consultant to perform an independent audit of the Company's subcoded tickets for two years beginning the first of the month following the entry of the Order. Undertaking Paragraph (2) (c) further provided that a report containing the consultant's audit results and recommendation would be filed with the Division of Energy Regulation<sup>1</sup> on the tenth business day of every month.

On April 2, 2002, the Company, by counsel, filed a Motion to Amend Consent Order of Settlement, wherein the Company sought to change the effective dates for its consultant's reports from the period November 15, 2001, through November 15, 2004, to March 15, 2002, through March 15, 2004.

On April 25, 2002, the Commission entered an Amending Order that: (i) granted the Company's request, and (ii) amended the effective dates for the filing of the Company's consultant's reports from the period November 15, 2001, through November 15, 2003, to the period March 15, 2002, through March 15, 2004. The Amending Order also provided that all other provisions of the October 17, 2001 Order of Settlement would remain in effect.

On August 3, 2004, the Company, by counsel, filed a Motion to Suspend Penalty and to Dismiss ("Motion") together with a "Memorandum of Points and Authorities in Support of the Motion to suspend Penalty and to Dismiss" ("Memorandum"). In its Motion, the Company asked that the Commission suspend the penalty imposed by the October 17, 2001, Order of Settlement, and dismiss the proceeding for the reasons set out in the Memorandum. The Memorandum explained that the October 17, 2001 Order of Settlement required reports to be filed by the Company's consultant. The Company noted that all of its audit reports were provided at the next monthly Advisory Committee meetings, but that the audit reports for June 2002, August 2002, October 2002, January 2003, and January 2004, were not technically filed on time in compliance with the directives of the Order, as amended. Utiliquest asserted that it had complied substantially with all the terms of the Order. It represented that the Division of Utility and Railroad Safety did not object to the granting of its Motion.

NOW, UPON CONSIDERATION of the Company's Motion and the record herein, the Commission is of the opinion and finds that the Company's Motion should be granted; that the \$260,000 balance of the \$346,000 civil penalty should be suspended; and that the captioned proceeding should be dismissed from the Commission's docket of active proceedings.

Accordingly, IT IS ORDERED THAT:

- (1) The Company's August 3, 2004 Motion to Suspend Penalty and to Dismiss is hereby granted.
- (2) The \$260,000 balance of the \$346,000 civil penalty imposed by the October 17, 2001, Order of Settlement is hereby suspended.
- (3) This matter is hereby dismissed, and the papers filed herein shall be placed in the Commission's files for ended causes.

<sup>1</sup> Since the Order of Settlement was entered, the Commission created the Division of Utility and Railroad Safety ("Division") out of the Division of Railroad Regulation and a portion of the Division of Energy Regulation, effective July 1, 2002, to assist the Commission with its enforcement duties under the Act. Thereafter, the Division began receiving the consultant's reports.

**CASE NO. PUE-2001-00659  
MARCH 12, 2004**

APPLICATION OF  
CHICKAHOMINY POWER, LLC

For a certificate to construct and operate an electric generating facility in Charles City County

**FINAL ORDER**

On January 4, 2002, Chickahominy Power, LLC ("Chickahominy" or "Company"), filed a completed application with the State Corporation Commission ("Commission") for a certificate of public convenience and necessity pursuant to § 56-580 D of the Code of Virginia ("Code") to construct and

operate a simple-cycle electric generation facility at a site in Charles City County ("Facility").<sup>1</sup> In addition, Chickahominy sought approval to commence grading the site to uniform elevation after it received all necessary local approvals. The Company stated that no construction of permanent structures or any construction-related activities that are integral to any emissions sources would be undertaken without Commission approval.

Chickahominy is a limited liability company that is a wholly owned indirect subsidiary of Dynegy, Inc. ("Dynegy"). The proposed Facility would consist of four combustion turbines with a total nominal rating of approximately 665 MW and associated equipment. The Company proposes to use primarily natural gas as fuel, but the Facility also would be capable of using No. 2 fuel oil.

By Order for Notice and Hearing dated February 7, 2002 ("Order"), the Commission docketed this case, found the application complete, set a date for public hearing, required the Company to provide notice of its application, and assigned this matter to a hearing examiner. The Order also found that the Company could commence site preparation activities at its sole risk in advance of receiving the requested certificate from the Commission. The Order noted that the commencement of those activities would not deter the Commission from establishing conditions, if warranted and supported by the record developed in this case, which might require the abandonment or alteration of any work undertaken in advance of the receipt of a certificate.

The public hearing was convened on May 1, 2002. Thomas B. Nicholson, Esquire, and Joelle K. Ogg, Esquire, appeared as counsel for the Company. Wayne N. Smith, Esquire, appeared as counsel for Staff. Two public witnesses offered testimony at the hearing: (1) Mr. Gilbert Smith, Chairman of the Board of Supervisors of Charles City County; and (2) Mr. Peter Bine, City Manager of the City of Hopewell.

On February 6, 2004, Chief Hearing Examiner Deborah V. Ellenberg entered a Report ("Report") summarizing the record and analyzing the evidence and issues in this proceeding. The Examiner made the following findings:

1. The Facility will have no material adverse effect upon the reliability of electric service provided by any regulated public utility;
2. The Facility advances the goal of electric competition in the Commonwealth;
3. The Facility will have no adverse effect upon the rates paid by customers for electric, natural gas, water, or sewer service from any regulated public utility in the Commonwealth;
4. The Facility will have no material adverse effect on any threatened or endangered plant or animal species, any wetlands, air quality, water resources, or the environment generally;
5. The Facility will have a positive impact on economic development;
6. Construction and operation of the Facility will not be contrary to the public interest;
7. Any certificate issued by the Commission in this case should be conditioned to express Chickahominy's commitment to fund any necessary system upgrades and should require Chickahominy to file the revised Generation Interconnection Evaluation and Facilities Studies conducted by Dominion Virginia Power for this Facility;
8. Any certificate issued by the Commission in this case should include a sunset provision that calls for the certificate to expire if construction has not commenced within two years from the date of issuance; and
9. Any certificate issued by the Commission in this case should require Chickahominy to comply with the following recommendations of the Department of Environmental Quality ("DEQ"):
  - a. In disturbed areas, plant vegetation that makes suitable wildlife habitat;
  - b. Reduce the generation of solid waste, re-use it, or recycle it, in that order of priority, to the maximum extent practicable;
  - c. Consider development of an effective Environmental Management System and follow as many pollution prevention tips as possible;
  - d. Use any pesticides or herbicides in strict accordance with manufacturers' recommendations; and
  - e. Follow the recommendations for forest and tree protection.

No participant in this case filed comments on the Report.

NOW THE COMMISSION, having considered the record, the pleadings, the Hearing Examiner's Report, and the applicable law, is of the opinion and finds that a certificate of public convenience and necessity to construct and operate the Facility shall be granted to Chickahominy.

<sup>1</sup> The Company filed an application, supporting attachments, testimony, and exhibits for the same facility on November 21, 2001, but that application was considered incomplete. The January 4, 2002, completed application included the direct testimony first filed on November 21, 2001, and supplemental direct testimony and exhibits.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

As we have indicated in previous orders,<sup>2</sup> the Code establishes six general areas of analysis applicable to electric generating plant applications: (1) reliability;<sup>3</sup> (2) competition;<sup>4</sup> (3) rates;<sup>5</sup> (4) environment;<sup>6</sup> (5) economic development;<sup>7</sup> and (6) public interest.<sup>8</sup> We have evaluated the Facility according to these six areas.

We find that the Facility will have no material adverse effect upon reliability of electric service provided by any regulated public utility. We further find that the Facility is not otherwise contrary to the public interest in that, among other things, rates for the regulated public utility will not be impacted. In addition, we find that the Facility will provide economic benefits.

Sections 56-580 D and 56-46.1 A of the Code direct us to give consideration to the effect of the proposed Facility "on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact." In this regard, the 2002 General Assembly passed legislation to amend §§ 56-580 D and 56-46.1 of the Code "to avoid duplication of governmental activities." These statutes provide, among other things, that any valid permit or approval regulating environmental impact and mitigation of adverse environmental impact, "whether such permit or approval is granted prior to or after the Commission's decision," shall be deemed to satisfy the requirements of §§ 56-46.1 A and 56-580 D of the Code "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."

Chickahominy agreed to comply with nine environmental recommendations submitted by DEQ in this proceeding. However, as found by the Examiner, DEQ advised that only five of those nine recommendations pertain to matters that are not governed by permits or approvals issued by other governmental entities. Those five recommendations are as follows:

- a. In disturbed areas, plant vegetation that makes suitable wildlife habitat;
- b. Reduce the generation of solid waste, re-use it, or recycle it, in that order of priority, to the maximum extent practicable;
- c. Consider development of an effective Environmental Management System and follow as many pollution prevention tips as possible;
- d. Use any pesticides or herbicides in strict accordance with manufacturers' recommendations; and
- e. Follow the recommendations for forest and tree protection.

We shall require the Company to comply with these five recommendations by DEQ as a condition of the certificate granted herein.

Further, we condition the certificate granted herein upon the Company's receipt of all environmental and other permits necessary to construct and operate the Facility. In addition, the certificate granted herein is conditioned on Chickahominy's commitment to fund any necessary system upgrades and to subsequently file the revised Generation Interconnection Evaluation and Facilities Studies conducted by Dominion Virginia Power for the Facility. Finally, the certificate will expire two years from the date of this Final Order if construction on the Facility has not commenced.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to § 56-580 D of the Code of Virginia, in accordance with the record developed herein, Chickahominy is hereby granted authority and a certificate of public convenience and necessity to construct and operate the Facility as described in this proceeding and this Final Order.

(2) As a condition of the certificate granted herein, Chickahominy shall comply with the following five recommendations made by DEQ in this case: (a) in disturbed areas, plant vegetation that makes suitable wildlife habitat; (b) reduce the generation of solid waste, re-use it, or recycle it, in that order of priority, to the maximum extent practicable; (c) consider development of an effective Environmental Management System and follow as many pollution prevention tips as possible; (d) use any pesticides or herbicides in strict accordance with manufacturers' recommendations; and (e) follow the recommendations for forest and tree protection.

(3) The certificate granted herein shall be conditioned upon the receipt of all environmental and other permits necessary to construct and operate the Facility.

(4) As a condition of the certificate granted herein, Chickahominy shall fund any necessary system upgrades.

<sup>2</sup> See, e.g., Application of Tenaska Virginia II Partners, L.P., For approval of a certificate of public convenience and necessity pursuant to Va. Code Section 56-265.2, an exemption from Chapter 10 of Title 56, and interim approval to make financial commitments and undertake preliminary construction work, Case No. PUE-2001-00429, Final Order at 6 and n.3 (Jan. 9, 2003); Application of Old Dominion Electric Cooperative, For a certificate of public convenience and necessity for electric generation facilities in Louisa County, Case No. PUE-2001-00303, Final Order at 6 and n.1 (July 17, 2002).

<sup>3</sup> Va. Code §§ 56-46.1 A and 56-580 D(i).

<sup>4</sup> Va. Code § 56-596 A.

<sup>5</sup> Va. Code § 56-580 D(ii). See also 20 VAC 5-302-20 14; Commonwealth of Virginia, At the relation of the State Corporation Commission, Ex Parte: In the matter of amending filing requirements for application to construct and operate electric generating facilities, Case Nos. PUE-2001-00313 and PUE-2001-00665, Order Adopting Rules and Prescribing Additional Notice, 2001 S.C.C. Ann. Rep. 585, 586 (Dec. 14, 2001).

<sup>6</sup> Va. Code §§ 56-46.1 A and 56-580 D.

<sup>7</sup> Va. Code §§ 56-46.1 and 56-596 A.

<sup>8</sup> Va. Code § 56-580 D(ii).

(5) As a condition of the certificate granted herein, Chickahominy shall file with the Commission's Division of Energy Regulation the revised Generation Interconnection Evaluation and Facilities Studies conducted by Dominion Virginia Power for the Facility.

(6) The certificate granted herein shall expire in two years from the date of this Final Order, if construction of the Facility has not commenced.

(7) There being nothing further to come before the Commission in this proceeding, this case shall be removed from the docket and the papers transferred to the file for ended causes.

**CASE NO. PUE-2001-00721  
MAY 20, 2004**

APPLICATION OF  
DUKE ENERGY WYTHE, LLC

For permission to construct and operate an electrical generating facility

**ORDER OF DISMISSAL**

On December 27, 2001, Duke Energy Wythe, LLC ("Duke Energy Wythe" or the "Company") applied to the State Corporation Commission ("Commission") for a certificate of public convenience and necessity under Va. Code § 56-265.2; for an exemption from the provisions of Chapter 10 of Title 56 pursuant to Va. Code § 56-265.2.B; and for interim approval to make financial commitments and undertake preliminary construction work pursuant to Va. Code § 56-234.3. Duke Energy Wythe proposed to build a 620 MW natural gas-fired combined-cycle electric generating plant (the "Facility") to commence commercial operation by the end of the second quarter of 2004. On April 3, 2002, Duke Energy Wythe also filed an Application for approval and certification of related electric transmission facilities.<sup>1</sup>

Following local hearings and an evidentiary hearing convened in 2002, Hearing Examiner Michael D. Thomas issued his report ("Report") on January 27, 2003. On February 5, 2003, the Commission issued its Order Suspending Responses to the Report in response to the Company's request. On March 11, 2003, the Commission issued an Order Remanding for Further proceedings.

On May 13, 2004, the Company filed a Motion for Leave to Withdraw Applications ("Motion"). The Company's Motion informs that since the remand, the Hearing Examiner has been advised that construction commenced on the Patriot Extension of the East Tennessee gas pipeline that would supply natural gas as fuel to the proposed Facility and of public hearings in Wytheville in October 2003 by the Department of Environmental Quality on the Company's Application for a Prevention of Significant Deterioration ("PSD") permit. The Company's Motion further informs the Commission that current and anticipated conditions in the electric energy markets have led the Company to conclude that it should not proceed with the project. Accordingly, the Company requests leave to withdraw its Applications filed on December 27, 2001, and April 3, 2002.

On May 14, 2004, the Report of Michael D. Thomas, Hearing Examiner, was filed recommending the Commission enter an order dismissing the Applications.

The Commission is of the opinion that the Motion should be granted and this case dismissed.

Accordingly, IT IS ORDERED THAT:

- (1) The recommendation of the Hearing Examiner to dismiss the pending Applications is hereby accepted and this case is hereby dismissed.
- (2) This matter shall be stricken from the Commission's docket of active cases.

<sup>1</sup> No separate procedural Order was issued with respect to the April 3, 2002, Application, nor was it separately docketed.

**CASE NO. PUE-2002-00066  
FEBRUARY 3, 2004**

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

v.

WALLS CONSTRUCTION COMPANY, INC.,  
Defendant

**FINAL ORDER**

On September 17, 2003, the State Corporation Commission ("Commission") issued a Rule to Show Cause ("Rule") against Walls Construction Company, Inc. ("Defendant"). The Rule alleged that the Defendant had twice violated § 56-265.14 *et seq.* of the Underground Utility Damage Prevention Act ("Act"), Chapter 10.3 of Title 56 of the Code of Virginia and directed the Defendant to file a pleading responsive to the Rule on or before October 22, 2003.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

On October 24, 2003, the Commission issued an Order Scheduling Hearing that assigned the matter to a Hearing Examiner; scheduled an evidentiary hearing for December 18, 2003; and ordered the Defendant to appear at the hearing to show cause why it should not be penalized pursuant to § 56-265.32 A of the Act for the alleged violations of the Act as set forth in the Rule.

The Defendant failed to file an answer or other responsive pleading by the date set forth in the Rule.

On December 18, 2003, the matter was heard by Alexander F. Skirpan, Jr., Hearing Examiner. Counsel appearing at the hearing was Robert M. Gillespie, Esquire, for the Commission Staff. Although the Defendant received notice of the hearing and was properly served, the Defendant failed to appear at the hearing. The prefiled written testimony of Andrew Kvasnicka, Associate Utilities Engineer of the Commission Staff, was marked as an exhibit and admitted into the record. The Division also presented the testimony of Andrew Woolard, Center Manager for UtiliQuest, and Michael J. McDonald and Robert Copeland of Columbia Gas. Counsel for the Staff moved for a default judgment based on the Defendant's failure to respond to the Rule and appear at the hearing. The Hearing Examiner granted this motion for default judgment.

On December 30, 2003, the Hearing Examiner issued his Report. In his Report, the Hearing Examiner found that: (1) proper service was obtained on the Defendant; (2) the Defendant failed to file a response to the Rule and appear at the hearing and is in default; (3) the Division has provided clear and convincing evidence that the Defendant failed to take all reasonable steps to protect the underground utility lines located at or near Adams Drive and Wood Duck Road, Suffolk, Virginia, in violation of § 56-265.24 A of the Code of Virginia and failed to take all reasonable steps to protect the underground utility lines located at 1504 Woods Path, Suffolk, Virginia, in violation of § 56-265.24 A of the Code of Virginia; and (4) the Defendant should be penalized pursuant to § 56-265.32 A of the Code of Virginia in the amount of \$2,500 for each violation of the Act, for a total penalty of \$5,000.

The Hearing Examiner recommended that the Commission enter an Order that adopts the findings of his Report and dismisses the case from the Commission's docket of active proceedings. The Hearing Examiner invited the case participants to file comments to his Report within twenty-one (21) days of the date thereof.

NOW THE COMMISSION, upon consideration of the Rule, the record, the Hearing Examiner's ruling, and the applicable statutes, is of the opinion and finds that there is clear and convincing evidence that the Defendant twice violated § 56-265.24 A of the Act by failing to take all reasonable steps to protect the underground utility lines located at or near Adams Drive and Wood Duck Road, Suffolk, Virginia, on September 11, 2001, and failing to take all reasonable steps to protect the underground utility lines located at 1504 Woods Path, Suffolk, Virginia, on October 5, 2001. The findings and recommendations of the December 30, 2003, Hearing Examiner's Report shall be adopted.

Accordingly, IT IS ORDERED THAT:

- (1) The findings and recommendations of the December 30, 2003, Hearing Examiner's Report are hereby adopted.
- (2) In accordance with the Commission's regulatory duties and powers and pursuant to § 56-265.32 A of the Act, judgment is entered for the Commonwealth and against Walls Construction Company, Inc., and a civil penalty of \$2,500 for each violation shall be imposed on the Defendant for the violations described herein of § 56-265.24 A of the Act, for a total civil penalty of \$5,000.
- (3) The Defendant shall pay the civil penalty to the Commonwealth in the amount of \$2,500 for each violation of the Act, for a total civil penalty of \$5,000, within thirty (30) days of the issuance of this Order. This payment shall be made by cashier's check or money order, payable to the Treasurer of Virginia and directed to the attention of Massoud Tahamtani, Director, Division of Utility and Railroad Safety, Post Office Box 1197, Richmond, Virginia 23218.
- (4) The Defendant is hereby enjoined from any further violations of the Act.
- (5) There being nothing further to be done herein, this matter 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. PUE-2002-00093  
SEPTEMBER 24, 2004**

APPLICATION OF  
APPALACHIAN POWER COMPANY d/b/a AMERICAN ELECTRIC POWER-VIRGINIA

Annual Information Filing - Year 2001

**ORDER CLOSING CASE**

On May 8, 2002, the State Corporation Commission ("Commission") entered an order in the above-captioned proceeding, granting the motion filed by Appalachian Power Company d/b/a American Electric Power-Virginia ("Apco" or "Company"), and permitting the Company to submit its Annual Informational Filing ("AIF") for calendar year 2001 on or before May 31, 2002, rather than on or before April 30, 2002.

On October 28, 2002, the Staff of the Commission ("Staff") filed the report of its investigation into the AIF application. The Staff proposed various adjustments to the Company's filing, which altered somewhat the financial results reported by Apco. Both the Company and the Staff concluded that Apco had earned below its authorized rate of return for calendar year 2001.

On November 7, 2002, the Company filed a response to the Staff report, objecting to certain Staff adjustments, but concluding that it did "not dispute Staff's conclusion that 'there is no need for further action regarding this proceeding.'" Response at 4, citing Staff Report at 9. The Company reserved its right to raise its contentions with Staff's proposed adjustments to its AIF, if necessary, in subsequent proceedings.

NOW THE COMMISSION, having considered the pleadings herein and the applicable statutes and rules, is of the opinion and finds that no further action is required by the Commission in this proceeding, and, accordingly, we order the case DISMISSED from the Commission's docket of active cases. Under the circumstances presented herein, the Commission need not make findings with regard to the Staff adjustments in contention, which may be raised by the Staff and the Company, if necessary and appropriate, in future proceedings.

**CASE NO. PUE-2002-00094  
DECEMBER 15, 2004**

APPLICATION OF  
CAROLINE WATER COMPANY, INC. D/B/A LADYSMITH WATER COMPANY

For a certificate of public convenience and necessity pursuant to § 56-265.3 of the Code of Virginia

**ORDER**

On February 15, 2002, Caroline Water Company, Inc. d/b/a Ladysmith Water Company ("Caroline Water" or "Company") filed an application pursuant to § 13.1-620 G of the Code of Virginia<sup>1</sup> for approval of certain rates and charges with the State Corporation Commission ("Commission"). Specifically, the Company requested a \$15.00 availability charge for all improved and unimproved lots and an additional \$45.00 usage surcharge for customers receiving water service.

On March 4, 2002, the Lake Caroline Property Owners Association, Inc. ("POA") filed a Notice of Participation and Opposition to Imposition of a Rate Increase.

Caroline Water is a Virginia corporation that provides water service to approximately 800 customers, with service available to approximately an additional 900 lots, in the Lake Caroline Resort Development ("Development") located in Caroline County, Virginia. The Company was incorporated prior to January 1, 1970, but was not operating the Lake Caroline water system on that date. Since the Company was not operating the Lake Caroline system on January 1, 1970, the Company must comply with the mandate of § 13.1-620 G of the Code of Virginia and incorporate as a public service company. The Company qualifies as a "public utility" pursuant to § 56-265.1 of the Code of Virginia because it owns or operates facilities within the Commonwealth for the furnishing of water service and has at least 50 customers.<sup>2</sup>

On April 23, 2002, the Commission determined the Company was a public utility pursuant to § 56-265.1, and required it to obtain a certificate of public convenience and necessity to provide water service to the Development pursuant to § 56-265.3 of the Code of Virginia.<sup>3</sup> The Commission converted the initial rate proceeding into a certificate proceeding, and required Caroline Water to incorporate as a public service company, and directed it to file a complete certificate application by July 15, 2002, including its proposed rates, rules, and regulations of service and appropriate financial information based on the calendar year ending December 31, 2001.

On December 23, 2002, after granting the Company several extensions of time to file its certificate application, the Commission extended the filing deadline to April 3, 2003, and permitted the Company to file required financial information based on the calendar year ending December 31, 2002, rather than December 31, 2001.

By Order dated July 30, 2003, the Commission scheduled oral argument on the Company's July 28, 2003, motion seeking an extension of time to file its application for September 3, 2003.<sup>4</sup> Furthermore, in this Order, the Commission appointed a Hearing Examiner to preside over the oral argument and to conduct all further proceedings. Oral argument on the Company's extension motion was heard on September 15, 2003. The Company agreed to file its proposed rates, rules and regulations on or before October 16, 2003.

The Company's submitted application was deemed complete on January 20, 2004. In that application the Company proposed a two-step increase in rates. The first step would include an availability fee of \$17.00 applicable to all lots and a monthly usage surcharge of \$48.00 for customers receiving water service. The second step would become effective six months later and would include an availability fee of \$20.00 per month per lot and a monthly usage rate of \$55.00 for customers receiving water service.<sup>5</sup> On April 12, 2004, the Company revised its application to include an availability fee of \$20.00 per lot per month and a usage surcharge of \$55.00 per month for customers receiving water service.

<sup>1</sup> Section 13.1-620 G of the Code of Virginia states in part: "A water or sewer company that proposes to serve more than fifty customers shall incorporate as a public service company. A water or sewer company shall not serve more than fifty customers unless its articles of incorporation state that the corporation is to conduct business as a public service corporation." This section, among other things, requires water or sewer companies serving more than fifty customers to incorporate as a public service company, but it "grandfathers" companies that were incorporated before and operating as a water or sewer system on January 1, 1970.

<sup>2</sup> Section 56-265.1(b) of the Code of Virginia provides in part: "Public utility means any company which owns or operates facilities within the Commonwealth of Virginia . . . for the furnishing of telephone service, sewerage facilities or water; however "public utility" shall not include any of the following: . . . any company furnishing sewerage services, geothermal resources or water to less than 50 customers."

<sup>3</sup> Section 56-265.3 of the Code of Virginia, provides in part, "No public utility shall begin to furnish public utility service within the Commonwealth without first obtaining from the Commission a certificate of public convenience and necessity authorizing it to furnish such service."

<sup>4</sup> At the Company's request, oral argument on the Company's motion for extension to time to file its application was extended from September 3, 2003, to September 15, 2003.

<sup>5</sup> The proposed two-step rate increase, with second step effective six months after the first, does not conform to statutory requirements.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

A hearing was convened on April 14, 2004 to receive comments from public witnesses. On May 20, 2004, the evidentiary hearing was convened. Kenworth E. Lion, Jr., Esquire, appeared as counsel to Caroline Water. Brian R. Greene, Esquire, appeared as counsel to the POA. Wayne N. Smith, Esquire, appeared as counsel to the Commission Staff.

On June 29, 2004, Caroline Water filed a Notice/Motion to provide notice that the Company would place its proposed rates into effect on August 1, 2004, and requested the Commission to issue an order making the new rates interim subject to refund. On July 9, 2004, POA filed a response in opposition to the Company's Notice/Motion.

By Ruling dated July 19, 2004, the Examiner denied the Company's Notice/Motion, finding that the Company had failed to comply with notice requirements prescribed by law.<sup>6</sup>

On July 1, 2004, post-hearing briefs were filed by the parties.

On August 2, 2004, the Company filed a Renewed Notice/Motion in which it gave notice that it would place its proposed rates into effect on September 1, 2004. Staff and the POA filed responses in opposition to Renewed Notice/Motion and oral argument was held on August 27, 2004.

By Examiner Ruling of September 1, 2004, the Examiner found that the Company's Renewed Notice/Motion should be granted, in part, and notice given to the Company's customers of the imposition of the Company's rates subject to refund.<sup>7</sup> The Examiner further found that the Company's proposed rates should be suspended, pursuant to § 56-238 of the Code of Virginia<sup>8</sup> for a period of 150 days from August 2, 2004, until December 30, 2004. Additionally, the Examiner directed the Company to place all revenue collected in excess of \$34.58 a month from usage customers and all revenues in excess of \$9.97 a month from availability customers in an escrow account to be used for refunds if such refunds are subsequently determined to be necessary by the Commission.

On September 24, 2004, the Hearing Examiner issued his Report. The Hearing Examiner made the following findings and recommendations:

(1) Caroline Water should be granted a certificate of public convenience and necessity to provide water service to the Lake Caroline development located in Caroline County, Virginia;

(2) The use of a test year ending December 31, 2003, is proper for this proceeding;

(3) The Company's test year operating revenues, after all adjustments, is \$266,503;

(4) The Company's test year operating expenses, after all adjustments, is \$328,709;

(5) The Company's test year net income, after all adjustments, is (\$118,586);

(6) The Company's rate base, after all adjustments, is \$123,554;

(7) Staff's accounting adjustments are just and reasonable and should be adopted;

(8) The Company requires additional revenues of \$158,739;

(9) The rates proposed by the Company are not just and reasonable and should not be adopted;

(10) The Company's rates should be set at \$34.58 for residential usage customers and at \$9.97 for availability customers;

(11) The availability fee should apply only to unimproved residential lots which do not receive water service; but for which the service runs adjacent to, or in front of, the property and is available upon request;

(12) The rates recommended above will afford the Company net income of \$30,073, which is sufficient to maintain and reinvest in the system;

(13) The Company's proposed water sprinkler restriction is not reasonable and should be rejected;

(14) The Company's proposed tariff language regarding off-system sales is not appropriate at this time and should be rejected;

<sup>6</sup> The Company failed to state an effective date for its proposed rates either in its application deemed complete on January 20, 2004, or its revised filing of April 12, 2004. Therefore, the Company did not provide notice to the public of its intention to implement its proposed rates on a specific date as required by § 56-240 of the Code of Virginia. Section 56-240 provides, in relevant part, "[u]nless the Commission so suspends such schedule of rates... the same shall go into effect as originally filed by the public utility . . . , upon the date specified in the schedule. . . ."

<sup>7</sup> Notice of the Company's proposed rates to customers was required to be made by billing inserts included in customers' bills for October 2004.

<sup>8</sup> Section 56-238 reads in relevant part: "The Commission . . . may suspend the enforcement of any proposed rates . . . for a period not exceeding 150 days from the date of the filing. . . ."



(15) Staff's recommendations are reasonable and necessary and should be adopted;<sup>9</sup> and

(16) The Company with assistance from Staff should perform a cost/benefit analysis pertaining to the installation of meters and should include the data necessary for the Commission to decide this issue in the Company's next rate case.

The Examiner recommended that the Commission enter an order adopting the findings in the Report; granting Caroline Water a certificate of public convenience and necessity; and approving the rates and tariffs found reasonable therein.

On October 15, 2004, the POA filed comments to the Report of the Hearing Examiner. Therein, the POA requested that the Commission adopt the Examiner's recommendations pertaining to the Company's rates, tariffs, and metering.

On October 15, 2004, Caroline Water filed exceptions to the Report of the Hearing Examiner. Those exceptions are as follows:

(1) Sprinkler Prohibition

Caroline Water took exception to the Examiner's recommendation that the sprinkler prohibition contained in Rule 12(b)(4) of the Company's Rates, Rules and Regulation be eliminated. This Rule provides:

Water service may be discontinued by the Company after ten (10) days written notice for any of the following reasons: For use of prohibited water sprinkler installation and/or mobile sprinklers for lawn soaking. During high demand months of June, July, August, and September, only hand held hose watering is permitted to use the company's potable water supply.

(2) Bad Debt Expense

The Company took exception to the Hearing Examiner's adoption of the bad debt expense recommended by the Staff. According to the Company, the recommendation it is based upon an incorrect interpretation and application of the precedent set by the Commission in Application of Po River Water and Sewer Company ("*Po River*").<sup>10</sup>

(3) Test Year Interest Expense

The Company takes exception to the amount of interest expense allowed by the Examiner. The Examiner allowed the test year interest expense incurred by the utility for the loan from Barclays Bank PLC. He did not, however, allow for the test year interest expense for: (a) loans from William and Vivian Seltzer ("*Seltzers*") to the utility totaling \$500,065, (b) loans from American Utilities<sup>11</sup> totaling 201,740, or (c) a line of credit from Utility Funding Organization ("*UFO*") with a balance owed equal to \$90,000.

(4) Affiliate Expense

The Company takes exception to the amount of the affiliate expense allowed by the Examiner. The Examiner recommended an annual management fee of \$10,500. American Utilities bills the Company \$8,000 per month for managing Caroline Water.<sup>12</sup>

(5) Revenue Sufficiency

The Company takes exception to the amount of the proposed revenue recommended by the Examiner. The Company proposed an availability fee of \$20 per lot per month and a residential usage fee of \$55 per lot per month. The Company contends, among other things, that it cannot make capital improvements and address increased operating costs unless it is granted the increase necessary to generate sufficient revenue to allow refinancing of existing short-term debt and acquisition of additional financing for capital improvements.

On December 13, 2004, the POA by counsel filed a Motion of The Lake Caroline Property Owners Association to Delay the December 30, 2004, Effective Date to Implement Rates Subject to Refund ("*Motion*"). The Motion moves the Commission for an order delaying the Company's December 30, 2004, effective date for implementing its proposed rates subject to refund for the failure of the Company to provide notice of its proposed rates as directed by Hearing Examiner's Ruling of September 1, 2004.<sup>13</sup>

<sup>9</sup> Staff made the following recommendations: (i) American Utilities should provide detailed supporting documentation for work performed on Caroline Water's behalf; (ii) Company employees should keep mileage logs for automotive reimbursement; (iii) the Company should use a 3% composite depreciation rate; (iv) the Company should calculate CIAC and record accumulated CIAC amortization on its books at a 3% composite rate; (v) the Company should restate plant, accumulated depreciation, CIAC and accumulated CIAC as of December 31, 2003, to levels found appropriate in this Report; (vi) the Company should adopt the Uniform Systems of Accounts ("*USOA*") for Class C Water Utilities as established by the National Association of Regulatory Utility Commissioners; (vii) the Company carry on its books only the debt found reasonable by the Commission in this proceeding; (viii) a connection charge based on actual costs; (ix) a customer deposit equal to the customer's estimated liability for two months' usage; (x) a late payment charge of 1.5% per month on all past due balances; (xi) a bad check charge of \$25.00; (xii) a turn-on charge of \$25.00 to restore water service that has been discontinued for non-payment of a water bill or a violation of its rules and regulations of service; and (xiii) a \$25.00 charge when service is discontinued at the request of the customer.

<sup>10</sup> *Application of Power River Water & Sewer Company*, Case No. PUE-1995-00091, 1998 S.C.C. Ann. Rept. 316.

<sup>11</sup> American Utilities provides management and administrative services to the Company. William Seltzer, the president of Caroline Water, is also the president of American Utilities.

<sup>12</sup> The fee covers the provisions of administrative work (i.e., filing, telephone, etc.), reviewing invoices, preparing checks and cash disbursements, following up on customer complaints, preparing and releasing liens, preparing agency filing requirements, coordinating funds for requirements, and customer billing.

<sup>13</sup> Since the Commission establishes the Company's new rates by this Order, we deem the relief requested in the Motion as moot.

NOW THE COMMISSION, having considered the Company's application, the Staff Report, the post hearing briefs, the Report of the Hearing Examiner, the exceptions to the Report, the record, and the applicable law, is of the opinion and finds as indicated below.

With respect to the Company's exception relative to the sprinkler prohibition, the Examiner found that the restriction was imposed during the period of extreme drought, and those conditions have passed. He further rationalized that the Company's tariff provides it ample authority to curtail water use when necessary.<sup>14</sup> The Commission adopts this finding.

With respect to the Company's exception relative to the bad debt expense, the Examiner adopted Staff's reduction in the Company's number of availability customers and the corresponding calculation of uncollectible expense by allowing the Company one-half of the uncollectible amounts (50%) as applied in *Po River*.

The Company focuses on percentages rather than the underlying theory of the uncollectible expenses calculation. In both *Po River* and this case a reasonable number of billable availability customers was determined as well as the number of paying availability customers to determine total uncollectible expense. As in *Po River*, we find the burden of this expense should be shared equally between the Company and paying customers. We adopt the Examiner's finding on this issue.

With respect to the Company's exception relative to test year interest expense, Staff was able to verify only a loan from Barclays Bank in the amount of approximately \$1 million dollars. Staff could not reconcile the documentation provided in support of the notes due the Seltzers. Therefore, Staff removed \$62,034 of test year interest expense which had been rolled into the loan principal. Also, Staff contends that the loans from American Utilities and the Seltzers do not correlate to the Company's balance sheet. Because Staff is unclear as to the correct amount of the Company's debt, Staff recommends that the Company be allowed to carry only the amount of debt the Commission finds reasonable and that the remaining debt be written off the Company books. Accordingly, Staff included the interest expense from only the Barclays Bank loan in determining the Company's cost of service. The Examiner found this adjustment to be reasonable.

The Commission concurs with the Examiner's findings regarding these specific loans but will also provide for interest expense necessary for the funding of certain plant improvements. The Commission believes the Company's interest expense should be increased \$42,697. This provides for an annual level of \$99,078 of interest expense at 6.8% on a total loan of \$1,457,034. This total loan amount includes the Barclay Bank note of \$1,012,034 and an additional amount \$445,000 to fund plant renovations discussed in more detail below. It excludes interest expense on the loans from American Utilities and the Seltzers.

With respect to the Company's exception relative to affiliate expense, Caroline Water provided no evidence relating to the nature of the services provided by American Utilities. Since there is insufficient documentation to support the Company's request for \$96,000 in affiliate expense per year, Staff calculated the affiliate expense adjustment by taking the affiliate expense allowed in the Company's last rate case and adjusting it for inflation (3% on an annual basis) to arrive at a level of \$875 a month or \$10,500 on an annual basis.

The Examiner found that Staff's adjustment to the management fee charged by American Utilities is reasonable and should be adopted. He further found that the Company should maintain sufficient records to support its future affiliate or management expenses. The Commission adopts these findings of the Examiner.

With respect the Company's exception relative to revenue sufficiency, the Examiner found that the Company has been operating at a loss and should be granted an increase. Staff proposed that annual revenues be increased by approximately of \$158,739. The Examiner supported Staff's proposed revenue increase and recommended that the Company's rates should be set at \$34.58 for residential usage customers and \$9.97 for availability customers.

The Commission concurs with the Examiner that the Company has been operating at a loss and should be granted an increase in revenues for operating the water system. However, the Commission believes that the rates proposed by the Examiner should be increased to address certain capital improvements. According to the Company, in order to comply with Environmental Protection Agency ("EPA") and Virginia Department of Health ("VDH") guidelines, there is a need by the Company to make certain improvements to its operating system. Staff did not include any amounts in the Company's rate base for future plant additions because of the Company's statement that the improvements would be funded through loans when its operating position improves.<sup>15</sup> These additional requirements include constructing a larger clearwell for \$289,000, a laboratory update at \$41,000, a backwash pump for \$32,000 and an additional clarifier for the filters for \$83,000.<sup>16</sup> Accordingly, the total increase to the rate base is \$445,000, which provides for itemized plant improvements that the Company states are being required by the EPA and the VDH. This amount excludes the additional amount of \$271,000 which the Company claimed it needs for other unspecified plant improvements.

Additionally, the Commission finds that the Company's depreciation expense should be increased \$6,675. This is the first year's depreciation, based on a half-year convention and a 3% composite rate.

Additionally, the Commission finds as follows:

1. The Company should be granted a certificate of public convenience and necessity to provide water service to the Lake Caroline development located in Caroline County, Virginia;
2. The Company's test year ending December 31, 2003, is proper for this proceeding;

<sup>14</sup> Rule 17(a) reads in part: "The Company may, at any time, shut off the water . . . for the purpose of making connections . . . or for other reasons, and may restrict the use of water to reserve a sufficient supply for public fire service or other emergencies whenever the public welfare may require it."

<sup>15</sup> Report of Hearing Examiner at 11; Company's Ex 5, at 19, 20.

<sup>16</sup> Report of Hearing Examiner at 11.

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3. The Company's test year operating revenues, after all adjustments, are \$226,503;
4. The Company's test year operating expenses, after all adjustments, are \$335,384;
5. The Company's test year net income, after all adjustments, is \$(167,958);
6. The Company's rate base, after all adjustments, is \$568,554;
7. Staff's accounting adjustments are just and reasonable and are adopted, except as modified herein;
8. The Company requires additional revenues of \$211,381;
9. The rates proposed by the Company are not just and reasonable and should not be adopted;
10. The Company's rates should be set at \$38.07 for residential usage customers and \$12.07 for availability customers;
11. The availability fee should apply only to unimproved residential lots which do not receive water service, but for which service runs adjacent to, or in front of, the property and is available upon request;
12. The rates recommended above will afford the Company funds sufficient to pay the expenses found reasonable herein, and provide net income of \$30,000, which is sufficient to maintain and reinvest in the system;
13. The Company's proposed water sprinkler restriction is not reasonable and is rejected;
14. The Company's proposed tariff language regarding off-system sales is not appropriate at this time and is rejected;<sup>17</sup>
15. Staff's recommendations, as set forth above, are reasonable and necessary and are adopted except as modified herein; and
16. The Company, with the assistance from Staff, shall perform a cost/benefit analysis pertaining to the installation of meters and should include the data necessary for the Commission to decide this issue in the Company's next rate case.

Accordingly, IT IS ORDERED THAT:

- (1) Caroline Water Company d/b/a Ladysmith Water Company is hereby granted Certificate No. W-314 to provide water service to the Lake Caroline Resort Development in Caroline County, Virginia.
- (2) The findings and recommendations of the Hearing Examiner are adopted, except as modified herein.
- (3) The Company is authorized to charge \$38.07 per month for residential usage customers and \$12.07 per month for availability customers effective for service rendered on and after December 30, 2004.
- (4) On or before February 15, 2005, the Company shall file with the Commission's Division of Energy Regulation a revised tariff incorporating the changes in its rules and regulations of service as adopted herein.
- (5) The Company shall implement the Staff recommendations as adopted herein.
- (6) On or before April 15, 2005, the Company shall file with the Commission's Divisions of Public Utility Accounting and Energy Regulation engineering reports and cost analyses to support the level of expenditures to implement plant improvements adopted herein.
- (7) The Company shall file quarterly reports, beginning April 15, 2005, with the Commission's Divisions of Energy Regulation and Public Utility Accounting detailing work undertaken on the plant improvement projects until relieved of this reporting requirement by the Directors of such Divisions.
- (8) The Company shall immediately begin the process of obtaining financing and contracting for the construction projects provided for in this order.
- (9) Interest expense on the loans from American Utilities and the Seltzer's shall be disallowed, and not recorded on the books of the utility, until such time as the Company can substantiate the need for such loans. Substantiation shall consist of, at a minimum, cash flow statements for each year that the loans were needed and evidence to show clearly how the funds were used.
- (10) The increase in revenues approved by the Commission to implement specified plant improvements adopted herein shall be used exclusively for that purpose.
- (11) Caroline Water's non-compliance with any of the provisions of this order may subject the Company, without limitation, to the full regulatory enforcement jurisdiction of this Commission as authorized by the Code of Virginia.
- (12) This case is dismissed and the papers herein are placed in the filed for ended causes.

<sup>17</sup> The Company's current and proposed tariff provides for the sale of water to off-system and wholesale customers.

**CASE NO. PUE-2002-00098  
JUNE 29, 2004**

APPLICATION OF  
MORRIS ENTERPRISES, LLC

To abandon service pursuant to § 56-265.1(b)(1)

**FINAL ORDER**

On March 5, 2002, Morris Enterprises, LLC ("Company") filed a memorandum ("Application") with the Clerk of the State Corporation Commission ("Commission") requesting authority to abandon water utility service provided to the Drysdale subdivision of Fauquier County.

On March 15, 2002, the Commission issued an Order Inviting Written Comments and Requests for Hearing. Pursuant to an Order issued May 1, 2002, the Staff of the Commission filed a Staff Report on May 13, 2002. The Staff reported, among other matters, a meeting Staff conducted with the Virginia Department of Health, Division of Drinking Water ("DDW"), and eight of the Company's twenty-six (26) customers on February 28, 2002, in which the customers considered, among several options, the transfer of the Company's water system to David Travers.

Mr. Travers later met with the customers to present cost proposals for improvements necessary to provide water utility service meeting DDW requirements. On March 23, 2002, the Company's customers voted to have Mr. Travers' company provide water service to the Drysdale subdivision after the customers took transfer of the water system. However, the customers did not take transfer of the water system.

On June 11, 2003, David Travers filed an Application of Skyline Water Co., Inc. ("Skyline"), in Case No. PUE-2003-00274, which requested, among other things, a certificate of public convenience and necessity for the provision of water service to the Drysdale subdivision and for approval of rates and charges to serve the Company's customers.<sup>1</sup> Pursuant to the Commission's Final Order issued June 21, 2004, in Case No. PUE-2003-00274, the Commission found it to be in the public interest that the Drysdale system in Fauquier County be certificated to Skyline and that the current customers be served by Skyline under rates and charges approved by the Final Order. The certificate of public convenience and necessity was granted accordingly.

Based upon the Commission's Final Order issued in Case No. PUE-2003-00274 on June 21, 2004, we find the above-captioned Application is moot and should be dismissed.

Accordingly, IT IS ORDERED THAT this case is hereby dismissed.

<sup>1</sup> No transfer of a certificate was needed, as no outstanding certificate was issued to the Company to serve these customers.

**CASE NO. PUE-2002-00150  
MARCH 12, 2004**

APPLICATION OF  
JAMES CITY ENERGY PARK, LLC

For authority to construct and operate an electric generating facility pursuant to Va. Code § 56-580 D

**FINAL ORDER**

On March 8, 2002, James City Energy Park, LLC ("JCEP" or "Company") filed an application with supporting testimony and exhibits requesting that the State Corporation Commission ("Commission") grant JCEP a certificate of public convenience and necessity for the authority to construct and operate a combined-cycle electric generating facility ("Facility") pursuant to § 56-580 D of the Code of Virginia ("Code"). The Facility will be located on an undeveloped tract of approximately 53 acres in the GreenMount Industrial Park in James City County.

The proposed Facility will consist of two combustion turbines, two heat recovery steam generators, and one steam turbine. The Facility will have a nameplate capacity of 580 MW and its primary fuel will be natural gas. The Company also seeks permission to burn low-sulfur fuel oil for a maximum of 720 hours per year as a back-up fuel source. The Company states that the Facility will be capable of operating as a base load generator, although the actual dispatch of the Facility will depend on market demand, among other factors.

By Order for Notice and Hearing dated April 23, 2002 ("Order"), the Commission docketed this case, set a date for public hearing, required the Company to provide notice of its application, established a procedural schedule for the filing of testimony and exhibits, and assigned this matter to a hearing examiner.

The public hearing was convened on September 18, 2002. Kevin J. Finto, Esquire, John M. Holloway, III, Esquire, and Angela L. Jenkins, Esquire, appeared on behalf of JCEP. Arlen K. Bolstad, Esquire, and Rebecca W. Hartz, Esquire, appeared as counsel for the Commission's Staff. One public witness offered testimony at the hearing; Mr. William Porter, Assistant County Administrator of James City County, testified in favor of the proposed Facility.

On February 12, 2004, Chief Hearing Examiner Deborah V. Ellenberg entered a Report ("Report") summarizing the record and analyzing the evidence and issues in this proceeding. The Examiner made the following findings:

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1. The Facility will have no adverse impact on the reliability of electric service provided by any regulated public utility;
2. The Facility advances the goal of electric competition in the Commonwealth;
3. The Facility should have no adverse effect upon the rates paid by customers for electric, natural gas, water, or sewer service from any regulated public utility in the Commonwealth;
4. The Facility will have no material adverse effect on any threatened or endangered plant or animal species, any wetlands, air quality, water resources, or the environment generally;
5. The Facility will have a positive impact on economic development;
6. Construction and operation of the Facility will not be contrary to the public interest;
7. Any certificate issued by the Commission in this case should be conditioned to require JCEP to file revised Generation Interconnection Evaluation and Facilities Studies conducted by Dominion Virginia Power for this Facility, if any are required by Dominion Virginia Power;
8. Any certificate issued by the Commission in this case should require JCEP to provide the Division of Energy Regulation with its finalized natural gas supply arrangements;
9. Any certificate issued by the Commission in this case should include a sunset provision that calls for the certificate to expire if construction has not commenced within two years from the date of issuance;
10. The Project will have no material adverse effect on competition, however, JCEP should be required to report any changes in its business plan, particularly as they relate to changes in equity ownership interests or the purchase of all or part of the capacity or output of the Facility, to the Division of Economics and Finance so that the Commission can stay informed of ownership and market changes; and
11. Any certificate issued by the Commission in this case should require JCEP to comply with the following recommendations in the report submitted in this case by the Department of Environmental Quality ("DEQ"):
  - a. Employ precautionary measures to reduce ground-level ozone concentrations, especially during ozone alert days. (This can be done by minimizing the generation of ozone precursors such as volatile organic compounds and NO<sub>x</sub> during operation of construction equipment and vehicles);
  - b. Follow the principles and practices of pollution prevention to the maximum extent practicable;
  - c. Follow the Department of Game and Inland Fisheries' recommendations for any in-stream work;
  - d. Reduce solid waste at the source, re-use it and recycle it to the maximum extent possible; and
  - e. Protect any mature, individual trees that remain on the project site through the practices and precautions stated in the Environmental Impacts and Mitigation section of the DEQ's report in this case.

No participant in this case filed comments on the Report.

NOW THE COMMISSION, having considered the record, the pleadings, the Hearing Examiner's Report, and the applicable law, is of the opinion and finds that a certificate of public convenience and necessity to construct and operate the Facility shall be granted to JCEP.

As we have indicated in previous orders,<sup>1</sup> the Code establishes six general areas of analysis applicable to electric generating plant applications: (1) reliability;<sup>2</sup> (2) competition;<sup>3</sup> (3) rates;<sup>4</sup> (4) environment;<sup>5</sup> (5) economic development;<sup>6</sup> and (6) public interest.<sup>7</sup> We have evaluated the Facility according to these six areas.

<sup>1</sup> See, e.g., Application of Tenaska Virginia II Partners, L.P., For approval of a certificate of public convenience and necessity pursuant to Va. Code Section 56-265.2, an exemption from Chapter 10 of Title 56, and interim approval to make financial commitments and undertake preliminary construction work, Case No. PUE-2001-00429, Final Order at 6 and n. 3 (Jan. 9, 2003); Application of Old Dominion Electric Cooperative, For a certificate of public convenience and necessity for electric generation facilities in Louisa County, Case No. PUE-2001-00303, Final Order at 6 and n.1 (July 17, 2002).

<sup>2</sup> Va. Code §§ 56-46.1 A and 56-580 D(i).

<sup>3</sup> Va. Code § 56-596 A.

<sup>4</sup> Va. Code § 56-580 D(ii). See also 20 VAC 5-302-20 14; Commonwealth of Virginia, At the relation of the State Corporation Commission, Ex Parte: In the matter of amending filing requirements for application to construct and operate electric generating facilities, Case Nos. PUE-2001-00313 and PUE-2001-00665, Order Adopting Rules and Prescribing Additional Notice, 2001 S.C.C. Ann. Rep. 585, 586 (Dec. 14, 2001).

<sup>5</sup> Va. Code §§ 56-46.1 A and 56-580 D.

<sup>6</sup> Va. Code §§ 56-46.1 and 56-596 A.

<sup>7</sup> Va. Code § 56-580 D(ii).

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We find that the Facility will have no material adverse effect upon reliability of electric service provided by any regulated public utility. We further find that the Facility is not otherwise contrary to the public interest in that, among other things, rates for the regulated public utility will not be impacted. In addition, we find that the Facility will provide economic benefits.

Sections 56-580 D and 56-46.1 A of the Code direct us to give consideration to the effect of the proposed Facility "on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact." In this regard, the 2002 General Assembly passed legislation to amend §§ 56-580 D and 56-46.1 of the Code "to avoid duplication of governmental activities." These statutes provide, among other things, that any valid permit or approval regulating environmental impact and mitigation of adverse environmental impact, "whether such permit or approval is granted prior to or after the Commission's decision," shall be deemed to satisfy the requirements of §§ 56-46.1 A and 56-580 D of the Code "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."

As found by the Examiner, DEQ submitted in this proceeding five environmental recommendations pertaining to matters that are not governed by permits or approvals issued by other governmental entities. Those five recommendations are as follows:

- a. Employ precautionary measures to reduce ground-level ozone concentrations, especially during ozone alert days;
- b. Follow the principles and practices of pollution prevention to the maximum extent practicable;
- c. Follow the Department of Game and Inland Fisheries' recommendations for any in-stream work;
- d. Reduce solid waste at the source, re-use it and recycle it to the maximum extent possible; and
- e. Protect any mature, individual trees that remain on the project site through the practices and precautions stated in the Environmental Impacts and Mitigation section of the DEQ's report in this case.

JCEP agreed to incorporate these recommendations into its construction and operation plans. We shall require the Company to comply with these five recommendations as a condition of the certificate granted herein.

Further, we condition the certificate granted herein upon the Company's receipt of all environmental and other permits necessary to construct and operate the Facility. The certificate granted herein also is conditioned on JCEP's commitment to fund any necessary system upgrades, and JCEP shall subsequently file the revised Generation Interconnection Evaluation and Facilities Studies conducted by Dominion Virginia Power for the Facility, if any are required by Dominion Virginia Power. In addition, the certificate granted herein is conditioned on JCEP's commitment to report any changes in its business plan, including changes in equity ownership, to the Commission's Division of Economics and Finance. JCEP also shall provide the Commission's Division of Energy Regulation with the Company's finalized natural gas supply arrangements. Finally, the certificate will expire two years from the date of this Final Order if construction on the Facility has not commenced.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to § 56-580 D of the Code of Virginia, in accordance with the record developed herein, JCEP is hereby granted authority and a certificate of public convenience and necessity to construct and operate the Facility as described in this proceeding and this Final Order.
- (2) As a condition of the certificate granted herein, JCEP shall comply with the following five recommendations made by DEQ in this case: (a) employ precautionary measures to reduce ground-level ozone concentrations, especially during ozone alert days; (b) follow the principles and practices of pollution prevention to the maximum extent practicable; (c) follow the Department of Game and Inland Fisheries' recommendations for any in-stream work; (d) reduce solid waste at the source, re-use it and recycle it to the maximum extent possible; and (e) protect any mature, individual trees that remain on the project site through the practices and precautions stated in the Environmental Impacts and Mitigation section of the DEQ's report in this case.
- (3) The certificate granted herein shall be conditioned upon the receipt of all environmental and other permits necessary to construct and operate the Facility.
- (4) As a condition of the certificate granted herein, JCEP shall fund any necessary system upgrades.
- (5) As a condition of the certificate granted herein, JCEP shall provide the Commission's Division of Energy Regulation with the revised Generation Interconnection Evaluation and Facilities Studies conducted by Dominion Virginia Power for the Facility, if any are required by Dominion Virginia Power.
- (6) As a condition of the certificate granted herein, JCEP shall report any changes in its business plan, including changes in equity ownership, to the Commission's Division of Economics and Finance.
- (7) As a condition of the certificate granted herein, JCEP shall provide the Commission's Division of Energy Regulation with the Company's finalized natural gas supply arrangements.
- (8) The certificate granted herein shall expire in two years from the date of this Final Order, if construction of the Facility has not commenced.
- (9) There being nothing further to come before the Commission in this proceeding, this case shall be removed from the docket and the papers transferred to the file for ended causes.

**CASE NO. PUE-2002-00174  
AUGUST 25, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte: In the matter concerning the aggregation of retail electric customers under the provisions of the Virginia Electric Utility Restructuring Act

**DISMISSAL ORDER**

By Order dated March 18, 2002, the State Corporation Commission ("Commission") established an investigation for the purpose of developing and refining policies, rules, and regulations for the provision of aggregation service. Three areas of inquiry were identified: (i) licensing of aggregators, (ii) contractual relationships between aggregators and their customers (and also as between aggregators and suppliers or other aggregators), and (iii) the impact of incumbent electric utilities' relationships with their aggregator affiliates on the development of effective competition within the Commonwealth.

An August 1, 2002, report prepared by the Staff of this Commission ("Staff") in connection with this investigation recommended revising the Commission's retail access rules to ensure that the Commission would have information with regard to agency agreements between aggregators and competitive service providers ("CSPs") and persons marketing on their behalf. Specifically, the Staff's August 2002 report recommended that 20 VAC 5-312-20 D be amended to require licensed CSPs and aggregators to maintain information on their books and records identifying persons or entities with whom they have marketing relationships. The Commission issued a September 20, 2002, Order inviting comment on the Staff's August 2002 report.

Subsequently, on November 1, 2002, the Commission issued a further Order ("November 1, 2002, Order") in which the retail access rules as proposed to be amended by Staff were directed to be published in the Virginia Register and made available for further and formal comments. In that Order, the Commission also commented on the issue of aggregation activities by affiliates of incumbent electric utilities and the impact this may have on the development of competition within the incumbents' service territories. The Commission noted that Dominion Retail, Virginia Power, and AEP advanced the view (in their comments on the Staff's August 2002 report) that the codes of conduct in the retail access rules sufficiently govern the marketing practices of aggregators affiliated with incumbents.

The Commission also noted in its November 1, 2002, Order that Energy Consultants, Inc., suggested in its comments on the Staff's August 2002 report that aggregators affiliated with incumbents have an unfair advantage (relative to aggregators not so affiliated) because of "the market power of branding," i.e. that an incumbent's affiliate effectively projects the strengths, reliability and infrastructure of the incumbent. Energy Consultants recommended that this situation be monitored carefully. In our November 1, 2002, Order, we agreed that this issue deserved more study. Accordingly, we directed the Staff to study the issue and to file a report concerning it on or before July 1, 2004. The Order also directed the Staff to file an additional report assessing the impact of aggregation contract provisions (particularly exit fees) on the development of competitive retail markets in the Commonwealth.

Subsequently, on April 9, 2003, the Commission entered an Order adopting Staff's proposed amendments to the retail access rules. Thus, 20 VAC 5-312-20 D is now amended to require licensed CSPs and aggregators to maintain information on their books and records identifying persons or entities with whom they have marketing relationships. Additionally, our April 9, 2003, Order reiterated that this docket would remain open for purposes of receiving the Staff's report (concerning the two issues discussed above) due on or before July 1, 2004.

On June 28, 2004, the Staff filed the report ("June Staff Report" or "Report") we had requested. According to the Report, although some retail natural gas and electricity customers have switched from their incumbent provider to a competitive service provider, to the best of Staff's knowledge, no aggregator has ever been responsible for such a switch.

The Report, also states that to the best of Staff's knowledge, no retail customer has even signed a contract with an aggregator in Virginia. Thus, it does not appear that the licensed aggregators have been active in Virginia. Based on this lack of activity, the Staff states that it is not possible at this time to fully address the two points of inquiry directed by the Commission, i.e., whether aggregators affiliated with incumbent utilities have an unfair advantage because of their affiliated relationships; and whether any terms and conditions contained in any aggregator's contract utilized in Virginia work to the detriment of Virginia's market for competitive retail supply.

However, the Staff goes on to state that aggregation activity in Virginia may increase in conjunction with the operation of Virginia Power's retail access pilot programs recently approved by the Commission. Moreover, the Staff states in its report that it has recently received several applications from entities seeking to be licensed as aggregators, and that calls from a number of other potential aggregators have been recently received as well. Therefore, the Staff recommended in its Report that the Commission extend the date for the Staff's report on these two issues until July 1, 2006. The Staff believes that this may allow sufficient time for aggregation activity to develop on the electric side of the energy markets.

NOW THE COMMISSION, upon consideration of the various other retail access dockets pending before the Commission, and having reviewed and taken into account the Staff's June 28, 2004, Report, is of the opinion and finds that this investigation should be concluded. We agree with the Staff that Virginia Power's newest pilot programs combined with the recent upswing in aggregator licensing activity reported by the Staff, may yield information helpful to a full assessment of aggregation's impact on the development of a competitive retail generation market in this Commonwealth. Nevertheless, we believe that this matter should be concluded and this case dismissed from our docket of active cases. If, in the future, the Staff or any interested party believes that aggregators affiliated with incumbent utilities or the terms of aggregation contracts are working to the detriment of the development of an effectively competitive market in Virginia, the Staff or such party may, at that time, petition the Commission to initiate an investigation.

Accordingly, IT IS ORDERED THAT:

(1) There being nothing further to come before the Commission in this proceeding, this case shall be removed from the docket herein and the papers transferred to the file for ended causes.

**CASE NO. PUE-2002-00237  
SEPTEMBER 17, 2004**

APPLICATION OF  
VIRGINIA NATURAL GAS, INC.

For extension of its Weather Normalization Adjustment Rider

**ORDER APPROVING EXTENSION OF EXPERIMENT**

On June 4, 2004, Virginia Natural Gas, Inc. ("VNG" or the "Company"), filed with the State Corporation Commission ("Commission") an application to extend the experiment of the Weather Normalization Adjustment ("WNA") Rider to the Company's tariff until July 1, 2007. As required by the Commission's September 27, 2002, Order Approving Experiment, VNG included a fully adjusted cost of service study and the schedules for a general rate case with its application.

The Commission approved the current WNA Rider applicable to the Company's Residential and General Service firm gas sales customers in the September 27, 2002, Order Approving Experiment as a two-year experiment pursuant to § 56-234 of the Code of Virginia ("Code"). Therefore, the current experiment expires on September 27, 2004.

The application states that the results of the WNA experiment show a high degree of correlation between the weather and volatility of customers' bills and that the WNA mitigates volatility of customer bills and cash flows to VNG. The formula currently used to calculate the WNA is the product of the non-gas rate, the number of customers in the cycle, the use per customer per degree day ("UCD"), and the difference in the normal and actual heating degree days ("HDDs") by cycle divided by the volumes of gas sold during such cycle. The non-gas rate and UCD are constant, while the other components vary by cycle by month. There are 21 billing cycles resulting in 126 WNA calculations per heating season.

VNG indicates that modifications in the calculation of the WNA could improve its accuracy and perhaps further reduce volatility. The Company proposes to account for any differences in usage patterns among the billing cycles and months of the heating season by developing unique UCDs for each cycle by month. Previously, the 126 WNA factors were calculated using one UCD value for the class as a whole. As proposed in the application, the factors would be calculated using 126 cycle-specific and month-specific UCDs. VNG contends that extending and modifying the experiment would provide the Company and the Commission with an opportunity to better judge the results and improve upon the ability to correlate WNA adjustments and the weather.

On June 18, 2004, the Commission issued an Order Prescribing Notice and Inviting Comments and/or Requests for Hearing. The Commission directed that notice of the Company's application be given to the public and that interested persons be given an opportunity to file comments and to request a hearing on the proposal and to participate as a party in the proceeding as a respondent. The Commission also directed the Staff to investigate the application and to file a report. Further, the Commission permitted VNG to file a response to the Staff Report and any comments or requests for hearing.

On July 8, 2004, VNG filed with the Commission proof of publication and an affidavit of service of notice of the application.

The Division of Consumer Counsel, Office of the Attorney General ("Consumer Counsel") filed comments on July 30, 2004.<sup>1</sup> Consumer Counsel identified three issues regarding the continuation of the experimental WNA. First, while noting that it would make the WNA formula more complicated, Consumer Counsel supports the proposed change for the Residential class to take into account differences in usage patterns among the various billing cycles and the different months of the heating season. Consumer Counsel states that this change would recognize that the natural gas usage of residential customers may have varying weather sensitivities. Consumer Counsel recommends that this change be monitored and evaluated during the extension period.

Second, Consumer Counsel expresses concern about the current standard of normal weather used in the WNA. The WNA uses the 30-year average HDD established in the Company's last rate case in Case No. PUE-1996-00227. This 30-year HDD used 1966-1995 as the basis for defining normal weather. Consumer Counsel considers this inappropriate for the upcoming heating seasons because it does not reasonably capture the most recent weather trends. Consumer Counsel states that if the WNA is to be extended, the most recent 30-year rolling average HDD should be used.

Finally, Consumer Counsel observes that the Staff had previously expressed concerns with the WNA's application to the General Service class and the lack of data pertaining to these concerns. In its comments, Consumer Counsel indicates that it supports withdrawal of the WNA for General Service customers. Consumer Counsel further comments that after the concerns are studied in more detail, VNG may request re-implementation of the WNA for the General Service class.

The Staff Report was filed on August 16, 2004. As required by the September 27, 2002, Order Approving Experiment, VNG filed two annual reports containing the following information on the experiment: (1) impact of the WNA on bill volatility; (2) customer reaction to the WNA; (3) impact of the WNA on VNG's cash flow; (4) any planning and performance benefits realized as a result of the WNA; (5) VNG's earned rate of return on rate base and return on common equity both with and without revenues from the WNA; (6) the findings of an annual internal audit of the WNA factors to ensure tariff compliance and accuracy; and (7) any other information requested by Staff relevant to the experiment. The Staff used the Company's first annual report filed July 15, 2003, to produce an internal report analyzing the performance of the WNA during the 2002-2003 heating season, which was shared with the Company.<sup>2</sup> Based on the Staff's analysis of the application and the reports filed by VNG, the Staff Report recommends that the proposed WNA methodology be adopted for the Residential class with an updated definition of normal weather and that the WNA for the General Service class be discontinued.

<sup>1</sup> No other comments, requests for hearing, or notices of participation were filed.

<sup>2</sup> The internal report was attached as an exhibit to the Staff Report.



With regard to the Residential class, the Staff notes that VNG's proposed refinements to the WNA methodology<sup>3</sup> adopt Staff's recommendations in the internal report for the Residential class to account for differences in consumption patterns among the 21 billing cycles, as well as differences in consumption patterns between the shoulder months and the winter months. The Staff Report agrees with the Consumer Counsel's recommendation that the definition of normal weather should be updated to reflect the most recent 30-year average and that a rolling 30-year average be utilized in subsequent years. The Staff bases this recommendation on the high degree of sensitivity in the calculation of the WNA factor to the definition of normal weather, the fact that even the slightest deviation from normal weather generates a WNA charge or credit, the recalculation of the WNA for the experimental period using an updated 30-year average, and the Commission's use of rolling 30-year averages to define normal weather in the two other Commission cases approving the use of a WNA.<sup>4</sup>

The Staff recommends that the WNA for the General Service class be discontinued. The Staff notes that VNG included non-jurisdictional customers in the calculation of the WNA during the two-year experiment and that the Company did not provide data segregating such customers from the calculation. The Staff also observes that the Residential and General Service classes often react differently to changes in the weather. Using linear regressions of Residential and General Service UCDS, the Staff found that weather accounts for most of the variation in the Residential class gas consumption, but that usage by the General Service class is driven by other factors. The Staff makes several recommendations, including implementing the WNA on a jurisdictional only basis and updating the definition of normal weather, in the event the Commission approves the extension of the WNA for the General Service class.

The Staff Report also argues that further examination of VNG's capital structure and cost of capital is warranted to reflect, among other things, the reduction in risk afforded by the WNA. The Staff further notes that the cost of equity presently authorized for VNG was established in Case No. PUE-1996-00227 and premised upon the capital structure of VNG's former parent company, and later upon a hypothetical capital structure when VNG was acquired by AGL Resources, Inc. ("AGLR"). The Staff asserts that VNG's use of the WNA together with changed operating and market conditions should be reflected in the Company's capital structure and cost of capital. The Staff recommends that even if the cost of capital issue is reserved until the next rate proceeding, the Commission should authorize the use of AGLR's capital structure as approved in Case No. PUE-2004-00012.<sup>5</sup>

Finally, the Staff Report addresses the cost of service study and rate schedules filed with the application. The Staff states that, given the short time frame in this matter, its analysis is ongoing. The Staff presents the earnings test and fully adjusted rate of return results as filed by the Company and the issues the Staff was able to identify as of the filing of the Staff Report. The Staff requests leave to supplement the report when its analysis is complete.

On August 23, 2004, VNG filed its response to the comments of Consumer Counsel and the Staff Report. The Company agrees that the extended experimental WNA Rider should not continue to apply to the General Service class until further study and a determination by the Commission that the usage of the General Service class, or components thereof, correlate with weather. VNG does not object to the Staff's continued examination of the Company's earnings and fully adjusted cost of service results, nor Staff's request for leave to supplement the Staff Report, as long as the completion of the examination does not delay approval of the requested extension of the WNA.

With regard to the recommendations made on the Company's capital structure and cost of capital, VNG expresses concern that, by addressing capital structure and cost of capital, the Staff is seeking to convert this matter to a rate case to reduce Company revenues. VNG states that the WNA Rider was an experiment approved by the Commission pursuant to § 56-234 of the Code, independent of any rate case statutes and rules. The Company further contends that it is merely requesting the extension of a previously approved experiment. VNG argues that for the Commission to adopt a particular capital structure for VNG in this matter is premature in light of the announced acquisition of NUI Corporation by AGLR and that capital structure should be addressed in the Company's next rate case.

Further, the Company objects to the recommendation to update to the most recent 30-year average HDD. VNG argues that its WNA is designed to even out the effects of weather each year, rather than counting on the warmer and colder than normal weather occurrences to even out over a number of years. Additionally, the Company asserts that using the same 30-year average weather for the WNA that was used in the last rate case assures that any deviation from normal weather will be treated in the same manner for both general rates and for WNA purposes and will keep its revenue recovery consistent with the assumptions made about weather in its last rate case.

NOW THE COMMISSION, upon consideration of the application, the comments filed by Consumer Counsel, the Staff Report, and the response filed by VNG, is of the opinion and finds that the Company's application to extend the WNA experiment should be approved with the modifications discussed below.

We direct VNG to continue the experimental WNA for the Residential class implementing the proposed methodological change to better take into account the difference in consumption patterns among the various billing cycles and the different months of the heating season. We direct VNG to discontinue the use of the WNA with the General Service class. Our determination herein does not preclude the Company, however, from conducting further studies of the WNA and General Service customers and making application to the Commission to modify and re-implement the WNA Rider for the General Service tariff at a later time.

With regard to the issues related to normal weather, we direct VNG to update the definition of normal weather used in the WNA formula to reflect the most recent 30-year average. We agree with Consumer Counsel and the Staff that the most recent 30-year average provides a more accurate barometer of normal weather than one that excludes the most recent nine years. We also agree that the 30-year period used to determine normal weather for purposes of the WNA experiment need not mirror the same 30-year period used in the Company's most recent rate case. This is not a rate case. In addition, use of the most recent 30-year average and a rolling 30-year average thereafter is consistent with other WNAs approved by the Commission. For the

<sup>3</sup> The Company's proposal would be applicable to both the General Service and Residential rate classes.

<sup>4</sup> Application of Roanoke Gas Company, For a General Increase in Rates, Case No. PUE-2002-00373, 2003 S.C.C. Ann. Rpt. 392; Application of Southwest Virginia Gas, For approval of an increase in rates and to initiate a weather normalization adjustment, Case No. PUE-2003-00426, Final Order, Doc. Cont. Ctr. No. 040610165 (June 3, 2004).

<sup>5</sup> Application of Virginia Natural Gas, Inc., For recovery through its gas cost recovery mechanism of charges under a Propane Sales Agreement, Case No. PUE-2004-00012, Final Order, Doc. Con. Ctr. No. 040620083 (June 8, 2004).

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upcoming heating season, the 30-year average HDD used for the WNA shall be based on the 30-year period ending June 2004. VNG shall likewise update the 30-year average HDD for each subsequent heating season during the experiment.

Since the information acquired from the experiment is essential to evaluating the efficacy of the Company's WNA, we will require the Company to continue to file annual reports in this matter addressing the seven issues identified in the Commission's September 27, 2002, Order Approving Experiment. These reports shall be filed on or before July 1 of each year during the course of the experiment.

We decline to adopt the Staff's recommendation regarding VNG's capital structure and cost of capital. Such issues may be addressed in the Company's next rate case or Annual Informational Filing and should incorporate consideration of the acquisition by AGLR of NUI Corporation.

We grant the Staff leave to continue its investigation of VNG's earnings and fully adjusted cost of service results. Upon completing its analysis, the Staff may supplement the Staff Report and make such recommendations therein as appropriate.

Finally, we note that the current experiment encompasses two heating seasons, whereas VNG proposes that the continuation of the experiment encompass three heating seasons. Neither the Staff nor Consumer Counsel opposed VNG's requested three-year extension. However, analysis of the results during the current two-year experiment has proven important to refining the methodology and resolving other issues that have arisen. Likewise, it also appears that a two-year extension may provide a reasonable time to further evaluate the experiment and to test the changes approved herein. We will provide the participants an opportunity to submit additional comments on the need for a three-year, as opposed to a two-year, extension of the experiment. After which, we will issue an order establishing the length of the continuation of the experimental WNA Rider approved herein.

Accordingly, IT IS ORDERED THAT:

- (1) VNG shall discontinue application of the WNA to the General Service class until further order of the Commission.
- (2) The extension of the WNA experiment for the Residential class is hereby approved as modified herein.
- (3) On or before October 4, 2004, the participants in this case may file additional comments on the need for a three-year, as opposed to a two-year, extension of the experiment as discussed in this Order.
- (4) VNG shall implement the proposed methodological change to develop unique UCDs for each cycle for each month.
- (5) VNG shall update the 30-year average HDD used for the WNA calculation for the upcoming heating season to the 30-year period ending June 2004. VNG shall likewise update the 30-year average HDD for each subsequent heating season during the experiment.
- (6) VNG shall file annual reports on or before July 1 of each year during the course of the experiment, addressing the seven issues identified in the Commission's September 27, 2002, Order Approving Experiment: (1) impact of the WNA on bill volatility; (2) customer reaction to the WNA; (3) impact of the WNA on VNG's cash flow; (4) any planning and performance benefits realized as a result of the WNA; (5) VNG's earned rate of return on rate base and return on common equity both with and without revenues from the WNA; (6) the findings of an annual internal audit of the WNA factors to ensure tariff compliance and accuracy; and (7) any other information requested by Staff relevant to the experiment.
- (7) The Staff is hereby granted leave to continue its investigation of VNG's earnings and fully adjusted cost of service results and to supplement its Staff Report and make such recommendations therein as appropriate.
- (8) This matter shall be continued pending further orders of the Commission.

**CASE NO. PUE-2002-00237  
OCTOBER 22, 2004**

APPLICATION OF  
VIRGINIA NATURAL GAS, INC.

For extension of its Weather Normalization Adjustment Rider

**AMENDING ORDER**

On June 4, 2004, Virginia Natural Gas, Inc. ("VNG" or the "Company"), filed with the State Corporation Commission ("Commission") an application to extend the experiment of the Weather Normalization Adjustment ("WNA") Rider to the Company's tariff for approximately three years, until July 1, 2007. On September 17, 2004, the Commission issued an Order Approving Extension of Experiment ("Order"). In the Order, the Commission noted that analysis of the results during the initial two-year experiment proved important in refining the methodology and in resolving other issues that have arisen. Thus, the Commission stated that a two-year, as opposed to a three-year, extension may provide a reasonable time to further evaluate the experiment and to test the changes approved in the Order. In this regard, the Order permitted the participants to file, on or before October 4, 2004, additional comments limited to this specific issue.

On October 4, 2004, the Commission's Staff ("Staff") filed comments on the length of the extension. The Staff stated that the first two-year experimental period provided valuable data about the WNA Rider. The Staff concluded that four years of data accumulated upon the conclusion of a second two-year period should provide a reasonable basis upon which the Commission can make a determination as to when enough information exists as to whether VNG's WNA is in the public interest.

NOW THE COMMISSION, upon consideration of the application, the pleadings, and the applicable law, is of the opinion and finds that the Company's experimental WNA Rider, as approved in our September 17, 2004, Order, shall be approved for a period of two years. The first two-year period

for the experimental WNA Rider expired on September 27, 2004. The extension approved in our September 17, 2004, Order shall expire on September 27, 2006.

Accordingly, IT IS HEREBY ORDERED THAT:

(1) The September 17, 2004, Order Approving Extension of Experiment is amended to provide that the experimental WNA Rider approved therein shall expire on September 27, 2006.

(2) This matter shall be continued pending further Order of the Commission.

**CASE NO. PUE-2002-00249  
JUNE 10, 2004**

PETITION OF  
MONTVALE WATER, INC.

For declaratory judgment

**ORDER**

On May 1, 2002, Montvale Water, Inc. ("Montvale" or "Company") filed a Petition for Declaratory Judgment ("Petition") with the State Corporation Commission ("Commission") requesting a ruling as to whether or not Woodhaven Nursing Home ("Woodhaven")<sup>1</sup> has a right to supply water to residential and commercial customers in a proposed expansion of its facilities given that such customers are located within the certificated franchise territory of Montvale.

Montvale is a public service company certificated by the Commission to provide water service in the western portion of Bedford County, in and around of the town of Montvale, Virginia.<sup>2</sup> The Company serves approximately 241 residential and commercial customers.

Family Health Initiatives, Inc. ("Family Health"), is a Virginia corporation and the owner of Woodhaven which is located within the certificated franchise territory of Montvale. Woodhaven is a forty-eight bed facility, which from its inception in 1960, satisfied its water requirements from a spring water source located on the grounds.<sup>3</sup> In 1998, the Virginia Department of Health determined that the water source for the nursing home was under surface water influence and offered solutions to Family Health to resolve the problem. These solutions were: (i) to connect the nursing home to a public water source; (ii) to drill water wells to supply its needs; and (iii) to treat the existing water supply for continued use. Initially, Family Health investigated connecting to the public water service and engaged an engineering company to design plans to interconnect with Montvale.<sup>4</sup> Subsequently, after receiving approval for financial assistance to fund the proposed interconnection from the Virginia State Revolving Water Fund, Family Health submitted plans of interconnections to Montvale. Negotiations between Family Health and Montvale to connect to Montvale's public water supply failed for financial reasons.<sup>5</sup> Alternatively, after receiving permission to expand its facilities from the Bedford County Board of Supervisors, Family Health decided to drill wells and construct a private water system on its property to supply its water needs.

The proposed expansion would increase the nursing home facility to serve approximately one hundred sixty-eight residents and businesses. The expansion would include: (i) forty semi-assisted apartment units; (ii) forty free-standing independent senior homes; (iii) a twenty-five person adult day care center; (iv) a twenty-five child day care center; (v) an on-site home for the manager of the nursing home; and (vi) retail space for age-related services to support the residents, such as a pharmacy, a banking center, a dry cleaner and a barber/beauty salon. The retail space is expected to encompass 8,000 square feet.

To support the water needs of the expansion, Family Health proposed to construct a water system that includes two dedicated well lots that would feed a 30,000-gallon water tank, a pump and chlorination building, approximately 2100 linear feet of 6-inch water line, and appurtenances.

The residents occupying the facilities will not be metered for the purpose of charging for water usage, but will be charged a flat monthly rental fee depending on the type of living space occupied and the care received. The businesses will be charged a rental fee. Family Health indicates there may be water metering purely for informational purposes, but Family Health will not sell water.<sup>6</sup>

<sup>1</sup> Although Woodhaven is the named defendant in the Petition, it is obvious from the record that the real party in interest is Family Health Initiatives, Inc.

<sup>2</sup> Montvale is a small water public utility as defined by Title 56 of the Code of Virginia. Pursuant to § 56-265.3 of the Code of Virginia, Montvale was granted a certificate of public convenience and necessity (W-157) by the Commission dated May 21, 1969. Montvale is a Virginia domestic corporation incorporated as of March 31, 1969.

<sup>3</sup> Woodhaven is located on thirty-two acres of land owned by Family Health.

<sup>4</sup> The engineering company designed a 7500-foot system to interconnect the nursing home and Montvale with a projected cost of \$226,700. Montvale's nearest water source to Family Health's property is a water tank 7500 feet away. Family Health would have to run another line across its property to connect with the Montvale water line extension.

<sup>5</sup> Transcript at pp. 10-11. Prefiled testimony of David F. Graves, President of Family Health at p. 4. Exhibit 9.

<sup>6</sup> Prefiled testimony of David F. Graves, President of Family Health at p.7. Exhibit 9.

On May 2, 2002, the Commission issued an Order Inviting Response. Therein, the Commission docketed the proceeding and, among other things, permitted Family Health to file a response to the Petition. Montvale was permitted to file a reply to any response.

On June 6, 2002, Family Health, by counsel, filed its response to the Petition, wherein, among other things, it claimed no obligation to purchase water from Montvale, and that it did not intend to purchase water from any other public utility in Montvale's certificated area. Family Health asked the Commission to dismiss the Petition.

Montvale file no reply to the response of Family Health.

By Order Setting Hearing and Procedural Schedule issued on July 19, 2002, the Commission, among other things, denied Family Health's motion to dismiss the Petition, set a procedural schedule, scheduled the matter for hearing on September 16, 2002, and appointed a hearing examiner to conduct all further proceedings in this matter and to file a final report.

On August 9, 2002, the Commission issued an order which clarified its intent to provide for discovery in this matter.<sup>7</sup>

On October 22, 2002, after the hearing examiner granted the parties' request for a continuance,<sup>8</sup> a hearing was convened to receive evidence on the merits of the Petition. Samuel F. Vance IV, Esquire, appeared as counsel to Montvale; Richard E. B. Foster, Esquire, and R. Lee Grant, Jr., Esquire, appeared as counsel to Family Health; and Rebecca W. Hartz, Esquire, appeared as Staff Counsel.

Montvale contends, among other things, that if Family Health is permitted to provide water service to its proposed expansion of 168 residents and business, it will become a public utility under the Utility Facilities Act by furnishing water service to 50 or more customers.<sup>9</sup> Montvale further contends that Family Health cannot provide water service to more than 50 customers without a certificate from the Commission, and Family Health would first have to prove to the Commission that service rendered by the current certificate holder, Montvale, is inadequate.<sup>10</sup> Montvale argues that without meeting that requirement, the proposed expansion violates its rights as a certificated utility under Chapter 10.1 of Title 56 of the Code of Virginia.

Family Health contends, among other things, that it has never been a customer of Montvale; it currently provides water service to itself and has done so before Montvale was organized. Family Health further contends that it seeks to make alterations to its current water system, and that there are no covenants or deed restrictions obligating it to service from Montvale.

On March 23, 2004, the Chief Hearing Examiner issued a report on the Petition ("Report"). After analysis of the facts and the law, the Chief Examiner made the following findings: (i) Family Health has no obligation to take public utility service from Montvale; (ii) Family Health may not procure water service from any other utility in Montvale's exclusive territory; (iii) Family Health may not sell water to any other resident or business; (iv) Family Health may fulfill its own water needs and provide water as an incidental service to its primary business; and (v) Family Health should not be regulated as a public utility. The Chief Examiner recommended that the Commission adopt her findings, and dismiss the petition for declaratory judgment from its docket.

To support her findings and recommendations, the Chief Examiner determined that the controversy turns on the definition of public utility. Section 56-265.1 of the Code of Virginia, in part, defines a public utility as a company "which owns or operates facilities . . . for the generation, transmission or distribution of electric energy for sale, for the production, storage, transmission, or otherwise than in enclosed portable containers, of natural gas for sale . . ." The Chief Examiner deduced that the aforementioned statute requires a mercantile relationship between the public utility providing electric energy or gas to its customers, but only requires that a water and sewerage company to furnish water and sewer service fall within the definition of a public utility. The Chief Examiner found that the statute does not provide for a sale requirement for water and sewer companies, and a literal reading of the statute, without analysis, could lead to the conclusion that any company that furnishes water or sewerage services could be a public utility.

The Chief Examiner noted that the Commission has interpreted the definition of public utility as used in § 56-265.1 of the Code of Virginia to require a mercantile relationship between a utility and its customers for water and sewerage service.<sup>11</sup> In *Prince George*, the owner of a small water and sewer company ("Company"), among other things, sought a determination from the Commission that it did not serve 50 or more customers; and that it served only two customers, a motel and mobile home park, even though the trailer park had 128 mobile home sites, 63 of which were occupied. The Company billed the owners of the motel and the trailer park a flat rate for water and sewer service, and the individual mobile home residents were charged a flat rental fee by the trailer park owner for their space. Since the mobile home residents were not billed for usage of water by the Company, the Commission concluded that the Company served only two customers, the motel and the mobile home park.<sup>12</sup> Consequently, the Commission found that the trailer park was a single customer and not a public utility.

<sup>7</sup> The Commission noted that its procedural order of July 19, 2002, provided for the parties to conduct discovery. Although ordinary discovery is not permitted in proceedings initiated by petitions for declaratory judgment, there appeared to be disputed facts in this case that could be clarified through discovery. Accordingly, the Commission would allow discovery by waiving 5 VAC 5-20-260 (Interrogatories to parties or requests for production of documents and things) of the Commission Rules of Practice and Procedure.

<sup>8</sup> That motion was granted by ruling dated August 21, 2002.

<sup>9</sup> Section 56-265.1 *et seq.* of the Code of Virginia.

<sup>10</sup> Section 56-265.4 of the Code of Virginia.

<sup>11</sup> *Application of Prince George Sewerage and Water Company, For cancellation of its certificate of public convenience and necessity and to amend its charter*, Case No. PUE-1980-00097, 1981 S.C.C. Ann. Report 188 ("*Prince George*").

<sup>12</sup> The Commission concluded that the meaning of the word "customers" is plain and unambiguous. "It is commonly understood that the word carries a mercantile connotation and suggests the buying and selling of goods and services and an economic relationship." *Id.* at 191.

In further support of her findings and recommendations, the Chief Examiner cites a more recent case decided by the Commission.<sup>13</sup> In *Gleaton*, a mobile home park sought authority from the Commission to transfer assets, a water and sewerage system, pursuant to the Utility Transfers Act ("Act").<sup>14</sup> The Commission agreed with Staff that the mobile home park was not a public utility as defined by the Act because there was no mercantile relationship between the owners of the mobile home park and the residents of the mobile homes for the sale of water and sewerage services. Here, the mobile home tenants paid only a rental charge, and the water and sewerage service were provided as incidental services to the rental of mobile home lots.

On April 8, 2003, Family Health filed comments to the Report. Aside from supporting the findings and recommendations of the Chief Examiner, the comments were limited to informing the Commission that Montvale had no ability to provide water service to Family Health's property at the time of the hearing.

On April 9, 2003, Montvale filed comments to the Report. Therein, Montvale requested that the Commission reject entirely the findings and recommendations of the Chief Examiner. To support its position, Montvale claimed that the proposed water system is a competing small water utility that will provide water service to a village of residents and businesses under a mercantile relationship because inherent in any monthly rental fee charged by Family Health to a resident of the expanded facility is the cost of producing water.

We will adopt, with modifications, the Chief Hearing Examiner's Report.

We agree with the Chief Hearing Examiner that the Commission has not given a literal interpretation to § 56-265.1 of the Code of Virginia in a number of cases decided over a considerable period of time. That section has not been amended by the legislature to alter what we believe to be a practical application of the statutory definition of a water utility. To apply a literal interpretation of the statute would lead to absurd results. Hotels, apartments and offices which furnish water to transient and longer term tenants would become public utilities.

There is no contention that these examples suggest the presence of a public utility because the use of water from whatever source is merely incidental to the use of the property for rent by others. Where there is no separate volumetric measuring device by which the amount of water used by a tenant can be precisely known and charges therefore assessed, whether separately or added in as part of rent, there is no mercantile relationship between landlord and tenant as to the water used by the tenant. The absence of water meters is a clear indication that the selling of water is not a distinct business of the property owner, though the estimated cost of furnishing water must surely be included with all other business expenses.

Family Health, using water from sources within its property and furnishing the same incidental to the nursing home and related uses, is not a public utility if water meters are not used to measure water usage by individual tenants to whom it rents. Under the circumstances of this case, if Family Health meters water usage at individual rental premises, we find that a presumption arises that a volumetric charge for water usage will be made even though it may be rolled into a periodic rental charge. The sale of water would thus become a distinct business, not merely an amenity incidental to Family Health's nursing home, assisted living and senior home business.

NOW THE COMMISSION, upon consideration of the record herein, the findings and recommendations of the Chief Hearing Examiner, and the comments and objections submitted thereto, is of the opinion and finds that the Report of the Chief Examiner is adopted conditioned upon Family Health not metering water usage of the individual rental units of the proposed expansion.

Accordingly, IT IS ORDERED THAT:

- (1) Montvale's Petition for Declaratory Judgment be, and the same is hereby, denied.
- (2) Family Health may provide water service to its facility, including the proposed expansion, conditioned upon it not metering water usage of the individual rental units.
- (3) The case is dismissed, and the papers herein are passed to the file for ended causes.

<sup>13</sup> *Application of The Joline K. Gleaton Family Trust, The Marion A. Gleaton Family Trust, and Gleaton's Mobile Homes, L.L.C. and Bradley P. Dressler, For authority to transfer utility assets under Chapter 5, Title 56 of the Code of Virginia*, Case No. PUE-2004-00005, Order Dismissing Application (March 15, 2004) ("*Gleaton*").

<sup>14</sup> Section 56-88 *et seq.* of the Code of Virginia.

**CASE NO. PUE-2002-00364  
JANUARY 8, 2004**

APPLICATION OF  
WASHINGTON GAS LIGHT COMPANY  
and  
SHENANDOAH GAS DIVISION OF WASHINGTON GAS LIGHT COMPANY

For general increase in natural gas rates and charges and approval of performance-based rate regulation methodology pursuant to Va. Code § 56-235.6

**ORDER GRANTING RECONSIDERATION**

On December 18, 2003, the State Corporation Commission ("Commission") issued its Final Order on the general rate application filed by Washington Gas Light Company ("WGL" or "Washington Gas") and the Shenandoah Gas Division ("Shenandoah") of WGL (hereafter collectively the "Company" or "Applicant").

On January 7, 2004, the Company, by counsel, filed a Petition for Reconsideration of Commission Final Order ("Petition") in which the Company requests reconsideration of those portions of the Final Order that (i) establish a regulatory asset related to the Company's depreciation reserve deficiency and make such regulatory asset subject to an earnings test; (ii) direct the Company to implement new depreciation rates effective January 1, 2002; and (iii) direct the Company to implement certain accounting and booking changes by April 1, 2004.

NOW THE COMMISSION, given that the Petition was filed one day prior to the date when the Final Order would no longer be under the control of the Commission and subject to modification or vacation, finds that the Petition should be granted for the limited purposes of continuing our jurisdiction over the proceeding and considering the Petition.

Accordingly, IT IS ORDERED THAT:

(1) The Petition for Reconsideration filed by WGL is hereby granted for purposes of continuing our jurisdiction over this proceeding and considering the Petition.

(2) This case is continued, pending further order of the Commission.

**CASE NO. PUE-2002-00364  
JANUARY 23, 2004**

APPLICATION OF  
WASHINGTON GAS LIGHT COMPANY  
and  
SHENANDOAH GAS DIVISION OF WASHINGTON GAS LIGHT COMPANY

For general increase in natural gas rates and charges and approval of performance-based rate regulation methodology pursuant to Va. Code § 56-235.6

**ORDER ON RECONSIDERATION**

On December 18, 2003, the State Corporation Commission ("Commission") issued its Final Order on the general rate application filed by Washington Gas Light Company ("WGL" or "Washington Gas") and the Shenandoah Gas Division ("Shenandoah") of WGL (hereafter collectively the "Company" or "Applicant").

On January 7, 2004, the Company, by counsel, filed a Petition for Reconsideration of Commission Final Order ("Petition") in which the Company requests reconsideration of several portions of the Final Order.

On January 8, 2004, the Commission issued an Order Granting Reconsideration. We granted the Petition for the limited purposes of continuing our jurisdiction over the proceeding and considering the Petition.

NOW THE COMMISSION, upon consideration of the record in this proceeding and the Petition, is of the opinion and finds as follows.

The Company has requested a reconsideration of those portions of the Final Order that (i) establish a regulatory asset of approximately \$42.7 million related to the Company's depreciation reserve deficiency and make the regulatory asset subject to an earnings test; (ii) direct the Company to implement new depreciation rates effective January 1, 2002; and (iii) direct the Company to implement certain accounting and booking changes in time to permit the filing of the Company's FERC Form 2 on April 1, 2004, in conformance with such changes.

The Company disagrees with the Commission's decision to increase the Company's accumulated depreciation reserve by the amount of the reserve deficiency, and to make such amount a regulatory asset subject to an earnings test whereby the regulatory asset would be subject to reduction by any earnings over the mid-point of the range of the allowed return on equity. The Company indicates that it would not object to the establishment of the regulatory asset if the earnings test is applied on a weather-normalized basis and is subject to reduction by any earnings over the top of the authorized return on equity range. While the Company acknowledges that the Final Order provides an opportunity to earn a return on the regulatory asset, the Applicant asserts that for many years it will have no opportunity to earn any better than the midpoint of its authorized return.

This issue turns on the fact that until the Company conducted a depreciation study based on depreciable plant balances as of December 31, 2000, the Company had not conducted a depreciation study in more than twenty years. A 2002 technical update, which includes a computation of the theoretical reserve based on plant in service as of December 31, 2001, was submitted in May of 2002. The Company's depreciation study revealed an enormous depreciation reserve imbalance. The theoretical reserve exceeds the per books accumulated depreciation reserve by approximately \$40.5 million for WGL and \$2.9 million for Shenandoah.

The Company and Staff agreed regarding the rates and depreciation expense resulting from the study, but disagreed as to the proper treatment of the depreciation reserve imbalance. The Company did not propose to make any adjustment as a result of the imbalance, and would keep the deficiencies in rate base. Staff proposed that the Company's rate base be reduced by \$39.9 million with respect to WGL, and by \$2.8 million with respect to Shenandoah, to eliminate the effect of the depreciation reserve imbalance. Staff characterized the Company's accumulated reserve deficiency as a regulatory asset, and proposed that the Company be allowed to recover this deficiency through the approved depreciation rates. Staff recommended that the Company not receive a return on the amount of the accumulated reserve deficiency. The Hearing Examiner agreed that the Company's failure to file a timely depreciation study resulted in a large depreciation reserve deficiency, and accepted Staff's proposed adjustment reducing the Company's rate base.

In our Final Order, we found that the reserve deficiency of approximately \$42.7 million should be treated as a regulatory asset and amortized over the remaining life of the plant. As with other regulatory assets, it was made subject to the earnings test and, as in recent cases, subject to reduction by any

earnings over the mid-point of the range of the allowed return on equity (10.5 percent). The Commission further found that the unique aspects of this proceeding warranted allowing the Company an opportunity to earn a return on the unamortized balance of this regulatory asset.

The Company contends that the Final Order fails to recognize that the retirement from service of an item of plant before the expiration of its estimated service life does not relieve ratepayers of their obligation to compensate investors for both the return of, and return on, capital with which such "short-liver" plant was acquired. The Company also contends that because rate base includes items of plant well beyond their estimated service lives, such a "long-liver" may be effectively depreciated far in excess of its original cost. The Company states that group depreciation accounting envisions that unrecovered investment of both short-lived and long-lived must remain in rate base to preserve a ratemaking opportunity for full capital recovery.

The Company's argument fails to recognize the point made in the Final Order. The Commission acknowledges that items of plant may in fact be included in rate base for shorter or longer periods than their estimated service lives, and that the process relying on estimated service lives is not perfect. However, the point we made in this proceeding is that utilities must conduct depreciation studies on a regular basis at reasonable intervals in order to avoid large depreciation reserve imbalances such as were found to exist in this proceeding.

We remind the Company that the National Association of Regulatory Utility Commissioners' ("NARUC's") Public Utility Depreciation Manual states that "if a utility, of its own volition, makes inadequate provision for depreciation, consideration should be given to using the theoretical reserve since it may not be fair to make future customers pay for an incorrect management decision."<sup>1</sup> Staff contended, and the Hearing Examiner agreed, that in this case the reserve deficiency of almost \$43 million was caused by the Company's use of too low depreciation rates and its failure to conduct a depreciation study for more than twenty years. Staff and the Hearing Examiner also concluded that this case is of the type for which the use of a theoretical reserve is appropriate. The approach endorsed by Staff and the Hearing Examiner is neither unreasonable nor improper in this case. This Commission, by allowing the Company to earn a return on the regulatory asset, was attempting to mitigate to a reasonable extent the result of applying the approach advocated by Staff and recommended by the Hearing Examiner.

The Company argues that the depreciation reserve deficiency calculated by Staff is "nothing more than a fictitious number in the record," and that the Company's theoretical depreciation reserve is correctly based on expectations about the future rather than past occurrences. This argument apparently misunderstands the Commission's finding on this issue. The Commission understands that reserve imbalances will change when depreciation studies and technical updates are performed. As we stated in the Final Order:

While early and late retirements of plant, changes in its useful lives, and use of estimates to accrue for net salvage value mean that there will almost always be small reserve deficiencies or excesses, these variances should be minimized. Staff states that large reserve deficiencies, such as the one in this case, can and should be avoided by performing depreciation studies every few years.<sup>2</sup>

While there will almost always be some degree of depreciation reserve imbalance, the issue in this proceeding is the magnitude of the imbalance and the reason for it. A utility that conducts a depreciation study every three to five years is not likely to face a large depreciation reserve deficiency such as was presented in this proceeding.<sup>3</sup> Absent such a large deficiency as results from twenty or more years between studies, there would be no need to establish a theoretical reserve that affects future earnings in order to address past events.<sup>4</sup>

As previously noted, the Company states that if the Commission remains convinced that the Company's accumulated depreciation reserve should be adjusted as recommended by Staff, then the regulatory asset should be subject to an earnings test applied on a weather-normalized basis and be subject to reduction only by earnings in excess of the top of the authorized return on equity range. The Company contends that the use of weather-normalization is appropriate because natural gas usage is weather dependent. If weather is colder than normal and earnings are favorably impacted, earnings above the mid-point of the authorized return range would be used to write off regulatory assets, but if weather is warmer than normal and earnings are detrimentally impacted, the previously-reduced regulatory asset would not be restored. As a result of what the Company calls "asymmetric treatment," the Company would have no opportunity to earn in excess of the mid-point of its authorized return on equity until the regulatory asset is fully written off.

Rates paid by WGL's customers are established based on costs and assume normal weather. The rate of return on equity reflects risks, including the risk of warmer than normal weather. The earnings test is used not to set rates, but to determine what the Company actually earned during the period in question. All costs, including unexpected expenses are included, as are all revenues, including those resulting from colder than normal weather. If the Company actually earns above the mid-point of the return on equity range, it is certainly neither unreasonable nor unfair to use these earnings to help reduce an asset that, but for the failure of the Company to perform timely depreciation studies, would have already been recovered.

In support of its position, the Company cites the Commission's rules governing accounting for post-retirement benefits other than pensions ("OPEB").<sup>5</sup> Not only is this case fundamentally different from the situation addressed in the rules, but we have not universally found that OPEB implementation costs should be weather normalized.<sup>6</sup>

<sup>1</sup> Hearing Examiner's Report at 30, quoting NARUC Public Utility Depreciation Manual at 24.

<sup>2</sup> Final Order at 20.

<sup>3</sup> As noted in our December 18, 2003, Final Order, there was not even a suggestion that a single, unexpected event caused the extremely large reserve deficiency at issue here. Final Order at 22.

<sup>4</sup> With regard to the Company's assertion that the Commission's decision will create a "perverse incentive" for Staff and intervenors to drive up the depreciation reserve deficiency, we observe that if such a tact is undertaken by case participants, the Company is capable of responding to it and this Commission is capable of rejecting it.

<sup>5</sup> Petition for Reconsideration of Final Order at 8, citing Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte, In re: Consideration of a rule governing accounting for postretirement benefits other than pensions, Case No. PUE-1992-00003, 1992 S.C.C. Ann. Rep. 315 (Dec. 30, 1992).

<sup>6</sup> Application of Virginia Natural Gas, Inc., For an Annual Informational Filing, Case No. PUE-1997-00617, 2000 S.C.C. Ann. Rep. 384, 385.

The Company further contends that the regulatory asset should be subject to reduction only by earnings over those required to provide a return at the top of the authorized return on equity range. In so arguing, the Company contends that this is proper because earnings within the authorized range are, by definition of the range, presumed to be reasonable.

Historically, the earnings test provided that regulatory assets were subject to reduction by any earnings over the lower end of the authorized return on equity range.<sup>7</sup> The Commission has, however, recently approved the use of the mid-point of the range in earnings tests for certain regulatory assets.<sup>8</sup> In the Final Order, we found that the mid-point of the range should be used to measure the recovery of this regulatory asset. To require the Company to apply earnings to write down this regulatory asset only to the extent its earnings exceed the top of the authorized return on equity range would, among other things, disrupt the Final Order's balancing of the interest of the ratepayers in avoiding paying a return on plant that should have been recovered against the interest of the Company in earning a return on the regulatory asset. Therefore, we reaffirm the use of the mid-point of the range for determining earnings to be applied to this regulatory asset in this matter.

The second issue raised in the Petition is the portion of the Final Order that directs the Company to commence recording depreciation expense using new depreciation rates effective as of January 1, 2002. Staff had proposed that the Company begin recording depreciation expense using the new rates effective as of the January 1, 2002, technical update to its depreciation study. The Company proposed to begin using the new depreciation rates concurrent with the effective date of the interim rates established in this proceeding, November 12, 2002. The Hearing Examiner recommended that the Company commence recording depreciation expense using the new depreciation rates as of November 12, 2002, which is the date that new rates went into effect in this proceeding on an interim basis. In adopting the Staff's position, the Commission directed that the new depreciation rates be implemented effective with the January 1, 2002, technical update.

The Company contends that ordering the new depreciation rates to be implemented retroactive to January 1, 2002, rather than from the date that interim rates became effective will require the Company to recognize an unauthorized expense for which it had no opportunity to recover through increased rates. The Company also states that it is not possible to coordinate rate changes with depreciation studies because such studies can only be performed at the end of an accounting period, because books must be closed, data must be analyzed, and the study must be performed and analyzed. The Company asserts that unless the implementation of new depreciation rates is delayed, new base rates can only reflect the new depreciation rates if the base rate case is filed prior to the completion of the depreciation study.

We are not persuaded by the Company's arguments. A depreciation study can be performed and updated. That appears to be what the Company did in this proceeding. The Company conducted depreciation studies based on depreciable plant balances as of December 31, 2000. Following Staff review, two adjustments to the studies were accepted by the Company with the understanding that the depreciation rates would be updated to reflect investments and depreciation reserves as of December 31, 2001. A 2002 technical update was submitted on May 5, 2002. The Company can plan its depreciation studies and rate cases to reduce the amount of increased depreciation that must be recorded prior to the effective date of a rate increase.

The fundamental problem with the Company's argument is not with the timing of the depreciation study, but rather that the Company seeks to treat depreciation expenses as fundamentally different from other types of expenses. When other expenses increase, the increase is recorded without regard to whether it is well timed for a rate case. A change in costs must be recorded in the appropriate accounting period coincident with the change; this is true for depreciation expense as well as other costs. The recording of new depreciation rates cannot be deferred solely due to the fact that a rate case has not been filed.

Finally, the Petition requests the Commission to reconsider the portion of the Final Order that directs the Company to complete the implementation of booking and accounting classification changes relating to accumulated deferred income taxes and gas costs as recommended by Staff no later than April 1, 2004, when the Company files its FERC Form 2 with the Commission's Division of Public Utility Accounting.

Staff had recommended that the Company change its method for booking and classifying accumulated deferred income taxes and gas costs in order to conform to the Uniform System of Accounts and to permit ready identification of invoice costs of gas, deferred gas expense, and storage gas expense. The Company advised the Hearing Examiner that it could not make the proposed accounting changes without the approval of regulatory bodies in Maryland and the District of Columbia. The Hearing Examiner recommended that the Company seek approval of these other regulatory bodies to make the booking changes. In our Final Order we required the changes as proposed by Staff.

The Petition states that the Company has had discussions with Staff and has agreed to provide additional information relating to its accumulated deferred income taxes and gas costs in its next rate case or annual informational filing. The Company also explains that by December 31, 2005, the Company is scheduled to have completed the replacement of its accounting system. The new system will implement the mandated accounting changes. Establishing a separate set of records for its Virginia operations in 2004 would provide a temporary remedy at significant expense, which remedy would be discarded when the new system is implemented. The additional information to be provided by the Company in any rate case or annual informational filing prior to the implementation of its new accounting system should be sufficient for this interim period.

The Company's arguments on this point are persuasive. We find that the Final Order should be amended to direct the Company to implement the booking and accounting changes recommended by Staff coincident with the in-service date of its new accounting system but not later than January 1, 2006.

Accordingly, IT IS ORDERED THAT:

(1) The directive in the December 18, 2003, Final Order that the Company complete the implementation of booking and accounting classification changes as recommended by Staff no later than April 1, 2004, when the Company files its FERC Form 2 with the Commission's Division of Public Utility

<sup>7</sup> See Application of Roanoke Gas Company, For an Annual Informational Filing and Application of Roanoke Gas Company, For expedited rate relief, Case Nos. PUE-1996-00102 and PUE-1996-00304, Final Order, 1998 S.C.C. Ann. Rep. 327, 329 (application of an earnings test should not be weather normalized and regulatory assets could be written off as long as the utility was earning at or above the bottom of its authorized range.)

<sup>8</sup> See Application of Atmos Energy Corporation for an Annual Informational Filing, Case No. PUE-2003-00009, Order Adopting Recommendations and Dismissing Case (Oct. 24, 2003) at 3.



Accounting, is hereby amended to provide that the Company shall implement the booking and accounting classification changes as recommended by Staff coincident with the in-service date of its new accounting system but not later than January 1, 2006. Prior to implementation of its new accounting system, the Company shall work with Staff in obtaining the detailed information necessary to complete its analyses of deferred income taxes and gas costs.

(2) Except as modified by Ordering Paragraph (1) above, all provisions of our September 26, 2003, Final Order shall remain in effect.

(3) Except to the extent granted as provided in Ordering Paragraph (1) above, the relief requested by the Company in its Petition for Reconsideration is hereby denied.

(4) There being nothing further to come before the Commission in this docket, this matter is dismissed and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. PUE-2002-00375  
MARCH 1, 2004**

APPLICATION OF  
VIRGINIA-AMERICAN WATER COMPANY

For a general increase in rates

**ORDER**

Before the State Corporation Commission ("Commission") is the Motion for Additional Time to Complete Refund filed by Virginia-American Water Company ("Virginia-American" or the "Company") on February 5, 2004. By Final Order of November 14, 2003, the Commission granted the application for an increase in rates and ordered refunds by March 31, 2004, of all amounts collected under proposed rates, which exceeded the rates approved by the Commission. According to the motion, changes in its billing will cause delays, and Virginia American can complete refunding by June 15, 2004. The Company requests that it be authorized to complete refunding by that date and to file a report on the refunding by July 15, 2004. No responses to the motion were filed.

The Commission will grant the motion. As Virginia-American acknowledged in its motion, refunds will continue to accrue interest as directed in our Final Order of November 14, 2003. We find that customers will be reasonably protected during the extended refund period.

Accordingly, IT IS ORDERED THAT:

(1) Case No. PUE-2002-00375 be placed on the Commission's docket and that the case be placed in active status in the records maintained by the Clerk.

(2) The Company's motion be granted.

(3) The date for recalculating bills and making refunds as directed by Ordering Paragraph (4) of the Final Order of November 14, 2003, be extended to June 15, 2004.

(4) The date for filing a report on the refund as directed by Ordering Paragraph (7) of the Final Order of November 14, 2003, be extended to July 15, 2004.

(5) All provisions of the Final Order of November 14, 2003, shall remain in effect, except as modified in the preceding Ordering Paragraphs (1), (3), and (4).

(6) Case No. PUE-2002-00375 be dismissed from the Commission's docket and that the case be placed in closed status in the records maintained by the Clerk.

**CASE NO. PUE-2002-00376  
DECEMBER 17, 2004**

APPLICATION OF  
VIRGINIA ELECTRIC AND POWER COMPANY

For authority to issue debt and preferred securities

**ORDER EXTENDING AUTHORITY**

By Order dated July 17, 2002, Virginia Electric and Power Company ("Virginia Power" or "the Company") was authorized by the Virginia State Corporation Commission ("Commission") to 1) issue up to \$2 billion in aggregate of its First Mortgage bonds, unsecured Senior Notes, unsecured Junior Subordinated Notes, and preferred securities, and 2) establish a Trust for the issuance of trust preferred securities through December 31, 2004.

On December 7, 2004, Virginia Power filed a request to extend the time to issue the securities authorized in the above referenced Order. In support of its request, the Company represents that it has issued \$1.355 billion in securities, thus leaving it with \$645 million in unissued securities. The Company now requests that the Commission extend the time period for issuing the remaining securities from December 31, 2004, until December 31, 2006.

THE COMMISSION, upon consideration of the Company's December 7, 2004 request and having been advised by its Staff, is of the opinion and finds that extending the time period of authority will not be detrimental to the public interest.

Accordingly, IT IS ORDERED THAT:

- 1) The authority granted, pursuant to our Order dated July 17, 2002, is hereby extended from December 31, 2004, to December 31, 2006.
- 2) On or before February 28, 2007, Virginia Power shall file a final report of action containing the information required in ordering paragraph 4) of our July 17, 2002 Order.
- 3) All other directives detailed in our July 17, 2002 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 NOS. PUE-2002-00380 and PUE-2003-00128  
JANUARY 21, 2004**

APPLICATION OF  
ONE CALL CONCEPTS, INC.

For revocation of certificates of existing certificate holder, for certification as a notification center, and for a waiver of 20 VAC 5-300-90 B 3(c)

APPLICATION OF  
VIRGINIA UTILITY PROTECTION SERVICE, INC.

For certification as the notification center for the Commonwealth of Virginia pursuant to § 56-265.16:1 B of the Underground Utility Damage Prevention Act

**ORDER ON CERTIFICATION OF NOTIFICATION CENTER**

On July 5, 2002, One Call Concepts, Inc. ("OCC" or the "Company") filed an application with the State Corporation Commission ("Commission") requesting that the Commission grant the Company a certificate to operate as the single notification center for the Commonwealth. The Company further requested that the Commission revoke the certificate issued to Northern Virginia Utility Protection Service, Inc. ("NVUPS" or "Northern Center"), the certified notification center providing service to the portion of the Commonwealth located generally north of the Rappahannock River and to the Eastern Shore (the "Northern Territory"), and revoke the certificate issued to the Virginia Underground Utility Protection Service, Inc. ("VUUPS" or "Southern Center"), the certified center providing notification service to the portion of the Commonwealth located generally south of the Rappahannock River ("Southern Territory").<sup>1</sup>

OCC supplemented its application on September 13, 2002, to provide additional information required by the Commission's Rules governing certification, operation, and maintenance of notification center or centers, 20 VAC 5-300-90 ("Notification Center Rules"). In its supplemental filing, OCC represented that it anticipated letters of support for its application would be forthcoming, and that such letters would be filed with the Commission.<sup>2</sup>

In a Motion filed with the Commission on November 7, 2002, OCC requested a waiver of Notification Center Rule 20 VAC 5-300-90 B 3(c).<sup>3</sup>

On December 10, 2002, the Commission issued its Order for Notice and Hearing on OCC's application. In that Order, the Commission docketed the Company's application as Case No. PUE-2002-00380, assigned a hearing examiner to conduct all further proceedings on the application on behalf of the Commission, and established a procedural schedule for the filing of testimony by OCC, respondents, and the Staff. In its Order, among other things, the Commission ruled that the Notification Center Rules did not require that a specific amount or type of material detailing the support of persons who potentially may be impacted by the services provided by the notification center accompany an application for certification as a notification center. The Commission denied the Company's Motion for a waiver of 20 VAC 5-300-90 B 3(c), noting that the Commission would consider "whatever evidence of support" was submitted by OCC.

The hearing on Case No. PUE-2002-00380 commenced on April 29, 2003, and concluded on May 7, 2003.

On April 3, 2003, Virginia Utility Protection Service, Inc. ("VUPS, Inc." or the "Corporation") filed an application with the Commission for a certificate pursuant to § 56-265.16:1 of the Underground Utility Damage Prevention Act ("Act"), Chapter 10.3 (§ 56-265.14 *et seq.*) of Title 56 of the Code of Virginia. In its application, VUPS, Inc., requested that the Commission certify it as the notification call center for the entire Commonwealth. It explained

<sup>1</sup> In its post-hearing brief filed in Case No. PUE-2003-00128, OCC concludes that its request for the revocation of NVUPS' and VUUPS' certificates is now moot because both of these entities have proposed to relinquish their existing certificates and that one statewide certificate be issued to Virginia Utility Protection Service, Inc. See OCC Post-Hearing Brief of September 23, 2003, at 2, n 1.

<sup>2</sup> Based on the Company's statement that letters of support would be filed later with the Commission, OCC's application was not considered complete on September 13, 2002.

<sup>3</sup> Rule 20 VAC 5-300-90 B 3(c) requires that an application for a certificate as a notification center include "[m]aterial detailing the support of persons who potentially may be impacted by the services provided by the notification center, including excavators, operators, contract locators, property owners, and localities."

that VUUPS had previously contracted with a service provider or "vendor" to provide primary notification center services, and on July 1, 2002, began using Virginia Utility Protection Service, LLC ("VUPS" or the "LLC"), as its primary notification center provider. VUPS, Inc., explained that its application was filed with the concurrence of VUUPS and NVUPS. This Corporation noted that the LLC would begin providing primary notification center services for NVUPS on July 1, 2003, when NVUPS' contract for service with its current vendor expires. VUPS, Inc.'s application represented that once the entire Commonwealth is served by the same notification call center, there would be no need for three separate entities. Accordingly, VUUPS, NVUPS, and the LLC would be consolidated into VUPS, Inc., upon VUPS, Inc.'s, certification by the Commission to provide notification center service for the Commonwealth.

VUPS, Inc., filed its charter and by-laws with its application. The by-laws of VUPS, Inc., provided that upon the merger of VUUPS and NVUPS, the current members of VUUPS and NVUPS would become members of VUPS, Inc. Thereafter, any operator, as defined in § 56-265.15 of the Act, would be eligible to become a member of VUPS, Inc. The Corporation's by-laws also provided for non-voting associate members of VUPS, Inc., who are not operators.

On April 22, 2003, the Commission issued its Order for Notice and Hearing on VUPS, Inc.'s, application. That Order, among other things, docketed VUPS, Inc.'s, application as Case No. PUE-2003-00128, assigned a hearing examiner to the application, and scheduled a public hearing for July 22, 2003.

The hearing on VUPS, Inc.'s, application began on July 22, 2003, and concluded on July 24, 2003. During the hearing, the Hearing Examiner granted VUPS, Inc.'s, July 14, 2003, Motion to incorporate the record made in Case No. PUE-2002-00380 into the record of Case No. PUE-2003-00128. See Transcript at 1531.<sup>4</sup>

On November 19, 2003, Howard P. Anderson, Jr., Hearing Examiner, issued his Report in the proceeding. In his Report, the Hearing Examiner noted that § 56-265.16:1 B of the Act grants the Commission authority to determine the optimum number of notification centers in Virginia. He observed that Staff witness Tahamtani testified that there were several disadvantages to having more than one notification center in Virginia, *i.e.*, different operational procedures and policies for each center; duplication of facilities and other resources resulting in increased costs to member operators and ratepayers; different mappings and software systems used by each center, possibly causing confusion for users of the systems; and additional costs for operators having facilities in areas served by each center.

The Examiner discussed one user of the notification center's experience as an illustration of the confusion that can arise from having independent call centers with adjacent but distinct territories. He concluded that one statewide call center would eliminate any confusion regarding underground utility locating within Virginia. The Hearing Examiner found that there should be one notification center for the entire Commonwealth of Virginia. He concluded that there was no basis for the premise that two notification centers would provide better, more efficient service through competition. He noted that there were economies of scale associated with one notification center and that a single center would eliminate the confusion associated with multiple centers.

The Hearing Examiner further concluded that because NVUPS and VUUPS have requested transfer of their existing certificates and issuance of a single statewide certificate to VUPS, Inc., that OCC's request for revocation of the existing certificates held by NVUPS and VUUPS was now moot. The Hearing Examiner therefore focused his analysis on which entity, VUPS, Inc., or OCC, should be granted a certificate to provide statewide notification center service in Virginia.

With regard to performance standards, the Hearing Examiner noted that the Commission adopted performance standards for NVUPS and VUUPS in Case No. PUE-2002-00525. These performance standards included an Average Speed of Answer ("ASA") through October 31, 2003, of 45 seconds or less, and an ASA of 30 seconds or less, effective November 1, 2003; an Abandoned Call Rate ("ACR") by callers who waited more than 60 seconds of 5 percent or less; a Busy Signal Rate ("BSR") not to exceed 2% of total incoming call volumes through October 31, 2003, and a BSR not to exceed 1% of total incoming call volumes, effective November 1, 2003. The Commission directed NVUPS and VUUPS to achieve a 99% customer satisfaction rate in the January 22, 2003, Order entered in Case No. PUE-2002-00525.

The Hearing Examiner commented that OCC was NVUPS' vendor providing notification center services for the Northern Territory under a contract that expired on June 30, 2003. He noted that the contract between OCC and NVUPS did not require specific compliance with the Commission's performance standards, but provided that no more than 10 percent of all incoming calls be placed on hold for more than 180 seconds. OCC witness Hoff testified on July 23, 2003, that OCC could not provide specific information pertaining to the busy signal rate for Virginia. Tr. at 2078-79.

NVUPS witnesses Robinson and Hubbard testified that NVUPS, the certified notification center that contracted with OCC to provide notification center service, was unable to obtain information from OCC regarding call center performance for the Northern Territory. However, in its application, OCC committed to meet the performance standards adopted by the Commission in Case No. PUE-2002-00525 if it receives a certificate.

Staff witness Tahamtani testified that the LLC was in compliance with performance standards with respect to ASA and ACR. BSR data provided by VUPS for August 2002, through February 2003, indicated that the LLC had experienced BSRs less than two percent of the time except for the first and last month of the period examined. The Examiner commented that VUPS had not yet provided information regarding customer satisfaction rates to the Staff.

The Examiner noted that NVUPS and OCC had difficulty complying with the Commission's performance standards adopted in Case No. PUE-2002-00525. Staff witness Tahamtani testified that a lack of cooperation between NVUPS and OCC not only resulted in noncompliance with the Act, the Notification Center Rules and the performance standards adopted in Case No. PUE-2002-00525, but also impacted the level of service provided in the Northern Territory. Mr. Tahamtani testified that, as the certificate holder, NVUPS must ultimately be held accountable for the operation of the call center for the Northern Territory. According to Mr. Tahamtani, VUUPS, whose vendor is the LLC, is in general compliance with most of the Notification Center Rules and the performance standards adopted in Case No. PUE-2002-00525.

Additionally, the Hearing Examiner determined that requiring compliance with the performance standards adopted for NVUPS and VUUPS in Case No. PUE-2002-00525 as a condition of the certificate issued to VUPS, Inc., to be unnecessary. He opined that it was the duty of the Advisory Committee, with Commission Staff assistance, to review incidents of probable violations of the Commission's rules.

<sup>4</sup> Hereafter all references to the transcript will be to "Tr. at \_\_\_."

The Examiner found that both VUPS, Inc., and OCC meet the financial responsibility requirements of Notification Center Rule 20 VAC 5-300-90 C 9. He observed that Notification Center Rule 20 VAC 5-300-90 B 3(d) requires an applicant to provide a comprehensive written operating plan. He commented that OCC did not present a formal operating plan for its proposed notification center operations in Virginia, but observed that OCC witness Hoff testified that OCC could be operational in Virginia in 120 days if OCC were certified as the notification center for Virginia.

Notification Center Rule 20 VAC 5-300-90 B 3(d) requires an applicant to provide an operating budget as part of its application to be certified as a notification center. OCC did not provide an operating budget for its Virginia operations. However, OCC witness Hoff also testified that OCC could provide notification center service in Virginia for \$0.82 per ticket. During cross-examination, Mr. Hoff admitted that OCC had no company operating budget and declined to disclose OCC's overall operating revenue or operating revenue from its Virginia operations.

VUPS, Inc.'s, application provided financial information and included an operating plan and operating budget. David Ward, Treasurer of the LCC and of VUPS, Inc., testified on the Corporation's financial condition and provided further updated financial information as a late-filed exhibit after the hearing.

OCC declined to discuss its financial condition and conceded that its governing structure would have to be changed and a Virginia corporation be formed to hold a certificate as a notification center in Virginia. OCC's application did not include proposed articles of incorporation or by-laws as did VUPS, Inc.'s, application.

Notification Center Rule 20 VAC 5-300-90 A 11 requires at least 20 percent of the voting members of the notification center's governing body to be composed of individuals who are neither utilities nor operators nor employed by a utility or an operator. VUPS, Inc.'s, by-laws provide for a governing board of fifteen directors. Three of VUPS, Inc.'s, directors must be non-operators with three additional directors undesignated as non-operators or operators. Thus, it is possible that as many as six of VUPS, Inc.'s, fifteen directors could be non-operators.

In contrast, the OCC board of directors consists of one person - Thomas Hoff. Mr. Hoff is not employed by an operator or utility. However, the Examiner determined that the purpose of Notification Center Rule 20 VAC 5-300-90 A 11 is to ensure representation of all stakeholders impacted by the services of a certified notification center.

With regard to the support for the respective applications of OCC and VUPS, Inc., utilities unequivocally supported VUPS, Inc.'s, application. While OCC provided letters of support from various members of the Virginia General Assembly and local officials, OCC's application was supported primarily by testimony from other states using its one call centers such as Kansas, Louisiana, Missouri, and Minnesota.

The Examiner commented that the relationship between NVUPS and OCC had deteriorated over time. He observed that the relationship supports the argument for granting the certificate directly to the entity providing notification center service rather than a third-party vendor. According to the Hearing Examiner, issuance of a certificate to one center would create a direct line of responsibility, eliminate the need for contract negotiations and re-negotiations and would give the governing board direct control over the notification services.

The Examiner determined that VUPS, Inc., and OCC would use different software to process notices of excavation and that both systems are capable of providing adequate service. While finding both OCC and VUPS, Inc., to be capable and competent to provide one-call notification center service, the Hearing Examiner determined that a certificate to operate a single statewide notification center should be awarded to VUPS, Inc. He determined that the toll-free telephone number for the center (1-800-552-7001) should be available to VUPS, Inc., as the new certificate holder as well as to any subsequent certificate holder to: (i) avoid confusion among notification center users; (ii) eliminate the need for new education efforts; and (iii) eliminate costs associated with changing to a new toll-free number. VUPS, Inc., and OCC agreed that the single statewide telephone number should follow the certificate. The Hearing Examiner found that this toll-free number should be used to contact the notification center, irrespective of which entity was certified as the notification center.

The Virginia Utility and Heavy Contractors Council ("VUHCC" or the "Contractors") testified in support of creation of an independent oversight board for the notification center. Alternatively, the VUHCC proposed that at least 50 percent of the directors for the governing board of the notification center should be drawn from non-utility stakeholders and that non-utility stakeholders should have the right to name their representatives to the center's governing board. As a further alternative and at a minimum, the Contractors supported Staff's recommendation for an expanded role for the Advisory Committee to consider notification center policies and operating practices.

The Hearing Examiner determined that VUHCC's proposal to create an independent oversight board was beyond the scope of the captioned proceedings and should be denied. He concluded that oversight authority of certificated notification centers was vested in the Commission and that there was no legal authority for the Commission to delegate such authority to an independent board as VUHCC proposed. The Examiner declined to adopt the Contractor's proposal to authorize a minimum of 50 percent of the board members for the center to represent non-utility stakeholders and to allow non-utility stakeholders to name their representatives to the notification center's board. The Hearing Examiner observed that Notification Center Rule 20 VAC 5-300-90 A 11 requires that at least 20 percent of the voting members of a notification center's governing body be non-operators and does not prohibit more than 20 percent of the governing body from being non-operators. The Examiner found that the request to increase the non-utility stakeholder representation on the notification center's governing body to be contrary to the Commission's intent to preserve the important interests of operators in formulating notification center policies when adopting Notification Center Rule 20 VAC 5-300-90 A 11. He opined that the change advocated by VUHCC would have to occur within a rulemaking proceeding and was beyond the scope of the captioned proceedings. The Examiner rejected VUHCC's recommendation for increasing the number of non-operators on the governing board of the notification center because: (i) VUPS, Inc.'s, bylaws currently allow for the number of non-operators to exceed the minimum requirement set out in Notification Center Rule 20 VAC 5-300-90 A 11; (ii) there is no evidence that VUHCC's proposal would further the purposes of the Act; (iii) there is no indication that VUPS, Inc.'s, members will fail to exercise their discretion wisely in selecting directors; and (iv) the Commission could be viewed as imposing a requirement that is beyond the scope of its Notification Center Rules by mandating the composition of the governing body.

The Hearing Examiner also declined to recommend that the duties of the Advisory Committee, created in accordance with § 56-265.31 of the Code of Virginia, be expanded to monitor and evaluate notification center performance, make recommendations pertaining to the need for changes to pertinent statutes and rules, and monitor developments in the industry. Instead, the Examiner found that the current scope of the Advisory Committee's oversight of notification center operation and policies were adequate and did not recommend expansion of the Committee's duties.

The Hearing Examiner further declined to recommend that minimum qualifications for VUPS, Inc.'s, directors be incorporated into VUPS, Inc.'s, bylaws. He determined that there was no evidence to suggest that if VUPS, Inc., was granted a certificate, it would fail to exercise its discretion wisely in selecting its board members.

In summary, the Hearing Examiner found that:

1. One notification center should serve the entire state;
2. OCC's request for revocation of certificates held by NVUPS and VUUPS is now moot;
3. The certificate of public convenience and necessity should be granted to the actual entity providing notification center service.
4. OCC and VUPS, Inc., have sufficient experience, technological capability, and financial resources to operate a notification center;
5. OCC has failed to meet Commission requirements pertaining to an operating budget, an operating plan, and its board of directors. OCC's application should therefore be denied;
6. VUPS, Inc., has met the requirements for a certificate of public convenience and necessity and should be granted a certificate to operate a notification center for the entire Commonwealth of Virginia;
7. The proposal of VUHCC for the Commission to create a new oversight board should be denied;
8. The VUHCC proposal for the Commission to require: (1) at least 50 percent representation from non-utility stakeholders on the governing body of the notification centers; and (2) the non-utility stakeholders to have the right to name their representatives to the governing board, should be denied;
9. Minimum qualifications for members of the notification center's board of directors should not be adopted;
10. The scope of the Advisory Committee's oversight of the notification center's operations and policies is currently adequate and should not be expanded; and
11. The advertised toll-free number should be used as the statewide notification center number and should follow the certificate.

The Hearing Examiner recommended that the Commission enter an Order adopting the findings in the Report, denying OCC's application, granting VUPS, Inc., a certificate of public convenience and necessity to operate a notification center for the entire Commonwealth of Virginia, and dismissing the case from the Commission's docket of active proceedings. The Examiner granted OCC's earlier "Motion to Shorten Time for Filing Responses to Hearing Examiner's Report" filed in Case No. PUE-2002-00380 and directed the parties to file any comments to the Report within fourteen days of the date of the Report.

On November 24, 2003, OCC, by counsel, requested that the time in which comments responsive to the Report could be filed with the Commission be extended from December 11, 2003, to December 18, 2003.

In its November 24, 2003, Order, the Commission granted OCC's Motion and extended the time to December 18, 2003, in which all case participants could file comments responsive to the Hearing Examiner's Report.

VUPS, Inc., VUUPS, NVUPS, and VUPS jointly filed comments in response to the November 19, 2003, Hearing Examiner's Report. OCC, Washington Gas Light Company ("WGL"), Columbia Gas of Virginia, Inc. ("Columbia"), VUHCC, and the Staff also each filed comments responsive to the Report.

In its comments, OCC stated that in June 2002, the Commission adopted significant changes to its Notification Center Rules, making a conscious decision to invite competition for certificate(s) to operate the one-call center(s) in the Commonwealth. It argued that if the Commission simply adopts the recommendation in the Hearing Examiner's Report, the Commission will never achieve its goal of creating competition. It urged the Commission to conduct an independent review of the entire record in light of the purpose of the Act and to apply the Notification Center Rules evenly to both applicants. OCC asserted that its state-of-the-art technology will best ensure public safety and that OCC's financial stability (and vitality) as well as its competitive pricing will save the Commonwealth millions of dollars both in the short and long term.

OCC maintained that the Report ignored the Commission Staff's independent analysis and the Report's conclusion that neither applicant was wholly compliant with the Commission's Notification Center Rules. OCC pledged to create the appropriate corporate structure and construct a "compliant board of directors if it were to receive the certificate." December 18, 2003, OCC Comments at 8. OCC asserted that it was premature to include a detailed budget and focused on the benefits that it contends its PRISM polygon-on-polygon mapping technology provides over VUPS' grid-based system. It maintained that PRISM's redundant capabilities allow one of eight alternate centers located throughout the United States and Canada to function as a virtual center for the Commonwealth in the event of a disaster. The Company also contended that PRISM's polygon-on-polygon technology reduces over-notification by permitting greater precision and reduces tickets or notices from the Notification Center for "out of area" tickets.

Finally, among other things, OCC contended that if it is certified as the notification center, member utilities will undoubtedly monitor and scrutinize both the performance and price of OCC as the certificate holder as these utilities incur ticket and locate costs. It maintained that these member utilities will not hesitate to report all complaints and perceived violations of the Act or Notification Center Rules to the Staff. OCC asserted that it will

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remain subject to external competitive market forces, including other potential vendors' proposals to provide service to the Commonwealth, thus creating a valuable system of checks and balances. Moreover, OCC stated that it has allayed any concerns about the "bottom line" by: (i) guaranteeing a rate of \$0.82 per ticket for five (5) years; (ii) opening the books for its Virginia operations to public scrutiny upon being certificated; and (iii) submitting to a ratemaking proceeding should the Commission choose this alternative in lieu of accepting OCC's contractual price guarantee.

In their joint comments to the Hearing Examiner's Report ("joint comments"), NVUPS, VUUPS, VUPS, Inc., and the LLC supported the Hearing Examiner's recommendation to grant VUPS, Inc., the certificate and to deny OCC's application. They compared VUPS, Inc.'s, and OCC's respective organizational structure, financial capability, and support by stakeholders with the Notification Center Rules and concluded that this comparison supported the Hearing Examiner's recommendations.

With regard to the VUHCC's proposal to create an oversight board, the joint comments asserted that creating such an entity would be contrary to the goal of simplifying and streamlining the underground utility damage prevention system in Virginia with clear, direct lines of communications and responsibility. These comments maintained that the holder of the certificate issued by the Commission is responsible for the operation of the call center and is required to report to the Commission as provided in the Notification Center Rules.

The joint comments characterized VUHCC's proposal that the Commission require 50 percent of the VUPS, Inc., board to be non-operator representatives as beyond the scope of the captioned proceedings. These comments observed that Notification Center Rule 20 VAC 5-300-90 A 11 requires that at least 20 percent of the voting members of a notification center's governing body be non-operators. VUHCC, according to the joint comments, asks that this recently promulgated Rule be changed, even though the instant proceedings are not rulemakings.

With regard to the expanded role for the Advisory Committee, the joint comments noted that the standards adopted in Case No. PUE-2002-00525 would be applicable to VUPS, Inc., after the merger, and that the Notification Center Rules require the call center to provide updates of plans, procedures, programs and information to be filed with the Commission at least 60 days prior to implementation of any substantive changes. The Commission, according to the joint comments, has broad statutory authority under the Act over a certified notification call center. The joint comments maintained that there is no lack of "oversight" authority for a center, and there is no need for more such oversight.

The joint comments concurred with the Hearing Examiner's recommendation that specified qualifications for directors are unnecessary. Among other things, the joint comments asserted there is no evidence to impose such an unusual provision on the 400-plus members of VUPS, Inc., and that the attempt to list required characteristics of prospective directors would be difficult. The joint comments contended that such "qualifications" would in fact be limitations on the freedom of VUPS, Inc.'s, members to elect directors of their choice. The joint comments urged the Commission to adopt the findings and recommendations set out in the Hearing Examiner's Report.

WGL, by counsel, filed comments in support of the Hearing Examiner's Report.

In its comments, Columbia noted that the Hearing Examiner recommended that one notification center be certified for the entire Commonwealth. Columbia noted that the Hearing Examiner found that, unlike VUPS, Inc., OCC failed to satisfy the prerequisites for certification prescribed in the Notification Center Rules. Specifically, according to Columbia, OCC failed to submit an operating plan and budget as required by Notification Center Rule 20 VAC 5-300-90 B 3(d); OCC's governing body failed to meet the requirements of Notification Center Rule 20 VAC 5-300-90 A 11; and OCC failed to submit evidence of support from Virginia utilities, operators, contract locators and excavators as contemplated in Notification Center Rule 20 VAC 5-300-90 B 3(c). Columbia asserted that the Hearing examiner appropriately concluded that a certificate to operate a single statewide Notification Center should be awarded to VUPS, Inc.

According to Columbia, the Hearing Examiner properly rejected the proposals of the VUHCC and the Staff with respect to the circumstances under which the notification center would operate. According to Columbia, the Hearing Examiner's rejection of those recommendations are consistent with the public interest, supported by the record, and should be adopted. Columbia asserted that extensive support for the Hearing Examiner's recommendations on these issues were found in Columbia's post-hearing briefs filed in the captioned proceedings. Columbia urged the Commission to adopt the Hearing Examiner's Report in its entirety and to grant VUPS, Inc.'s, application for certification as the sole notification center in the Commonwealth of Virginia and to permit VUPS, Inc., to consolidate the activities of VUUPS, NVUPS, and the LLC into a single entity.

VUHCC filed comments wherein it continued to support its recommendations to create a new oversight board, require at least 50 percent representation from non-utility stakeholders on the governing board of the notification center, grant non-utility stakeholders the right to name their representatives to the governing board, and as an alternative, to expand the scope of the Advisory Committee's oversight of the notification center's board of directors.

VUHCC asserted that NVUPS has been dominated by utilities and has been unable to comply with the Commission's performance standards. VUHCC contended that the utility-dominated structure will continue under a different name if the Hearing Examiner's findings are adopted by the Commission.

VUHCC complained that the Commission Staff and the Advisory Committee have lacked the "muscle" necessary to require improvements to the one-call service. It contended that the creation of an oversight board with significant excavator participation with authority to refer certain fundamental matters to the Commission would provide a mechanism to consider and require improvements for public safety and enhanced notification center performance from the broader standpoint of all stakeholders.

As an alternative and as a minimum, VUHCC supported the Staff's recommendation for an expanded role for the Advisory Committee. It commented that the deficiencies of the utility-dominated notification center in the Northern Territory demonstrate that the Advisory Committee, with its current level of oversight and authority, cannot provide effective oversight to a utility-dominated notification center. VUHCC maintained that the Advisory Committee could not take action in the face of NVUPS' shortcomings because, contrary to the Hearing Examiner's conclusion, the Commission has not clearly assigned the authority and responsibility to "monitor and evaluate" the center's operation and recommend appropriate action to the Commission Staff and Commission. VUHCC urged the Commission to create an oversight board to monitor the notification center's operation and report to the Staff, or alternatively, as an intermediate step, the Commission should expand the role of the Advisory Committee to include greater oversight and authority to foreclose continuation of the utility dominated structure and the problems associated with such a structure.

The Staff filed comments in response to the Hearing Examiner's Report. In its comments Staff noted that Notification Center Rule 20 VAC 5-300-90 A 6 requires each notification center to have and meet performance standards approved by the Commission. Staff commented that one of the ways the Commission has chosen to address the statutory directive found in § 56-265.16:1 is by approval of performance standards for a notification center when the Commission issues a certificate to the center. Staff maintains that, by adopting standards, the center and stakeholders served by the center would have a clear understanding as to what minimum performance criteria must be satisfied in order to achieve an "acceptable level of performance." The Staff noted that the Commission adopted in Case No. PUE-2002-00525 a 99% customer satisfaction standard with the following additions:

- (1) the Notification Centers shall develop a statistically valid sampling program acceptable to Staff, for periodic surveys of callers to determine their Customer Satisfaction Rate; (2) the Notification Centers shall prepare and follow a written complaint tracking and resolution procedure to assist the Notification Centers in tracking issues, problems, and complaints, and the actions taken to resolve the same; and (3) the Notification Centers shall design a survey form and provide the form to attendees of the various damage prevention meetings to allow attendees to bring issues and problems to the attention of the Notification Centers.<sup>5</sup>

According to Staff, the LLC, together with NVUPS and VUUPS, identifies the performance standards adopted in Case No. PUE-2002-00525 as standards that VUPS, Inc., can meet and exceed. Staff witness Tahamtani testified that NVUPS, VUUPS, or the LLC did not provide Staff, as required by Ordering Paragraph (5) of the Performance Standards Order, with the statistically valid sampling program to determine customer satisfaction through periodic customer surveys. Staff commented that the Hearing Examiner did not recommend adoption of proposed performance standards for VUPS, Inc., as required by Notification Center Rule 20 VAC 5-300-90 A 6. The Staff urged the Commission to comply with the Notification Center Rules and to adopt standards at least as stringent as those approved for VUPS, Inc.'s, predecessors, NVUPS and VUUPS. The Staff urged that if the same standards are adopted for VUPS, Inc., as were adopted in Case No. PUE-2002-00525 for NVUPS and VUUPS, the Commission should direct VUPS, Inc., to comply with the specific directives of these standards, including the directive in Case No. PUE-2002-00525 to develop a statistically valid sampling program acceptable to Staff for periodic surveys of callers to determine VUPS, Inc.'s, customer satisfaction rate.

Staff asked the Commission to recognize formally the Advisory Committee as having a general role in monitoring and evaluating the effectiveness of the center's operation as those operations relate to damage prevention. Staff commented that § 56-265.31 of the Code of Virginia grants the Commission authority to define the Advisory Committee's responsibilities. It asserted that the express assignment of a monitoring and evaluation role by the Commission to the Committee would be central in prompting the notification center certified as a result of these proceedings to act upon the recommendations made by the Committee.

The Staff urged the Commission to clarify the Advisory Committee's role vis-à-vis the notification center since the Hearing Examiner's Report acknowledges that the Advisory Committee should accomplish functions relative to the notification center and appears already to have this authority. The Staff requested the Commission to recognize the value of the Advisory Committee vis-à-vis the notification center that is certificated in the proceeding and to clarify in its Order the Committee's role in monitoring and making recommendations concerning the center's operation.

NOW THE COMMISSION, having considered the record, the Hearing Examiner's Report, the pleadings, and the applicable law, is of the opinion and finds as follows. We adopt the findings and recommendations in the Hearing Examiner's Report, except as modified or further discussed below.

#### Certificate

Pursuant to § 56-265.16:1 of the Code of Virginia, we deny OCC's application, and grant a certificate to VUPS, Inc., to operate as the statewide one-call notification center for the Commonwealth. We do not deny OCC's application simply for failure to comply with the Rules. The Examiner denied OCC's application because, among other reasons, OCC's application did not contain a written comprehensive operating plan and an operating budget as required by Rule 20 VAC 5-300-90 B 3(d); and OCC's governing body, of which Mr. Hoff is president and the only director, does not satisfy the purpose of Rule 20 VAC 5-300-90 A 11, which requires 20 percent of the governing body to be comprised of excavators, contract locators, property owners, and governmental entities. Additionally, the Examiner noted that conspicuously absent from OCC's application were letters of support from Virginia utilities, operators, contract locators, and excavators. Support for OCC's application came primarily from other states. In contrast, support for VUPS, Inc.'s application came solely from within Virginia, primarily from local officials and operators, with some support from excavators and contract locators. The Examiner noted that the certificate holder will work with Virginia localities and utilities, not those of other states.

OCC asserts that the Examiner's recommendation "is based solely upon perceived technical deficiencies in OCC's application resulting from the arbitrary and capricious analysis of only selected portions of the record and the blatantly inconsistent application of the Rules." December 18, 2003, OCC Comments at 2-3. OCC states that its lack of a board that complies with the Notification Center Rules does not justify denial of the certificate, because: (1) OCC has pledged to create the appropriate corporate structure and to constitute a board complying with these rules if it receives the certificate; (2) Staff concurs that it is premature for OCC to institute a board when it does not yet hold the certificate; and (3) VUPS, Inc., which currently is a non-functioning entity, also has not yet constituted a board that complies with the Notification Center Rules. OCC also asserts that its application, as supplemented, satisfies the Rules to the extent possible when filed, and that Staff did not request any further supplement and did not reject the application as deficient.

OCC further contends that it would be unreasonable and premature to expect it to submit an operating budget without accurate financial data – and that it cannot practically possess that data since a private commercial vendor such as OCC would not purchase a facility, hire staff, and prepare for operation if it did not hold the certificate to operate the one-call center. OCC asserts that the purpose of an operating budget is to assess the cost to ratepayers and that, in this regard, it has: (1) guaranteed a rate of \$0.82 per ticket for five (5) years; (2) agreed to open the books of its Virginia operations to public scrutiny upon being certificated; and (3) agreed to submit to a ratemaking proceeding in lieu of its price guarantee. OCC maintains that the operating budget for VUPS, Inc., is really VUPS LLC's current costs of operation for the year 2003. OCC also states that VUPS, Inc., does not even suggest a pricing cap or explain the basis for its \$1.00 per ticket charge. In addition, OCC asserts that NVUPS and VUUPS admit to having used over \$630,000 of the utility ratepayers' money to fund their new vendor's start-up costs, without the knowledge or consent of their own members, much less the utility ratepayers who were financing this scheme.

<sup>5</sup> See Application of Northern Virginia Utility Protection Service, Inc., and Virginia Underground Utility Protection Service, Inc., For approval of notification call center performance standards, Case No. PUE-2002-00525, Doc. No. 030120319, Slip op. at 11-12 (January 22, 2003, Order Adopting Notification Center Performance Standards and Dismissing Proceeding) (hereafter "Performance Standards Order").

Thus, OCC claims that the Commission must now conduct an independent and comprehensive analysis of the applications and the record before awarding the certificate. As part of such analysis, OCC contends that its PRISM software and mapping system is superior to the Norfield system currently used by VUPS LLC and that would be used by VUPS, Inc. For example, OCC states that PRISM allows for the most accurate identification of the location and utilities impacted by an excavation, allows for updates independent of a third-party vendor, ensures maximum protection in the event of a disaster, and is the only system that will substantially decrease over-notification. OCC concludes that it offers the most competitive pricing for the most advanced technology, and that it will preserve a valuable system of checks and balances that will not exist if VUPS, Inc. – the members of which are utilities that are relied upon by contract locators and excavating contractors – provides notification service.

In performing our analysis in this case, § 56-265.16:1 D of the Code of Virginia requires that "[e]very Commission action regarding . . . the grant . . . of notification center certifications shall be made in furtherance of the purpose of preventing or mitigating loss of, or damage to, life, health, property or essential public services resulting from damage to underground utility lines." The statute further states that any action by the Commission to approve any notification center certification shall:

1. Ensure protection for the public from the hazards that this chapter [Act] is intended to prevent or mitigate;
2. Ensure that all persons served by the notification center receive an acceptable level of performance, which level shall be maintained throughout the period of the notification center's certification; and
3. Require the notification center and its agents to demonstrate financial responsibility for any damages that may result from their violation of any provision of this chapter. . . .<sup>6</sup>

In applying the first of the three statutory requirements, above, we agree with the Examiner's finding that each applicant established that it has the capability to operate a notification center that will protect the public from the hazards that the Act is intended to prevent or mitigate. In applying the third of the three requirements, we also agree with the Examiner's finding that each applicant demonstrated financial responsibility through the minimum insurance carried for any damages that may result from its violation of any provision of the Act. In this regard we find that the liability insurance VUPS, Inc., has proposed to carry to be appropriate.

Based on the record, however, we find that VUPS, Inc., made a stronger showing regarding the second subsection of § 56-265.16:1 D. Subsection 2 of § 56-265.16:1 D directs that all persons served by the notification center receive an acceptable level of performance, which level shall be maintained throughout the period of the notification center's certification.

VUPS, Inc., presented more details demonstrating that it will be able to comply with the Commission's performance standards adopted by its Order dated January 22, 2003, in Case No. PUE-2002-00525. The Examiner found that VUUPS, whose vendor is VUPS, currently is in general compliance with most of the Commission's notification center rules and the performance standards. OCC's contract with NVUPS did not require the Company to provide, for example, the customer satisfaction rate and BSRs required by Case No. PUE-2002-00525. Although OCC agreed to comply with the Commission's performance standards if it receives a certificate, it did not in this proceeding provide data to show compliance with these performance standards, among others. VUPS, which will become a part of VUPS, Inc., did. Thus, OCC did not demonstrate that it will be able to meet the performance standards, throughout the period of the notification center's certification, to the same extent as established by VUPS, Inc.

VUPS, Inc., also presented more details about its operating plan and thus made a stronger showing than OCC that VUPS, Inc., will be able to implement a comprehensive operating plan with an operating budget, financial resources, and governing structure that will result in an acceptable level of performance throughout the period of the notification center's certification. Notification Center Rule 20 VAC 5-300-90 B 3(d) requires an application to include a written comprehensive operating plan detailing, among other things, the notification center's operating budget, financial resources, and governing structure. OCC's application, however, is not denied because of a procedural failure to comply with the Rules. Rather, an applicant's anticipated operating plan, operating budget, financial resources, and governing structure are critical to our analysis of the applicant's potential to perform adequately throughout the period of its certification. VUPS, Inc., provided a greater weight of evidence on these matters than did OCC.

Further in this regard, we agree with OCC that it should not be required to establish a functioning Virginia company prior to receiving a certificate. However, OCC could have provided a proposed and anticipated operating budget without establishing a functioning Virginia company. It did not. As found by the Examiner, OCC admitted that it had no operating budget, declined to disclose its overall operating revenue, declined to disclose its operating revenue from its Virginia operations, and declined to discuss its financial condition. Conversely, as also found by the Examiner, VUPS, Inc., provided financial information, including an operating budget. Moreover, our analysis of each applicant's ability to provide an acceptable level of performance extends beyond the five-year period encompassed by OCC's price guarantee. The absence of a proposed operating budget or detailed financial information, which would have been subject to scrutiny herein, limits our evaluation of how OCC's performance and cost may be impacted on an ongoing basis.

In addition, we cannot base our decision in this case on OCC's guarantee to charge a rate of \$0.82 for five years or to submit to a ratemaking proceeding. There is insufficient evidence in this record to conclude that the new Virginia company to be created by OCC will be able to provide service at the guaranteed rate. OCC has refused to provide any operating budget or financial information as part of these proceedings. If OCC cannot meet the guaranteed rate – after receiving a certificate conditioned upon such – the Commonwealth could be in a situation where the rate for notification center service increases, the level of service decreases, or OCC's certificate is revoked for failing to satisfy a condition of its certificate. And revocation of the certificate possibly could result in confusion and/or poor service during the unknown period of time that it would take for a new qualified notification center to come forward, to be certificated, and to establish operations. OCC's offer to submit to a ratemaking proceeding and to open its books after receiving a certificate does not solve this problem; there is insufficient evidence in this case to assess the possible results of a ratemaking proceeding. On the other hand, VUPS, Inc., has proposed to begin with a \$1.00 per ticket charge and has provided an operating budget and financial resource information. It appears that VUPS, Inc.'s, proposed charges, revenues, expenses, and financial resources will adequately balance so that it can operate as proposed with sufficient financial stability. The Notification Center Rules require an applicant to submit certain information, including an operating budget and financial resources, so that we can make our decision based on evidence contained in the record before us, not on information received after a certificate is issued.

<sup>6</sup> Va. Code § 56-265.16:1 D.



Furthermore, VUPS, Inc., has adopted bylaws that provide for a governing board, the specifics of which satisfy the Notification Center Rules. Conversely, OCC has not adopted a specific framework for its governing body, but states that it will establish a governing board complying with the Notification Center Rules after it receives a certificate. In sum, OCC has not presented evidence to demonstrate, to the same extent as VUPS, Inc., that it will be able to implement a comprehensive operating plan with the operating budget, financial resources, and governing structure to provide an acceptable level of performance throughout the period of the notification center's certification.

In addition, VUPS, Inc., demonstrated better than OCC that VUPS, Inc., will be able to work effectively with those who may be impacted by the notification center's services. Notification Center Rule 20 VAC 5-300-90 B 3(c) requires the applicant to provide material detailing the support of persons who potentially may be impacted by the services provided by the notification center, including excavators, operators, contract locators, property owners, and localities. The Examiner found that support for OCC, with the exception of the Loudoun County Board of Supervisors, came primarily from states other than Virginia and from over 800 postcards and letters from the general public that appear to be prompted by a biased, misleading letter on OCC letterhead signed by OCC president, Thomas Hoff. Conversely, the Examiner found that support for VUPS, Inc., came solely from within Virginia, primarily from local officials and utilities. The relationship between the notification center and those who may be impacted by its services impacts the provision of an acceptable level of performance on an ongoing basis. VUPS, Inc., has presented more credible evidence that it can better satisfy this prong of § 56-265.16:1 D of the Code of Virginia than did OCC.

Furthermore, as found by the Examiner, both the PRISM (which uses a polygon-on-polygon system) and Norfield (which uses a grid mapping system) software and mapping systems have the capability to allow either applicant to provide an acceptable level of performance. As also found by the Examiner, both PRISM and Norfield have their own strengths and weaknesses. OCC's use of the PRISM system does not compel the Commission to grant the certificate to OCC instead of VUPS, Inc.

#### One Notification Center

The Hearing Examiner found that one notification center should serve the entire Commonwealth. The Examiner explained that all parties to the proceeding support the concept of a single notification center for the entire Commonwealth. The Examiner found that there is no basis for the premise that two notification centers will provide better, more efficient service through competition. The Examiner concluded that having one center would eliminate costs and operational, procedural, and administrative inefficiencies. We adopt the Examiner's recommendation in this regard.

#### New Oversight Board

VUHCC requested creation of an independent oversight board to monitor, evaluate, and oversee the effectiveness of the notification center. This new oversight board also would bring matters of concern to the attention of the Commission and request modifications to the notification center's operations. The Examiner found that such request was beyond the scope of these cases and should be denied. The Examiner also found that oversight authority of certificated notification center is vested with the Commission, and that there is no legal authority for the Commission to delegate such authority to an independent board as proposed by VUHCC. We adopt the Examiner's recommendation in this regard.

#### Notification Center Board of Directors – Composition

If the Commission does not create an oversight board, VUHCC requests in the alternative that: (1) the notification center's board of directors be composed of a minimum of 50 percent representation from non-utility stakeholders; and (2) the non-utility stakeholders be given the right to name their representatives to the board. The Examiner recommended denial of this request. Notification Center Rule 20 VAC 5-300-90 A 11 currently requires that at least 20 percent of the voting members of a notification center's governing body be non-operators. The Examiner found that the Contractors' request is contrary to the Commission's intent in promulgating this rule and that such a change would have to occur in a rulemaking proceeding. The Examiner also found that VUPS, Inc.'s, bylaws allow non-operators on the board to exceed 20 percent, that there is no evidence this proposal will further the purposes of the Act, that there is no indication VUPS, Inc., will fail to exercise discretion wisely in selecting directors, and that the Commission could be viewed as imposing a requirement that is beyond the scope of its Rules. We adopt the Examiner's recommendation in this regard.

#### Notification Center Board of Directors – Minimum Qualifications

Staff proposed that VUPS, Inc.'s, directors be required to meet the following minimum qualifications: commitment to the Act; a willingness to promote public education regarding the Act; and an understanding of notification center operations. VUPS, Inc., agreed to utilize these qualifications in selecting its board members but preferred to reflect such in a policy statement rather than in articles of incorporation or bylaws.

The Examiner found that Staff's proposal should be rejected. The Examiner stated that adopting minimum qualifications would place the Commission in the position of imposing requirements not mandated by its Rules, and that there is no evidence in the record to justify a compelling need for this requirement. We find that there is insufficient evidence in this case justifying a need for the Commission to establish minimum qualifications for board members and, accordingly, adopt the Examiner's recommendation. We recognize that VUPS, Inc., agreed to utilize the proposed minimum qualifications, and we expect that VUPS, Inc., and its members will exercise their discretion wisely to ensure that the center's board of directors will be qualified to assist in achieving its purposes as a notification center.

#### Advisory Committee

Pursuant to § 56-265.31 of the Code of Virginia, the Commission has appointed an Advisory Committee to, among other things, review the reports of violations of the Act and/or the Commission's rules and make recommendations to the Commission. Section 56-265.31 also grants the Commission discretion to assign duties to the Advisory Committee. Staff recommended that the Commission expand the scope of the Advisory Committee's duties to include general oversight of the notification center's operation and policies. VUPS, Inc., concurred that the Advisory Committee could keep the Commission informed with respect to the notification center and could advise the Commission if any problems were to arise requiring Commission action. The Examiner stated, however, that Staff gave no specifics regarding the expanded role for the Advisory Committee, and that it appears the Advisory Committee currently has the authority to monitor and evaluate notification center performance, to make recommendations pertaining to the need for changes to pertinent statutes and rules, and to monitor developments in the industry.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

In its comments on the Examiner's Report, Staff states that the Commission should formally and expressly recognize in its Final Order the value of the Advisory Committee vis-à-vis the notification center that is certificated in this proceeding and should clarify in its Final Order the Advisory Committee's role in monitoring and making recommendations concerning the center's operation. Staff requests that the Commission direct the Advisory Committee to monitor and evaluate the center's operation and to make recommendations, as appropriate, to the center. Staff states, however, that the Advisory Committee should not have a role in the day-to-day operation of the center.

We agree with Staff's observation that the Commission and its Staff are fortunate to have a body of experts such as those that serve on the Advisory Committee to assist in the resolution of damage prevention issues. We also agree that the Advisory Committee should not have a role in the day-to-day operation of the notification center. Section 56-265.31 of the Code, however, does not limit the Advisory Committee's duties to reviewing probable violations of the Act. Rather, § 56-265.31 expressly permits the Commission to assign other duties to the Advisory Committee. In this regard, we take this opportunity to clarify, as discussed by the Examiner, VUPS, Inc., and Staff, that the Advisory Committee should continue to monitor and evaluate the center's operation, to make recommendations to the center, and to bring matters to the Commission's attention regarding the center's operation and policies. In this regard, we encourage the center to cooperate with the Advisory Committee about issues concerning the center's operation and policies. In this way, the center may take advantage of the expertise offered by this stakeholder body so as to ensure the delivery of an acceptable level of performance to all persons served by the notification center. If the center and Advisory Committee disagree over recommendations made by the Advisory Committee, the Advisory Committee may bring such matters to the Commission's attention.

#### Toll-Free Telephone Number

Rule 20 VAC 50-300-90 A 4 requires that a single toll-free telephone number be used across the Commonwealth to contact the notification center regarding a proposed excavation. Staff recommended that, as a condition of the certificate, the certificate holder should agree that the statewide toll-free number will be used by any subsequent certificate holder. OCC and VUPS, Inc., agree that the single statewide telephone number should follow the certificate. The Examiner found that the currently advertised statewide toll-free number should be used by the certificated notification center and should follow the certificate. We adopt the Examiner's recommendation in this regard.

#### Performance Standards

Staff proposed that the certificate holder be required to comply, at a minimum, with the performance standards adopted for NVUPS and VUUPS in Case No. PUE-2002-00525 as a condition of the certificate. The Examiner found that requiring full compliance with the performance standards as a condition of the certificate is unnecessary. In response, Staff states that the Commission should adopt performance standards for the new certificate holder that are at least as stringent as those approved for NVUPS and VUUPS, and that the Commission should require VUPS, Inc., if certified, to comply with the specific directives of these standards. VUPS, Inc., has agreed that the performance standards from Case No. PUE-2002-00525 should be applicable to VUPS, Inc., after the merger. We find that the performance standards adopted in Case No. PUE-2002-00525 will be applicable to VUPS, Inc., and that VUPS, Inc., will be expected to comply fully with such standards. In addition, VUPS, Inc., must submit a program to measure customer satisfaction acceptable to the Staff, as required by the Performance Standards Order, within 60 days from the date of this Order.

Accordingly, IT IS HEREBY ORDERED THAT:

- (1) OCC's application for a certificate to operate as the single one-call notification center provider for the Commonwealth is denied.
- (2) VUPS, Inc.'s, application for a certificate to operate as the single one-call notification center provider for the Commonwealth is granted.
- (3) The Commission will enter a subsequent order issuing the certificate to VUPS, Inc., upon completion by VUPS, Inc., of the merger of NVUPS and VUUPS, upon filing by VUPS, Inc., with the Commission of the documents indicating that the merger of NVUPS and VUUPS has taken place, and upon the filing of documents indicating that the LLC has been dissolved and its status as an LLC terminated.
- (4) The certificates currently held by VUUPS and NVUPS will be cancelled upon subsequent order of the Commission, contemporaneously issuing a certificate to VUPS, Inc., subsequent to the filing of the documents described in Ordering Paragraph (3) herein with the Commission.
- (5) VUHCC's request to create a new oversight board for the notification center is denied.
- (6) VUHCC's request to modify the composition of the notification center's board of directors currently required by Commission regulations is denied.
- (7) Staff's request for the Commission to mandate minimum qualifications for the notification center's board of directors is denied.
- (8) As a condition of the certificate, the single toll-free telephone number currently used across the Commonwealth to contact the notification center regarding a proposed excavation shall be used by VUPS, Inc., and shall follow the certificate, such that the same toll-free telephone number shall be used by any subsequently certificated notification center.
- (9) VUPS, Inc., shall comply fully with the performance standards established by our January 22, 2003, Order entered in Case No. PUE-2002-00525. As part of such compliance, VUPS, Inc., shall submit a program to measure customer satisfaction acceptable to the Staff within 60 days from the date of this Order.
- (10) This matter is continued pending further order of the Commission.

**CASE NOS. PUE-2002-00380 and CASE NO. PUE-2003-00128  
MARCH 31, 2004**

APPLICATION OF  
ONE CALL CONCEPTS, INC.

For revocation of certificates of existing certificate holder, for certification as a notification center, and for a waiver of 20 VAC 5-300-90 B 3(c)

APPLICATION OF  
VIRGINIA UTILITY PROTECTION SERVICE, INC.

For certification as the notification center for the Commonwealth of Virginia pursuant to § 56-265.16:1 B of the Underground Utility Damage Prevention Act

**ORDER ON CERTIFICATES**

On January 21, 2004, the State Corporation Commission ("Commission") issued an Order on Certification of Notification Center ("Order"). In that Order, among other things, the Commission determined that the certificate as the statewide notification center would be issued to Virginia Utility Protection Service, Inc. ("VUPS, Inc. "or the "Company"), upon completion by VUPS, Inc., of the merger of Northern Virginia Utility Protection Service, Inc. ("NVUPS"), and Virginia Underground Utility Protection Service, Inc. ("VUUPS"), upon filing by VUPS, Inc., with the Commission of documents indicating that the merger of NVUPS and VUUPS has taken place, and upon the filing of documents indicating that Virginia Utility Protection Service, LLC, has been dissolved, and its status as a limited liability company has been terminated.

Ordering Paragraph (4) of the Order provided that the certificates currently held by VUUPS and NVUPS would be cancelled upon subsequent order of the Commission, contemporaneously issuing a certificate to VUPS, Inc., subsequent to the filing of the documents described in Ordering Paragraph (3) of the Order with the Commission.

The Commission further provided in Ordering Paragraph (8) of the Order that, as a condition of the certificate, the single toll-free telephone number currently used across the Commonwealth to contact the notification center regarding a proposed excavation should be used by VUPS, Inc., and should follow the certificate, such that the same toll-free telephone number shall be used by any subsequently certificated notification center.

The Office of the Clerk has now issued a certificate of merger permitting the merger and a certificate of cancellation, effective as of April 1, 2004. On March 30, 2004, as required by Ordering Paragraph (3) of the Order, the Company filed the aforementioned certificate of merger and certificate of cancellation.

NOW UPON consideration of the foregoing, the Commission is of the opinion and finds that Certificate No. NC-4 shall be issued to VUPS, Inc., authorizing the Company to be the statewide notification center for the Commonwealth of Virginia, effective as of the date of the certificate of merger referenced herein, *i.e.*, April 1, 2004.

Additionally, we find that Certificate No. NC-1 issued to VUUPS in Case No. PUE-1990-00068 to serve the territory generally described as all of Virginia south of the southernmost boundaries of the Counties of Shenandoah, Warren, Fauquier, and Stafford, and excluding the two Eastern Shore Counties of Accomack and Northampton shall be cancelled, effective as of the date of the certificate of merger referenced herein. Further, we find that Certificate No. NC-3, issued to NVUPS in Case No. PUE-1998-00048 to serve all of Virginia north of the southernmost boundaries of the Counties of Shenandoah, Northampton, Warren, Fauquier, and Stafford shall be cancelled, effective as of the date of the certificate of merger referenced herein.

Finally, we find that the captioned cases should be dismissed.

Accordingly, IT IS ORDERED THAT:

(1) Effective as of the date of the certificate of merger referenced herein, Certificate No. NC-1 issued to Virginia Underground Utility Protection Service, Inc., shall be cancelled.

(2) Effective as of the date of the certificate of merger referenced herein, Certificate No. NC-3 issued to Northern Virginia Utility Protection Service, Inc., shall be cancelled.

(3) Effective as of the date of the certificate of merger referenced herein, Certificate No. NC-4 shall be issued to Virginia Utility Protection Service, Inc., authorizing the same to serve as the notification center for the entire Commonwealth of Virginia.

(4) Certificate No. NC-4 is conditioned as provided in Ordering Paragraph (8) of the January 21, 2004, Order to provide that the single toll-free telephone number currently used across the Commonwealth to contact the notification center regarding a proposed excavation shall be used by VUPS, Inc., and shall be available for use by any subsequently certificated notification center.

(5) There being nothing further to be done herein, the captioned cases shall be dismissed from the Commission's docket of active proceedings.

**CASE NO. PUE-2002-00423  
JANUARY 13, 2004**

APPLICATION OF  
WASHINGTON GAS LIGHT COMPANY

For authority to issue short-term debt

**DISMISSAL ORDER**

By State Corporation Commission ("Commission") Order dated August 29, 2002, Washington Gas Light Company ("WGL" or "Applicant") was granted authority to issue short-term debt up to an aggregate maximum amount of \$300,000,000. Applicant was authorized to incur short-term debt in the form of short-term notes to financial institutions, commercial paper, and affiliate borrowings under System Money Pool. This authority was granted for the purposes set forth in the application through the period beginning October 1, 2002, through September 30, 2003.

As directed by the Commission, WGL filed a Final Report of Action on December 29, 2003. According to the information in Applicant's report, WGL issued short-term debt in the form of commercial paper. WGL did not make any borrowings from financial institutions or from the System Money Pool.

There being nothing further to come before the Commission in this proceeding, IT IS ORDERED that this matter be dismissed. This case shall be removed from the docket and the papers transferred to the file for ended causes.

**CASE NO. PUE-2002-00515  
APRIL 29, 2004**

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

**DISMISSAL ORDER**

By Commission Order dated September 27, 2002, Virginia Natural Gas, Inc. ("VNG" or "the Company"), AGL Resources, Inc., ("AGLR"), and AGL Services Company ("AGL Services") (collectively, "Applicants") were granted authority for VNG to: 1) issue up to \$100,000,000 of short-term debt through participation in the AGLR Money Pool administered by AGL Services; 2) issue long-term debt to AGLR in an amount not to exceed \$250,000,000; and 3) issue and sell common stock to AGLR in an amount not to exceed \$300,000,000 through the period ending December 31, 2003.

VNG filed a final report of action on March 24, 2004. According to the information provided by VNG in its interim and final reports, the Company's actions consisted entirely of short-term borrowings which never exceeded the limit of \$100,000,000. Applicant never issued any long-term debt or common stock under the authority granted.

On consideration whereby, IT IS ORDERED that, there appearing nothing further to be done, this matter is hereby dismissed.

**CASE NO. PUE-2002-00644  
JANUARY 30, 2004**

KENTUCKY UTILITIES COMPANY d/b/a OLD DOMINION POWER COMPANY

For authority to incur short-term indebtedness and participate in a money pool

**ORDER AMENDING AUTHORITY GRANTED**

On November 15, 2002, Kentucky Utilities Company, d/b/a/ Old Dominion Power Company ("KU"), filed an application jointly with Louisville Gas and Electric Company ("LG&E"), LG&E Energy Services Inc. ("LG&E Services"), LG&E Energy Corp., E.ON AG, E.ON North America, Inc. ("E.ON NA") and Fidelity Corporation ("Fidelity") (collectively, including KU, "Money Pool Participants") for authority to incur short-term indebtedness and participate in a money pool arrangement ("Money Pool"). On December 17, 2002, the Commission issued an Order Granting Authority authorizing such transactions through December 31, 2004, under the terms and conditions, and for the purposes set forth, in the application.

By letter dated January 15, 2003, the Commission was notified that on December 30, 2003, LG&E Energy Corp. was converted from a Kentucky corporation to a Kentucky limited liability company. This conversion was effected by a merger of LG&E Energy Corp. into the newly created LG&E Energy LLC, which, as the surviving entity, succeeded to all of the rights and obligations of LG&E Energy Corp.

To align the authority granted in this case with the the subsequent conversion of LG&E Energy Corp. to LG&E Energy LLC, the Money Pool Participants respectfully request the Commission to enter an order amending the authority originally granted. KU, LG&E, LG&E Services, LG&E Energy LLC, E.ON AG, E.ON NA, and Fidelity ask that: (1) LG&E Energy LLC replace LG&E Energy Corp. as a lender-only participant in the Money Pool, with

all other Money Pool Participants and their capacities within the Money Pool remaining unchanged; and (2) the operation of the Money Pool, and the related reporting requirements, as set out in the application and the Commission's Order Granting Authority dated December 17, 2002, remain unchanged.

NOW THE COMMISSION, having considered the request, is of the opinion and finds that the replacement of LG&E Energy Corp. with LG&E Energy LLC as a lender-only participant in the Money Pool, with all other Money Pool Participants and their capacities within the Money Pool remaining unchanged, will not be detrimental to the public interest.

Accordingly, IT IS ORDERED THAT:

- 1) LG&E Energy LLC shall replace LG&E Energy Corp. as a lender-only participant in the Money Pool, with all other existing Money Pool Participants and their capacities within the Money Pool remaining unchanged.
- 2) The operation of the Money Pool, and the related reporting requirements, as set out in the application and our Order Granting Authority dated December 17, 2002, shall remain unchanged.
- 3) Except as modified herein, all provisions of our Order Granting Authority dated December 17, 2002, shall remain in full force and effect.
- 4) This matter shall be continued, subject to the continuing review, audit, and appropriate directive of the Commission.

**CASE NO. PUE-2002-00644  
SEPTEMBER 21, 2004**

APPLICATION OF  
KENTUCKY UTILITIES COMPANY d/b/a OLD DOMINION POWER COMPANY

For authority to incur short-term indebtedness and participate in a money pool

**ORDER EXTENDING AUTHORITY GRANTED**

On November 15, 2002, Kentucky Utilities Company d/b/a/ Old Dominion Power Company ("Kentucky Utilities") filed an application jointly with Louisville Gas and Electric Company ("LG&E"), LG&E Energy Services Inc., LG&E Energy Corp., E.ON AG, E.ON North America, Inc., and Fidelia Corporation (collectively, including Kentucky Utilities, "Money Pool Participants") for authority to incur short-term indebtedness and participate in a money pool arrangement ("Money Pool"). In its application, Kentucky Utilities requested authority to issue short-term debt in excess of 12% of capitalization in the form of unsecured promissory notes and/or commercial paper not to exceed \$400,000,000 and to participate in the Money Pool to loan excess funds or borrow on a short-term basis up to its short-term debt limit through December 31, 2004. Kentucky Utilities and LG&E, both regulated electric utilities, are the only borrowers in the Money Pool, with the other entities participating as lenders.

On December 17, 2002, the Commission issued an Order Granting Authority authorizing Kentucky Utilities to issue up to \$400,000,000 in short-term debt and to participate in the system money pool as requested, through December 31, 2004.

On January 20, 2004, the Commission was notified that on December 30, 2003, LG&E Energy Corp. was converted from a Kentucky corporation to a Kentucky limited liability company. This conversion was effected by a merger of LG&E Energy Corp. into the newly created LG&E Energy LLC, which, as the surviving entity, succeeded to all of the rights and obligations of LG&E Energy Corp. By Order dated January 30, 2004, the Commission authorized LG&E Energy LLC to replace LG&E Energy Corp. as a lender-only participant in the Money Pool, with all other existing Money Pool Participants and their capacities within the Money Pool remaining unchanged.

In a request filed on August 19, 2004, the Company requested that the authority granted to participate in the Money Pool be extended through December 31, 2007. The Company states that the Money Pool participants, their respective roles within the Money Pool, and the operation of the Money Pool will conform in every aspect with the Money Pool agreement approved by Commission orders of December 17, 2002, and January 30, 2004, entered in this proceeding.

NOW THE COMMISSION, upon consideration of the matter and having been advised by its Staff is of the opinion and finds that an extension of the approvals granted by our Orders of December 17, 2002, and January 30, 2004, will not be detrimental to the public interest.

Accordingly, IT IS ORDERED THAT:

- 1) Kentucky Utilities' authority to: i) issue up to \$400,000,000 in short-term debt in excess of 12% of capitalization in the form of unsecured promissory notes and/or commercial paper; and ii) participate in the Money Pool to loan excess funds or borrow on a short-term basis up to its short-term debt limit is hereby extended through December 31, 2007, under the terms and conditions and for the purposes stated in its November 15, 2002 application, as modified by the Order dated January 30, 2004.
- 2) Approval of the extension of authority shall have no implications for ratemaking purposes.
- 3) The authority granted herein shall not preclude the Commission from applying the provisions of §§ 56-78 and 56-80 of the Code of Virginia hereafter.
- 4) 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.

5) Kentucky Utilities shall file a report of action on or before February 28, 2006, 2007, and 2008, to include: i) a daily schedule of Money Pool transactions, segmented by participants to include: the Money Pool interest rate for the transaction; the comparable external borrowing or lending rate for each transaction; each type of allocated fee; and an explanation of how both the Money Pool rate and any allocated fees have been calculated; and ii) the daily schedule of the participating companies' borrowing (balances and rates) through any short-term debt instrument other than the Money Pool.

6) This matter shall be continued, subject to the continuing review, audit, and appropriate directive of the Commission.

**CASE NO. PUE-2002-00650  
MARCH 31, 2004**

APPLICATION OF  
ATMOS ENERGY CORPORATION

For authority to incur short-term indebtedness and to lend short-term funds to affiliates

**DISMISSAL ORDER**

By Order dated December 20, 2002, Atmos Energy Corporation ("Atmos" or "Applicant") was authorized by the State Corporation Commission ("Commission") under Chapters 3 and 4 of Title 56 of the Code of Virginia to incur short-term indebtedness up to an aggregate maximum of \$500,000,000 at any time between January 1, 2003 and December 31, 2003. Atmos also received authority to lend short-term funds to affiliates in an amount not to exceed \$100,000,000 at any one time during calendar year 2003. Applicant was directed to file quarterly reports of action.

Applicant filed the reports of action in accordance with the December 20, 2002, Order. According to the reports, Applicant's short-term borrowings peaked at \$234,000,000 on December 26, 27, and 28, 2003, while its cash investment balance peaked at \$85,450,000 on June 24, 2003. According to additional information provided by Applicant, the maximum amount of short-term funds Atmos lent to its affiliates was \$100,000,000 on April 25, 26, and 27, 2003. Atmos' affiliate loans outstanding averaged approximately \$50,000,000 during calendar year 2003. Subsequently, Applicant sought and received revised financing authority from the Commission in Case No. PUE-2003-00541.<sup>1</sup>

NOW THE COMMISSION, having considered the matter, is of the opinion and finds that the actions of Atmos appear to be in accordance with the authority granted in this matter.

Accordingly, IT IS ORDERED THAT, there appearing nothing further to be done in this matter, it is hereby dismissed.

<sup>1</sup> Application of Atmos Energy Corporation, For authority to incur short-term indebtedness pursuant to Virginia Code §§ 56-60 and 56-65.1 and for approval of an affiliate arrangement pursuant to Virginia Code § 56-76 et seq., orders dated December 24, 2003, and January 9, 2004.

**CASE NO. PUE-2002-00680  
MARCH 25, 2004**

APPLICATION OF  
APPALACHIAN POWER COMPANY

For authority to issue long-term debt

**DISMISSAL ORDER**

By Commission Order dated January 10, 2003, Appalachian Power Company ("APCo" or "Applicant") was granted authority under Chapter 3 of Title 56 of the Code of Virginia to issue long-term debt. Specifically, APCo was authorized to issue: 1) up to \$50,000,000 in secured or unsecured promissory notes through December 31, 2003; and 2) up to \$187,500,000 in pollution control bonds through January 1, 2004.

Pursuant to that Order, Applicant filed its reports of action. According to the reports, APCo issued \$200,000,000 of 3.60% Series G, 5-year Senior Notes and \$200,000,000 of 5.95% Series H, 30-year Senior Notes on May 5, 2003. Additionally, APCo issued \$100,000,000 of 5.50% Series L, 20-year pollution control revenue bonds on May 8, 2003. The proceeds were used to redeem maturing debt and other long-term debt prior to maturity.

NOW THE COMMISSION, having considered the matter is of the opinion and finds that the actions of the Applicant appear to be in accordance with the authority granted.

Accordingly, IT IS ORDERED that there appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUE-2002-00698  
JANUARY 30, 2004**

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

v.

CARLOS M. RODRIGUEZ,  
Defendant

**FINAL ORDER**

On September 17, 2003, the State Corporation Commission ("Commission") issued a Rule to Show Cause ("Rule") against Carlos M. Rodriguez ("Defendant"). The Rule alleged that the Defendant had violated § 56-265.14 *et seq.* of the Underground Utility Damage Prevention Act ("Act"), Chapter 10.3 of Title 56 of the Code of Virginia, and directed the Defendant to file a pleading responsive to the Rule on or before October 22, 2003.

On October 24, 2003, the Commission issued an Order Scheduling Hearing that assigned the matter to a Hearing Examiner; scheduled an evidentiary hearing for December 17, 2003; and ordered the Defendant to appear at the hearing to show cause why he should not be penalized pursuant to § 56-265.32 A of the Act for the alleged violations of the Act as set forth in the Rule.

The Defendant failed to file an answer or other responsive pleading by the date set forth in the Rule.

On December 17, 2003, the matter was heard by Michael D. Thomas, Hearing Examiner. Counsel appearing at the hearing was Sherry H. Bridewell, Esquire, for the Commission Staff. Although the Defendant received notice of the hearing and was properly served, the Defendant failed to appear at the hearing. The prefiled written testimony of Andrew Kvasnicka, Associate Utilities Engineer, of the Commission Staff was marked as an exhibit and admitted into the record. The Division also presented the testimony of John W. Combs, III, Underground Damage Prevention Coordinator for the Hanover County Department of Public Utilities, and President of the Virginia Underground Utility Protection Service, Inc., the notification center for the geographic area of the Commonwealth located generally south of the Rappahannock River; Ann Templeman, Senior Rate Analyst for Virginia Natural Gas, Inc.; and Tim D. Holloman, Systems Mechanic for Virginia Natural Gas, Inc. Counsel for the Staff moved for a default judgment based on the Defendant's failure to respond to the Rule and to appear at the hearing. The Hearing Examiner granted this motion for default judgment.

On December 31, 2003, the Hearing Examiner issued his Report. In his Report, the Hearing Examiner found that: (1) proper service was obtained on the Defendant; (2) the Defendant failed to file a response to the Rule and appear at the hearing and is in default; (3) the Division has provided clear and convincing evidence that the Defendant failed to notify the notification center for the area before beginning excavation at or near 4508 Picasso Drive, Virginia Beach, Virginia, in violation of § 56-265.17 A; (4) the Defendant failed to notify VNG, the operator of the underground line of the damage to that line in violation of § 56-265.24 D of the Code of Virginia; and (5) the Defendant should be penalized pursuant to § 56-265.32 A of the Code of Virginia in the amount of \$2,500 for each violation of the Act, for a total penalty of \$5,000.

The Hearing Examiner recommended that the Commission enter an Order that adopts the findings of his Report and dismisses the case from the Commission's docket of active proceedings. The Hearing Examiner invited the case participants to file comments to his Report within twenty-one (21) days of the date thereof. No comments were filed.

NOW THE COMMISSION, upon consideration of the Rule, the record, the Hearing Examiner's Report and the applicable statutes, is of the opinion and finds that there is clear and convincing evidence that the Defendant violated § 56-265.17 A of the Act by failing to notify the notification center for the area before commencing excavation and § 56-265.24 D of the Act by failing to notify the operator of the damage to the operator's underground utility line located at or near 4508 Picasso Drive, Virginia Beach, Virginia. The findings and recommendations of the December 31, 2003, Hearing Examiner's Report shall be adopted.

Accordingly, IT IS ORDERED THAT:

- (1) The findings and recommendations of the December 31, 2003, Hearing Examiner's Report are hereby adopted.
- (2) In accordance with the Commission's regulatory duties and powers and pursuant to § 56-265.32 A of the Act, judgment is entered for the Commonwealth and against Carlos M. Rodriguez, and a civil penalty of \$2,500 for each violation shall be imposed on the Defendant for the violations described herein of § 56-265.17 A and § 56-265.24 D of the Act, for a total civil penalty of \$5,000.
- (3) The Defendant shall pay a civil penalty to the Commonwealth in the amount of \$2,500 for each violation of the Act for a total civil penalty of \$5,000, within 30 days of the issuance of this Order. This payment shall be made by cashier's check or money order, payable to the Treasurer of Virginia and directed to the attention of Massoud Tahamtani, Director, Division of Utility and Railroad Safety, 1300 East Main Street, Richmond, Virginia 23219.
- (4) The Defendant is hereby enjoined from any further violations of the Act.
- (5) There being nothing further to be done herein, this matter should be dismissed from the Commission docket of active cases, and the papers filed herein placed in the Commission's file for ended causes.

**CASE NO. PUE-2002-00702  
OCTOBER 8, 2004**

APPLICATION OF  
VIRGINIA ELECTRIC AND POWER COMPANY D/B/A DOMINION VIRGINIA POWER

For a certificate of public convenience and necessity for facilities in Loudoun County: Brambleton-Greenway 230 kV Transmission Line

**FINAL ORDER**

On December 30, 2002, as supplemented on January 16, 2003, Virginia Electric and Power Company d/b/a Dominion Virginia Power ("Dominion" or "Company") filed an application with the State Corporation Commission ("Commission") for approval and certification of a 230 kV single-circuit transmission line from its proposed Brambleton Substation to its Greenway Substation in Loudoun County. The proposed line would extend for approximately 7.6 miles on new right-of-way with a width of approximately 100 feet. The Company also identified an alternative route for a segment of the line. The line with the alternative segment would extend for approximately 7.3 miles on new right-of-way.

On February 5, 2003, the Commission issued an Order for Notice and Hearing. Therein the Commission, as required by §§ 56-46.1, 56-265.2, and related provisions of Title 56 of the Code of Virginia ("Code"), docketed the application, required notice to the public, established a procedural schedule, and set the matter for hearing before a Hearing Examiner.

Notices of participation were filed by Dulles Gateway Associates, LLC, TAB I Associates, LLC, Dulles-Berry Limited Partnership, and Minalter, Inc. ("Gateway Associates"); Buchanan Partners, LLC, Dulles Trade Center I, L.P., Dulles Trade Center II, L.P., and Dulles Trade Center III, L.P. ("Dulles Trade Group"); Loudoun Parkway Homeowners Association ("LPHA"); the Northern Virginia Regional Park Authority ("Park Authority"); and the Loudoun County Board of Supervisors ("Loudoun County" or "County"). A number of written public comments also were received.

On April 3, 2003, LPHA filed a motion to extend the procedural schedule. LPHA sought an extension of the procedural schedule by 150 days to consult with expert witnesses in several areas relevant to the proposed transmission line and its impact on adjacent residential neighborhoods. A second motion was filed by Gateway Associates joining in the request for a 150-day extension of the procedural schedule. Gateway Associates also contended that the existing schedule did not allow adequate time to prepare its case. By Hearing Examiner's ruling dated April 18, 2003, after hearing from the Company, the Commission's Staff ("Staff"), and the other respondents, the evidentiary hearing previously scheduled to convene in Richmond on May 20, 2003, was retained for the sole purpose of hearing from public witnesses and a later hearing was scheduled to begin in September 2003 to receive the testimony of the Company, Staff, and respondents.

The first public hearings were convened at 2:00 p.m. and again at 7:00 p.m. on May 12, 2003, in the hearing room of the Loudoun County Board of Supervisors in Leesburg, Virginia. Twenty-four public witnesses testified at these hearings. Another public hearing was convened on May 20, 2003, in Richmond; one public witness testified at this hearing.

The testimony sponsored by the Company, Staff, and respondents was received at a public hearing convened on September 9, 2003, which continued through September 12, 2003. The hearing was reconvened on September 17, 2003, interrupted by Hurricane Isabel, and then concluded on September 22, 2003. Counsel appearing at the hearing were Stephen H. Watts, II, Esquire, James C. Dimitri, Esquire, Shannon O. Pierce, Esquire, and Jill Nadolink, Esquire, on behalf of the Company; Wayne N. Smith, Esquire, on behalf of Staff; Thomas B. Nicholson, Esquire, and Mark C. Looney, Esquire, on behalf of Dulles Trade Group; Michael J. Quinan, Esquire, and Ashley C. Beuttel, Esquire, on behalf of Gateway Associates; Matthew Pethybridge, Esquire, on behalf of LPHA; Cliona Mary Robb, Esquire, on behalf of the Park Authority; and Lawrence Kelly, Esquire, on behalf of Loudoun County. Twelve public witnesses testified at this hearing. Post-hearing briefs were filed on November 24, 2003, by all participants except Dulles Trade Group and Staff.

On July 23, 2004, Chief Hearing Examiner Deborah V. Ellenberg entered a Report in which the Examiner summarized the record, analyzed the evidence and issues in this proceeding, and made certain findings and recommendations. Specifically, the Examiner's Report included the following findings.

1. There is a need for the Company's proposed 230 kV Brambleton-Greenway line.
2. The construction of the line is required by the public convenience and necessity.
3. Existing rights-of-way cannot adequately serve the needs of the Company.
4. An overhead transmission line along the Company's preferred route, specifically along Shellhorn Road and the Dulles Greenway, could adversely impact the economic development of the surrounding area.
5. The Company's proposed route modified at the Westwind 606 property, as discussed in the Report, with a 3.25-mile portion of the line placed underground will reasonably minimize the adverse impact on the scenic assets, historic districts, and environment of the area concerned.
6. The Company should be allowed the flexibility to locate the line on the west side of Route 606 adjacent to the National Weather Service ("NWS") property if unable to locate the line on NWS property.
7. If the Commission approves an overhead line in the vicinity of Westwind Crossing, the Company should limit tower height to no more than 85 feet and relocate Pole No. 1 as feasible.
8. The Company should be directed to comply with the following recommendations of the Department of Environmental Quality ("DEQ"):



- protect emerging vegetation adjacent to Broad Run;
- maintain rights-of-way by mechanical methods, rather than herbicides;
- protect individual trees or small groups of trees in the project area from construction impacts;
- work with the Department of Historic Resources to aid in determining impacts of the proposed project on historic resources; and
- follow pollution prevention principles, including the reduction of solid waste at the source, reuse of materials, and recycling of materials, to the maximum extent practicable.

9. The Company should work more closely with Staff in planning for transmission requirements in areas of the Commonwealth with rapid load growth such as Northern Virginia.

The following participants submitted comments on the Examiner's Report: the Park Authority; Loudoun County; Gateway Associates; and Dominion. In its comments on the Report, the Park Authority explains that it participated in this proceeding for the limited purpose of addressing whether a Gas Line Route should be further studied and then publicly noticed as an alternative route for the proposed Brambleton-Greenway transmission line. The Park Authority agrees with the Examiner's conclusion that the weight of the evidence in this case, as well as the legal standards that the Commission must follow in approving transmission facilities, support the finding that a "Gas Line Route" need not be further considered in this proceeding.

Loudoun County concurs with the Examiner's decision to locate the transmission line along the route proposed by Dominion, which is within the industrial Route 606 Corridor. Loudoun County states that this route better conforms to the County's Comprehensive Plan than other proposed locations, and that the Commission must give weight to such policies pursuant to § 56-46.1 of the Code. Loudoun County also concurs that a portion of the line should be buried as recommended in the Report. In addition, Loudoun County encourages consideration of requiring the underground portion of the line to include the area north and west of the National Oceanographic and Atmospheric Property – specifically that portion adjacent to the Westwind Crossing Development.

Gateway Associates urge the Commission to adopt the Examiner's recommendation that 3.25 miles of the eastern end of the line, from the Greenway Substation to the NWS Property, be placed underground. Gateway Associates state that the overhead route would have disproportionate, unreasonable, and unnecessary adverse impacts on the Dulles Gateway and Dulles-Berry properties, which would be compounded by the impact of the route already approved for the first phase of this transmission project in Case No. PUE-2001-00154. Gateway Associates assert that the methodology employed by Dominion to develop its route herein was severely flawed. Furthermore, Gateway Associates contend that Dominion's flawed routing methodology resulted in a proposed route that fails to reasonably minimize adverse impacts by: (1) magnifying adverse impacts on features that should instead be avoided and protected, including Keynote Employment Areas, the Greenway, and a Railway Transportation Node; (2) creating serious and unnecessary adverse impacts on the natural environment, particularly on features that Loudoun County has attempted to afford special protection by designating them for inclusion within the River Stream Corridor Overlay District ("RSCOD"); and (3) imposing unfair limitations on the uses that can be made of the properties bordering the line at its eastern end, and amplifying impacts on economic development and on the values of those properties in particular. Gateway Associates conclude that the adverse impacts imposed by Dominion's proposed route can best be mitigated by putting the eastern end of the line underground as recommended by the Examiner.

In addition, Gateway Associates state that whether or not the Commission adopts the recommendation to put a portion of the line underground, the Commission should adopt the "Longo Route" adjustments proposed by Gateway Associates' witness, Vito J. Longo. Gateway Associates assert that: (1) the Longo Route can be used to further reduce the cost of putting the line underground; (2) the Longo Route would be the best way to reasonably minimize adverse impacts if the Commission decides not to require any underground construction; and (3) after the Longo Route rejoins Dominion's preferred route on the Mercure Business Park property, the only other routing change suggested by Mr. Longo is a slight adjustment on the Westwind 606 property, which was accepted by Dominion and recommended by the Hearing Examiner.

The Company requests that the Commission approve its proposed route, including the routing adjustment on the Westwind 606 property and the option of crossing Route 606 to avoid NWS property, if necessary, as recommended by the Examiner. The Company also requests that poles on the south side of Broad Run across from Westwind Crossing be located and constructed to minimize pole heights, as feasible. Finally, Dominion urges the Commission to reject the Examiner's undergrounding recommendation. In this regard, Dominion asserts that: (1) underground construction will have a detrimental effect on reliability of service and operating performance in eastern Loudoun County; (2) underground installation is substantially more costly than overhead construction and will adversely affect the general body of ratepayers; (3) the Commission has repeatedly recognized that there are serious reliability and cost concerns justifying rejection of underground transmission lines in all but the most exceptional cases; (4) the Report ignores the Company's best engineering judgment and Staff's position that an overhead line is the proper approach for this project; (5) the Report vastly exaggerates the adverse impacts of the proposed overhead line on the townhomes of Westwind Crossing and on the commercial property of Dulles Gateway and Dulles-Berry; (6) the Report does not comply with the requirements of § 56-46.1 of the Code regarding evaluation of environmental impacts of the underground construction; and (7) the record does not address significant routing impacts of undergrounding, including the need to cross Route 606 and the location of significant facilities needed to transition from overhead to underground construction.

NOW THE COMMISSION, having considered the record, the pleadings, the Chief Hearing Examiner's Report, the comments filed in response thereto, and the applicable law, is of the opinion and finds as follows.

#### Code of Virginia

As explained by the Examiner, the Company seeks certification of the Brambleton-Greenway 230 kV transmission line pursuant to the Utility Facilities Act, §§ 56-265.1 – 265.9 of the Code, and for approval in accordance with § 56-46.1 of the Code. Section 56-265.2 A 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." For overhead lines of 150 kV or more, § 56-265.2 A also requires compliance with the provisions of Virginia Code § 56-46.1.

Section 56-46.1 A directs the Commission to consider several factors in reviewing proposed new facilities. It provides:

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.

In addition, § 56.46.1 B of the Code states that 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." Furthermore, § 56-46.1 C directs the applicant to "provide adequate evidence that existing rights-of-way cannot adequately serve the needs of the company."

#### Need

Although several public witnesses challenged the need for the line, we agree with the Examiner's conclusion that Dominion established the need for the proposed transmission facilities. We find that the Company's load growth forecasts are reasonable. In addition, both the Company and the Staff presented evidence demonstrating that, beginning in the summer of 2005, the Northern Virginia 230 kV network will not meet North American Electric Reliability Council guidelines if this proposed transmission line is not in service. The Company and the Staff also testified that the new line will provide additional reliability for the Company's service to Northern Virginia Electric Cooperative, which has requested an additional delivery point to serve 6,000 projected new homes in and around Brambleton, and which plans to build a new substation adjacent to Dominion's new Brambleton Substation. We find that the record establishes that the proposed transmission facilities are necessary for the Company to maintain long-term reliability on its system, to serve rapidly growing load, and to provide service to NOVEC in the Northern Virginia area.

#### Route

We find that the new transmission line should follow the Company's preferred route, modified at the Westwind 606 property as agreed to by the Company, and with the option of crossing Route 606 to avoid NWS property if necessary. We find that such route satisfies §§ 56-265.2 A and 56-46.1 of the Code.

The Examiner explained that the Company, after extensive consultation with the County over several years, initially screened ten routes through six corridors. The Company, again in consultation with the County, eliminated all but five routes in its screening process. The Staff recommended consideration of the Gas Line Route, which would utilize an existing right-of-way along a gas line corridor. LPHA proposed a modification to the segment of the Company's preferred route that would pass behind the Westwind Crossing community, which would move the line away from that community and to the front of the Westwind 606 property ("LPHA Route"). Gateway Associates proposed the Longo Route, which would move the line away from their property. The Examiner eliminated all but the following four routes and explained that, ultimately, these four routes were advocated by the parties and Staff as preferred routes: the Company's preferred route; the Gas Line Route; the LPHA Route; and the Longo Route.

The Examiner then eliminated the Gas Line Route, explaining that this route would adversely affect Loudoun County and its land use plan for densely populated residential and commercial development, would negatively impact a large number of residential homes and the Brambleton Regional Park, would not reasonably minimize adverse impacts. The Examiner also rejected the LPHA Route, stating that: (1) the NWS will not permit the line to be routed on its side of Route 606 across from Westwind 606 because the NWS has a balloon launching facility in the center of its property and is concerned about drift; (2) the property on the Westwind 606 and Mercure side of Route 606 is needed for a planned expansion of the roadway; and (3) Dulles Airport would not permit transmission towers along Route 606 in front of the Mercure property because they would impose on flight paths and aviation easements. We agree with the Examiner's findings and recommendations rejecting the Gas Line Route and the LPHA Route.

We now turn to the Longo Route proposed by Gateway Associates. Gateway Associates contend that the Company's preferred route in the area around the Greenway Substation maximizes the adverse impacts upon the future of the area and its value, particularly the Dulles Greenway and the transit node that will surround a planned metro rail station. The Longo Route modifies the first 3.25-mile segment of the line leaving the Greenway Substation. Gateway Associates assert that their alternative is more appropriate because it routes the line through an area characterized as commercial/industrial, rather than through an area in which development of a transit node would result in high-end commercial, recreational, and civic uses. Gateway Associates also state that their route is shorter and cheaper. The Examiner also found, as argued by Gateway Associates, that Dulles Gateway and Dulles-Berry would bear a disproportionate share of the impact of an overhead transmission line, especially considering the impact of the route previously approved for the first phase of this transmission project.

The Company argues that the Longo Route shifts the impact from Dulles Gateway and Dulles-Berry to Reliance, splitting the Reliance property in half in the southern quadrant of the Dulles Greenway/Loudoun Parkway intersection. Dominion also notes that a portion of the Reliance property, like that of Gateway Associates, is planned for keynode employment, and that the lines authorized in the first phase of this transmission project are located within the same keynode employment areas as Dulles Gateway and Dulles-Berry. In addition, Dominion states that Reliance already bears far more impact of the new line on both sides of the Greenway. Dominion further counters that its preferred route does not unreasonably impact the County's green infrastructure or RSCOD, explaining that all RSCOD-related issues had been fully considered by the County for all ten routes and that the Route 606 routes were most compatible with the County's comprehensive plan. In addition, LPHA contends that a portion of the Longo Route creates a new and completely unscreened visual impact on the eastern section of the Westwind Crossing Subdivision, and that the Longo Route creates an increased impact on the Greenway since it would cross open fields as it converges and eventually crosses the roadway. We likewise reject the Longo Route.

We find that Dominion's preferred route (as modified herein) meets the Company's need to maintain adequate reliability of service, while satisfying the legal standards of §§ 56-265.2 A and 56-46.1 of the Code. We have considered each statutory criterion on an individual basis and as part of the whole, in light of all the relevant statutory criteria and with regard to the concerns raised by the parties and public witnesses. We find that the Company's

preferred route gives reasonable consideration to the County's comprehensive plans. We find that the Company's preferred route reasonably minimizes adverse impact on scenic assets, historic districts, and environments of the areas concerned. In addition, we find that the Company's preferred route gives reasonable consideration to the effect of the new line on economic development within the Commonwealth.

Although we have not discussed here all of the concerns expressed by each party regarding the proposed routes, we have considered and weighed the relevant factors raised in this proceeding. We also have considered and weighed the factors set forth in §§ 56-265.2 A and 56-46.1, factors that are, to a large extent, interrelated and overlapping. We have reviewed all alternative proposals and have fully considered the adverse impact of the Company's preferred route on Gateway Associates, Loudoun County, LPHA, the Reliance property, and others in the vicinity of the new line.

In rejecting the Longo Route, we have particularly considered the impacts of the Company's preferred route on Dulles Gateway and Dulles-Berry, and the Examiner's conclusion that the Company's new line, in conjunction with the first phase of this transmission project, results in a disproportionate burden falling on Dulles Gateway and Dulles-Berry. We find that the Longo Route, while lessening the impact on Dulles Gateway and Dulles-Berry, increases the impact on the Westwind Crossing Subdivision, the Greenway, Camden Garden apartments, and two data center properties on Shellhorn Road. In addition, the Longo Route increases the impact on the Dulles Parkway Center and the Reliance property, both of which are also planned for keynote employment. Gateway Associates further contend that the Longo Route is shorter and cheaper. However, as we discussed in Case No. PUE-2001-00154, such individual criteria are not dispositive. Based on the evidence, we find that the Company's "zig-zag" route in this area shares the impact among a number of landowners and satisfies the legal standards of §§ 56-265.2 A and 56-46.1 of the Code.

Furthermore, as noted above, we adopt two modifications to the Company's preferred route. First, the segment of the proposed line on the Westwind 606 property shall be adjusted slightly to move it closer to the northern and western boundaries of that property. This modification will not impose any new visual impact on the Westwind Crossing Subdivision and, rather, moves the line farther away from such residences. Second, Dominion may locate the new line on the west side of Route 606 adjacent to the NWS property if the Company is unable to locate the line on NWS property. The Examiner explained that there is still uncertainty concerning whether Dominion will be permitted to use the NWS property on the east side of Route 606, and, thus, the Company sought authority to move to the west side of Route 606 if it is ultimately barred from siting the line on NWS property.

#### Existing Rights-of-Way

Under § 56-46.1 C of the Code, Dominion is required to provide adequate evidence that existing rights-of-way cannot adequately serve its needs. We find that existing rights-of-way cannot adequately serve the needs of the Company.

#### Poles – Westwind Crossing Subdivision

LPHA seeks to reduce the height of certain transmission poles across from Westwind Crossing, thereby reducing the visual impact. The Examiner recommended that the Company should install reduced-height poles in this area. Specifically, the poles should be no taller than 85 feet, and should be less than 85 feet, if practical. Further reduction, to 68.5 feet, would be possible if two phases of the circuit are placed on lower tower arms. However, this configuration would require an additional 33 feet of right-of-way. The Examiner explained that the record is not clear as to whether such additional right-of-way is available, or whether it would further erode the wooded buffer. The Examiner also recommended that Pole No. 1 in this area should be relocated as recommended by Company witness Westergard. As agreed to by the Company, we find that the poles across from Westwind Crossing, on the south side of Broad Run, should be constructed and located to minimize pole heights, as feasible, and that Pole No. 1 should be relocated as proposed by Company witness Westergard.

#### Department of Environmental Quality

The DEQ made several recommendations, as noted above, and the Company does not object to such recommendations. We agree with the Examiner that the DEQ's recommendations should aid in assuring that the proposed line minimizes adverse environmental impacts as required by § 56-46.1 A of the Code. The Company is directed to comply with the DEQ's recommendations.

#### Transmission Planning

The Staff recommended that the Company be required to prepare a report on the merits of lengthening the planning horizon for transmission projects beyond ten years, particularly in areas of rapid growth like Northern Virginia. The Examiner found that Staff's recommendation has merit but concluded that no formal report is necessary. Rather, the Examiner found that the Company should work more closely with the Staff on long-term transmission planning in areas such as Northern Virginia where projected load growth is significant. We adopt this finding.

#### Underground Construction

The Examiner found that serious consideration should be given to placing a portion of the line underground as proposed by Gateway Associates. We do not adopt Gateway Associates' proposal and do not require Dominion to place a portion of the new line underground. The Examiner found that overhead construction may impact economic development in the area and, in particular, on the Dulles Gateway and Dulles-Berry properties. However, we have considered the effect of the overhead route approved herein on economic development in the area and, in particular, Dulles Gateway and Dulles-Berry; we also have considered the effect of alternative routes on economic development vis-à-vis other landowners. In addition, we have considered conditions that may be desirable or necessary to minimize adverse environmental impact and have determined that the approved route will reasonably minimize adverse impact on scenic assets, historic districts, and the environment. We also have given consideration to the County's comprehensive plans and, as argued by the County, agree that the Company's preferred route better conforms to those comprehensive plans than other proposed routes. In sum, we have considered and weighed the factors set forth in §§ 56-265.2 A and 56-46.1 of the Code and have found that the route approved herein satisfies those legal standards.

It is correct, as Dominion states, that the Commission has approved underground construction in limited circumstances and that underground construction has been the "exception" on its system. In the instant case, Dominion has established that there are sufficient reliability concerns to reject underground installation of a portion of the new line, and the record reveals that underground installation will be substantially more expensive. In addition, the record is incomplete regarding the environmental impacts of underground installation and the impacts of the facilities that would need to be built in order to transition from overhead to underground construction. As repeatedly noted, we have considered the effect of overhead facilities on the area and on Dulles Gateway and Dulles-Berry. Our explanation for rejecting an underground proposal in a previous proceeding is applicable here as well: "There is no

evidence that benefits will accrue to the Company or its ratepayers which outweigh the increased costs and risk of reliability problems associated with the underground installation of a portion of the proposed transmission line."<sup>1</sup>

Finally, the Examiner's recommendation to underground a portion of the new line illustrates the continuing interest in the impacts of overhead facilities. For example, pursuant to House Joint Resolution No. 153, passed by the 2004 Session of the Virginia General Assembly, the Commission currently is conducting a study for the General Assembly on placing distribution lines underground. Whether the statutory policy of Virginia will change in the future to favor underground construction of distribution and/or transmission lines in certain circumstances is an open question. Our obligation is to implement the current statutes and, as set forth herein, the overhead route approved in this Order satisfies the statutory criteria that we must apply in this proceeding.

Accordingly, IT IS ORDERED THAT:

(1) Dominion is authorized to construct and operate a 230 kV single-circuit transmission line from its proposed Brambleton Substation to its Greenway Substation in Loudoun County, as provided for in this Order.

(2) Pursuant to §§ 56-265.2, 56-46.1, and related provisions of Title 56 of the Code of Virginia, Dominion's application for a certificate of public convenience and necessity to construct a 230 kV single-circuit transmission line in Loudoun County is granted as set forth in this Order, and otherwise is denied.

(3) Pursuant to the Utility Facilities Act, Chapter 10.1 (§§ 56-265.1 *et seq.*) of Title 56 of the Code of Virginia, Dominion is issued the following certificate of public convenience and necessity:

Certificate No. ET-91o which authorizes Virginia Electric and Power Company under the Utility Facilities Act to operate presently-constructed transmission lines and facilities in Loudoun County, all as shown on the detailed map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUE-2002-00702; Certificate No. ET-91o will cancel Certificate No. ET-91n issued to Virginia Electric and Power Company on June 27, 2002, as supplemented on June 12, 2003.

(4) Within thirty (30) days from the date of this Order, Dominion shall file with the Commission's Division of Energy Regulation three copies of an appropriate map that shows the routing of the transmission lines approved in this Order.

(5) As a condition of the certificate granted in this case, Dominion shall comply with the recommendations prepared by the Department of Environmental Quality.

(6) As a condition of the certificate granted in this case, the transmission lines must be constructed and in-service by January 1, 2007; however, Dominion is granted leave to apply for an extension for good cause shown.

(7) This case shall be dismissed and removed from the list of pending cases.

<sup>1</sup> Application of Virginia Electric and Power Company, To Amend its Certificate of Public Convenience and Necessity No. ET-73n Authorizing Operation of Transmission Lines and Facilities in the County of Chesterfield: Midlothian-Trabue 230 kV Transmission Line, Case No. PUE-1988-00071, 1990 S.C.C. Ann. Rept. 269 (March 27, 1990).

**CASE NO. PUE-2003-00115  
JANUARY 30, 2004**

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

v.  
ROBERT LEE MORRIS, INDIVIDUALLY, AND T/A ELLICOTT CITY UNDERGROUND, INC.,  
Defendant

**FINAL ORDER**

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"), Chapter 10.3 (§56-265.14 *et seq.*) of Title 56 of the Code of Virginia.

On March 24, 2003, in the captioned matter, the Commission issued an Order Establishing Payment Plan which accepted an Admission and Consent executed by Robert Lee Morris, Individually, and t/a Ellicott City Underground, Inc. ("Defendant"). The Commission directed the Defendant, among other things, to make five \$1,000 monthly installments beginning on or before May 1, 2003, and ending on or before September 1, 2003, to satisfy the \$5,000 in default judgments entered against him in Case Nos. PUE-2000-00110 and PUE-2002-00354.<sup>1</sup>

On January 6, 2004, the Staff of the Commission filed a Motion advising the Commission that the Defendant has failed to make any installment payment pursuant to the Payment Plan established by the Commission. The Staff requests the Commission to declare the \$5,000 amount due in full and to provide an opportunity for the Defendant to make payment. In the event the Defendant fails to make such payment, the Staff requests entry of an order

<sup>1</sup> These judgments were duly recorded in the Madison County Clerk's Office on April 16, 2003.

imposing an additional penalty pursuant to § 12.1-13 of the Code of Virginia of up to \$5,000 for failure to abide by an order of the Commission, directing that collection efforts be undertaken, and granting such other relief as the Commission deems appropriate.

On January 8, 2004, the Commission issued an Order Permitting Response allowing the Defendant to file any response to the Staff Motion on or before January 23, 2004. The Defendant failed to file any response within the prescribed time.

NOW UPON CONSIDERATION of the matter, the Commission is of the opinion and finds that the Staff Motion should be granted in part. We will declare the total amount of \$5,000 due in full within 30 days of the date of this Order. We decline to impose additional monetary penalties on the Defendant for failure to abide by a Commission order. However, we will direct this matter to be turned over to the Division of Debt Collection, Office of the Attorney General for collection in the event of nonpayment.

Accordingly, IT IS ORDERED THAT:

- (1) The Staff Motion is hereby granted in part as described herein.
- (2) Our March 24, 2003, Order Establishing Payment Plan is vacated.
- (3) The judgments entered in Case Nos. PUE-2000-00110 and PUE-2002-00354 in the total amount of \$5,000 are due in full within 30 days of the date of this Order. This payment shall be made by cashier's check or money order, payable to the Treasurer of Virginia. Such payment shall be directed to the attention of the Director of the Division of Utility and Railroad Safety, State Corporation Commission, 1300 East Main Street, 4<sup>th</sup> Floor, Richmond, Virginia 23219.
- (4) Should the Defendant fail to make timely payment pursuant to this Order, the collection of the amounts due to the Commonwealth shall be turned over to the Division of Debt Collection, Office of the Attorney General.
- (5) There being nothing further to be done, this matter shall be dismissed from the Commission docket of active cases, and the papers filed herein placed in the Commission's file for ended causes.

**CASE NO. PUE-2003-00116  
JANUARY 13, 2004**

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 2003/2004 FUEL FACTOR**

On March 14, 2003, Kentucky Utilities Company d/b/a Old Dominion Power Company in Virginia ("ODP" or the "Company") filed with the State Corporation Commission (the "Commission") an application along with testimony, exhibits, and a proposed tariff to increase its current fuel factor from 1.132¢ per kWh to 1.794¢ per kWh, effective May 1, 2003.

On March 25, 2003, the Commission docketed the application, provided for public notice and an opportunity for participation in this proceeding, directed the Staff of the Commission ("Staff") to investigate the application and to file testimony regarding the application, and scheduled a hearing for June 24, 2003. The Commission allowed ODP to put the proposed fuel factor of 1.794¢ per kWh into effect, on an interim basis, beginning with ODP's May 2003 billing month.

On June 12, 2003, in response to a motion filed by the Staff requesting additional time to file its testimony based on the increasing complexity of the case, the Commission granted the Staff and the Company additional time to file their respective testimony and rebuttal testimony and rescheduled the hearing for July 29, 2003. A hearing to receive the testimony of any public witnesses was held on June 24, 2003, as originally noticed.

On July 8, 2003, in response to an additional Staff motion, the Commission again granted additional time for Staff testimony and ODP rebuttal testimony and moved the hearing to September 20, 2003.

On August 15, 2003, the Commission further modified the procedural schedule in this matter providing for additional time for the Staff to file its testimony and the Company to file any rebuttal testimony. The hearing was rescheduled for January 14, 2004.

The Staff filed its testimony on November 25, 2003. The Staff found the Company's proposed estimates of energy sales and fuel prices for its Virginia jurisdiction, for the period May 1, 2003, through March 31, 2004, to be reasonable. The Staff found the assumptions underlying the proposed fuel factor to be reasonable. The Staff recommended that the Commission approve the continuation of the fuel factor of 1.794¢ per kWh, currently in effect on an interim basis. The Staff also recommended a one-time \$46,654 reduction to ODP's fuel under-recovery position of expenses related to ODP's purchase of Polish Coal from a Company affiliate.

On December 16, 2003, the Company filed a Motion to Accept Staff Recommendations and to Cancel Hearing which accepts the Staff's recommendations and indicates that the scheduled hearing may not be necessary. The Company notes that no written public comment was filed in this matter, and that no public witnesses appeared at the hearing scheduled for receiving public comments. The Motion states that ODP has already reduced its fuel expense by \$35,786 and proposes that the remaining \$10,868 of the Staff's proposed reduction be credited to the deferred fuel account in the next full billing cycle following entry of a final order in this case.

The Staff has advised the Commission that it does not object to the Company's proposal.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

NOW THE COMMISSION, upon consideration of the record in this case, is of the opinion that the Company's proposed fuel factor of 1.794¢ per kWh is appropriate and should remain in effect. We will accept the Company's proposal to credit the remaining \$10,868 of the Staff's proposed \$46,654 reduction to ODP's fuel under-recovery position of expenses related to ODP's purchase of Polish Coal from a Company affiliate to the deferred fuel account in the next full billing cycle following entry of this Order.

Approval of this factor, however, is not construed as approval of the Company's actual fuel expenses. For each calendar year, the Commission's Staff conducts an audit and investigation which addresses, among other things, the appropriateness and reasonableness of the Company's booked fuel expenses. Staff's results are documented in an Annual Report ("Staff's Annual Report"). A copy of Staff's Annual Report is sent to the Company and to each party who participated in the Company's last fuel factor proceeding, all of whom are provided with an opportunity to comment and request a hearing on the report.

Based on Staff's Annual Report, any comments or hearing thereon, the Commission enters an Order entitled "Final Audit for twelve-month period ending December 31, 20\_\_\_, Fuel Cost-Recovery Position," hereinafter referred to as "Final Audit Order." Notwithstanding any findings made by the Commission in an earlier order establishing the Company's fuel factor based on estimates of future expenses and unaudited booked expenses, the Final Audit Order will be the final determination of not only what are, in fact, allowable fuel expenses and credits, but also the Company's over or underrecovery position as of the end of the audit period. 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 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 the Company's next fuel factor proceeding. We reiterate that no finding in this order is final, as this matter is continued generally, pending Staff's audit of actual fuel expenses.

Accordingly, IT IS ORDERED THAT:

- (1) The recommendations made in the testimony filed by the Staff on November 25, 2003, as modified by the Company's Motion filed December 16, 2003, are hereby accepted.
- (2) The Company's fuel factor of 1.794¢ per kWh, shall remain in effect.
- (3) The Company shall credit the remaining \$10,868 reduction to fuel expense recommended by the Staff to the deferred fuel account in the next full billing cycle.
- (4) The January 14, 2003, hearing scheduled in this matter is hereby canceled.
- (5) This case is continued generally.

**CASE NO. PUE-2003-00118  
JANUARY 9, 2004**

APPLICATION OF  
VIRGINIA ELECTRIC AND POWER COMPANY D/B/A DOMINION VIRGINIA POWER

For approval of retail access pilot programs

**ORDER APPROVING PILOT REVISIONS**

On December 11, 2003, Virginia Electric and Power Company d/b/a Dominion Virginia Power ("DVP" or "Company"), filed with the State Corporation Commission ("Commission") proposed revisions to its retail access pilot programs terms and conditions of service. In its filing, DVP proposes three revisions to its pilots terms and conditions of service, approved by the Commission in its Final Order issued September 10, 2003, in this proceeding. On December 15, 2003, the Commission issued an Order providing parties an opportunity to file responses on the Company's proposed revisions on or before December 24, 2003. The Division of Consumer Counsel, Office of the Attorney General ("Consumer Counsel"), the Commission Staff, and Dominion Retail, Inc. filed responses on the proposed revisions.

No one opposed DVP's first and third proposed revisions. With respect to the second proposed revision, the Staff and Consumer Counsel opposed DVP's proposal to reduce the time period for the Staff to select the winning bids in the Competitive Bid Supply Pilot from ten days until two days. Consumer Counsel stated in its response that with many variables to potentially evaluate and compare, the Staff should not be constrained in its ability to thoroughly evaluate the bids. The Commission Staff stated in its response that it understands the desire for a quick selection process and will endeavor to make its selections as quickly as possible. The Staff further stated that because it does not know what obstacles it may encounter during its deliberation, that it would not be responsible to support a time frame that may impair its ability to thoroughly evaluate the bids. The Staff further indicated that if the Commission decides that it is necessary to amend the CBS Pilot terms, then it would suggest that Section IX.D of the CBS Pilot could be amended to state as follows:

The Commission Staff will make the final selection of CSPs. Dominion Virginia Power shall promptly provide all necessary information to the Commission Staff to determine the winning Competitive Bid Supply Service bids. Subject to prompt receipt of the necessary information from Dominion Virginia Power, the Commission Staff will determine the winning Competitive Bid Supply Service bids within ten calendar days, or sooner if practicable, following the submission of final bids.

Dominion Retail stated its strong support for DVP's proposed reduction in the bid selection time period. Dominion Retail further stated that an even shorter time period than the proposed two days is preferred due to the inherent risk of changing market prices while a bid is pending.

In its Reply to the responses filed, DVP continued to support its proposed shortening of the bid selection time period to two days. DVP stated that it proposed the change in order to reduce the price risk for bidders and to encourage better price offers. Furthermore, DVP stated that it was encouraged by the Staff's endeavor to select the winning bids as soon as possible, and if the Commission does not approve the Company's proposal, DVP did not object to the Staff's recommended language changes to Section IX.D. The Company further stated that it believes that the Staff's recommended language change would alleviate Consumer Counsel's stated concerns.

NOW THE COMMISSION, upon consideration of the foregoing, is of the opinion and finds that the first and third revisions to the pilots terms and conditions of service proposed by DVP should be approved. It is evident that DVP cannot issue a Request For Bids until the Commission has approved a wires charge. In addition, we find that the proposed change to Rider RAP is reasonable based upon the information provided by the Company.

With respect to the second proposed revision, we find that the Staff's recommended language changes to Section IX.D. should be approved. While we recognize that a quicker selection period may be desirable for competitive service providers, we are persuaded that, as this is the first time the bid selection process will be conducted, the ten day period is necessary to provide sufficient time for the Staff to perform a thorough evaluation and complete the bid selection process. The Staff has stated its intent to expedite the selection process as much as practicable, and the new language requires those efforts.

Accordingly, IT IS ORDERED THAT:

- (1) DVP's proposed revisions to its retail access pilots, subject to the modifications discussed herein, are hereby approved.
- (2) On or before January 15, 2004, DVP shall file the applicable revised terms and conditions of service reflecting the findings herein.
- (3) This matter shall remain open for matters concerning the retail access pilots as they may arise.

**CASE NO. PUE-2003-00118  
MAY 25, 2004**

APPLICATION OF  
VIRGINIA ELECTRIC AND POWER COMPANY D/B/A DOMINION VIRGINIA POWER

For approval of retail access pilot programs

**ORDER APPROVING REVISIONS**

On September 10, 2003, the State Corporation Commission ("Commission") issued a Final Order approving the application of Virginia Electric and Power Company d/b/a Dominion Virginia Power ("DVP" or "Company") to implement three retail access pilot programs: (1) a Municipal Aggregation Pilot; (2) a Competitive Bid Supply Service Pilot ("CBS Pilot");<sup>1</sup> and (3) a Commercial and Industrial Pilot ("C & I Pilot") (collectively, the "Pilots"). The Commission directed the proceeding be left open for other matters concerning the Pilots as they arise.<sup>2</sup>

On January 30, 2004, DVP filed a Motion for Expedited Approval to Extend the Schedule of the Retail Access Pilot Programs. DVP requested an extension of the start date of the Pilots based on the issues being addressed in the General Assembly, a reevaluation of the appropriate size of the wires charge reduction, and several other matters involving the Pilots' structure. On February 23, 2004, the Commission granted the Company's request to extend the start date of the Pilots in order for DVP to propose modifications and directed the Company to file any such proposed modifications on or before April 2, 2004. Respondents and the Staff were permitted to file responses to the Company's proposed modifications and DVP was allowed to file a reply.<sup>3</sup>

On April 2, 2004, DVP filed a Motion for Approval of Proposed Modifications to Retail Access Pilot Programs ("Motion") requesting that the Commission approve revisions to the Pilots. according to the Motion, the Company would offer a 100% wires charge reduction for 2004 and thereafter would determine the wires charges based on a formula applicable to each rate schedule. For years after 2004, the wires charge reduction formula reduces, for Pilot customers, the Commission-determined wire charge for that calendar year by an amount up to, but not exceeding, the reduction for 2004. Pilot customers therefore would only pay, in later years, the increment that the later years' wires charges exceed the 2004 wires charges.<sup>4</sup> DVP states that the Company would no longer require Competitive Service Providers ("CSPs") to acquire firm transmission service on adjacent transmission systems and that on April 2, 2004, the Company filed an application with the Federal Energy Regulatory Commission to provide optional backup supply service for CSPs should their supply to retail customers be interrupted under certain qualifying conditions.

The Motion also provides proposed modifications specific to the CBS Pilot. DVP proposes to revise the start date to the date the Company begins accepting enrollments, which would occur upon receipt of the Commission's Order on the Motion. DVP proposes to specify the supply service bid period with the first period extending through the January 2006 meter read date for each participating customer and the second bid period ending as of the

<sup>1</sup> The Competitive Bid Supply Service Pilot initially was named the Default Service Pilot.

<sup>2</sup> The Commission approved certain revisions to the Pilots' terms and conditions of service on January 9, 2004.

<sup>3</sup> On April 8, 2004, the Commission granted the Staff's Motion for Revision of Procedural Schedule to revise the procedural schedule to permit Respondents to file any responses on or before April 16, 2004, the Staff to file any response on or before April 22, 2004, and the Company to file a reply on or before April 29, 2004.

<sup>4</sup> For example, if the 2004 wires charge for a residential customer is 1.8¢/kWh, and that charge rises in 2005 to 2.0¢/kWh, the residential pilot customer would pay a 2005 wires charge of .2¢/kWh. On the other hand, should the 2005 wires charge be lowered to 1.6¢/kWh, then the residential pilot customer would continue to pay a zero wires charge for 2005.

July 2007 meter read date for each participating customer. Within 10 days after a Commission Order on the Motion or acceptance by the Staff of any compliance filing in this proceeding, as applicable, the Company would reissue the Request for Qualifications ("RFQ") with responses due within 20 days and would issue the Request for Bids the day immediately after the RFQ due date. CSPs would be required to submit bids within 10 days. DVP proposes that in the event that any one or more geographic blocks are not awarded, the bidding process would continue with new bids automatically due on the 10<sup>th</sup> business day of the following month and that the Company would have the discretion to halt the rebidding process and then reinstate it if desired.

DVP would divide the 10-day period for the Staff to award the geographic blocks in the CBS Pilot into two components. The bids would be required to remain open for a period of two business days during which the Staff would review the bids, select the winning bid, and notify the winning bidder, with bids submitted by bidders that were not notified by the Staff expiring at the close of the second business day. In the remaining eight days, the Staff would perform due diligence of the winning CSP bid and have the option to reverse or confirm its prior selection. DVP also would allow the Staff to select one CSP to serve all three geographic blocks if the selection of the second lowest bid would result in an offer price at least 1.5% higher than the offer price resulting from the lowest bid. DVP further proposes that CSPs must enroll or have pending enrollments for all customers that have not declined their offer within 60 days from the date the Company provides the CSPs with a list of customers.

In the Motion, DVP also proposes that a threshold level of participation of either 10% of the lottery accounts or 20% of the maximum allowable load be established in the C & I Pilot. Once the remaining customers have been notified that the threshold has been met, such customers would be required to have an enrollment or pending enrollment with a CSP within 60 days of the notification or lose their enrollment slot.

Finally, the Company also proposes other revisions to the Pilots including minor clarifications to the Terms and Conditions, as well as modifications resulting from SB 651.

In response to the Motion, Constellation NewEnergy, Inc. ("Constellation"), the Division of Consumer Counsel, Office of the Attorney General ("Consumer Counsel"), Direct Energy Marketing, Inc. ("Direct Energy"), Dominion Retail, Inc. ("Dominion Retail"), Pepco Energy Services, Inc. ("PES"), Strategic Energy, LLC ("Strategic Energy"), Urchie B. Ellis, and Washington Gas Energy Services, Inc. ("WGES"), filed responses on or before the deadline.

Constellation recommends that the Company provide a 100% waiver of wires charges through 2005 at a minimum and that C & I Pilot customers be eligible to enroll in the program on a first-come, first-served basis rather than through a lottery system.

Consumer Counsel states that unconditionally eliminating the wires charges would be a more meaningful modification to the Pilots. Consumer Counsel opposes DVP's proposal to shorten the bid supply period and suggests the minimum 24-month bid term be maintained in the CBS Pilot. Further, Consumer Counsel states that it must be clarified that the Staff's authority to award all three geographic blocks to a single CSP in the CBS Pilot is discretionary. Finally, Consumer Counsel indicates that it does not support the Company's proposed Staff bid evaluation process and proposes either standardizing bids or an alternative bid process.

In its comments, Direct Energy discusses its wholesale market concerns and offers an alternative model for the CBS Pilot that would, among other things, create a single residential customer tranche and consolidate the term into one period ending July 1, 2007.

Dominion Retail indicates that it is generally supportive of the modifications contained in the Motion, but that in regard to the bid review process, suppliers are unwilling to hold firm prices open for 10 days or will factor in a risk premium. Noting that CSPs will have already submitted qualification packages with non-price factors for the Staff to review, Dominion Retail proposes a two business day review period. Dominion Retail also recommends creating residential and non-residential sub-blocks in the existing three geographic blocks.

PES also expresses concern over the proposed bid review process and suggests standardizing bids that are submitted and seeking ways to reduce the additional review the Staff is required to perform. With regard to the wires charges, PES submits that entirely eliminating the wires charge would be more conducive to the signing of long-term contracts with the Pilots' participants and further the development of competition.

In its comments, Strategic Energy indicates that sufficient lead time is required for CSPs as the CBS Pilot is initiated and suggests October 1, 2004, or a full four months after the Commission's Order on the Motion as a reasonable start date. Strategic Energy also states that variable wires charges after 2004 would make it difficult for CSPs to offer customers price certainty and that the reduction should remain at 100% for the full term of the Pilots. Finally, Strategic Energy requests that, once the initial thresholds proposed by DVP in the C & I Pilot are met, there be only a 30-day period for remaining lottery customers to find a supplier and submit an enrollment request.

Urchie B. Ellis filed comments stating that the proposed modifications were complex and misleading and questioning whether the public would benefit from the Pilots.

Finally, WGES filed comments in support of the Motion.

On April 22, 2004, the Staff filed a response to the Motion and the responses of the other interested parties. While generally not opposing the Motion, the Staff offers several comments and recommendations. The Staff encourages DVP to reconsider eliminating 100% of the wires charge for the entire length of the Pilots but notes that the Pilots are a voluntary proposal and that the Company has a statutory right to collect a wires charge. In addition, the Staff encourages the Company to develop a consensus on the CBS Pilot bid supply period length. With regard to automatic rebidding, the Staff recommends requiring DVP to obtain Commission approval prior to halting the process. The Staff recommends modifying the CBS Pilot bid selection process to state that the Staff will endeavor to select the winning CSP within two days, but that if it takes longer, the winning CSP will have the option to withdraw its bid. The Staff supports clarifying that the Staff has discretion to select one CSP to serve all blocks in the CBS Pilot. Noting that several responses suggest segmenting the three geographic bidding blocks into residential and non-residential blocks, the Staff recommends that in the event the Commission further segments the blocks, each geographic area be maintained but split into residential and non-residential sub-blocks. Finally, the Staff recommends that for customers selected through the initial lottery of the C & I Pilot, the time period to enroll with a CSP be reduced from 60 days to 30 days once the participation threshold suggested by DVP is reached.



On April 29, 2004, DVP filed a Reply of Virginia Electric and Power Company to Responses to Proposed Modifications ("Reply"). With regard to the wires charges, DVP continues to assert that eliminating 100% of the 2004 wires charges, applying the wires charge reduction formula for later years, and filling any slots left open by participants deciding to leave the CBS Pilot program should be sufficient to attract CSPs to the Pilots.

In response to concerns over the proposed bid review period in the CBS Pilot, the Company suggests further revision so that the Staff would determine the winning bid and communicate the decision within two business days of submission, or any winning bidder notified subsequent to the two day period would have the opportunity to withdraw its bid by 5:00 p.m. if the CSP is notified before noon on that day or by noon the following business day if the notification is after noon. The Reply indicates that the Company is not opposed to clarifying that the Staff has discretion to select one CSP to supply all three blocks and endorses the proposal to maintain the three geographic blocks but to separate them into residential and non-residential sub-blocks. DVP states that it accepts October 1, 2004, as a target date to begin electricity supply delivery in the CBS Pilot and proposes several modifications to the CBS Pilot program Terms and Conditions to ensure that CSPs have adequate time to complete steps necessary to participate. Finally with regard to the CBS Pilot, DVP states that it does not oppose the Staff's recommendation that the Company make application to the Commission to halt the rebidding process.

In addition, the Reply indicates that the Company is not opposed to reducing the time period for customers initially selected by lottery to contract with a CSP from 60 days to 30 days.

NOW THE COMMISSION, upon consideration of the Motion, the responses, and the Reply, is of the opinion and finds that proposed modifications to the Pilots contained in the Motion, as further revised by the Reply, should be approved. We will, therefore, grant the Motion, subject to the changes noted in the Reply. We find that DVP should file revised Terms and Conditions for each of the Pilots referenced in Section XXIV - Retail Access of the Company's Retail Rate Schedule, as well as a revised Tariff Rider RAP -Retail Access Pilot. We will also require the Company to provide written notice of the modifications to those who have volunteered for the Pilots.

As a procedural matter, we note that our February 23, 2004, Order in this proceeding permitted respondents to file responses to the Motion, but that several of the persons or entities filing responses are not respondents or parties to the proceeding. Dominion Retail filed a motion to intervene and comment on previous proposed revisions to the Pilots on December 24, 2003. On April 16, 2004, Direct Energy and Strategic Energy both filed motions for acceptance of late-filed notice of participation and comments with their responses to the Motion. We will grant the outstanding motion by Dominion Retail and designate the company as a respondent in this proceeding. We will also grant the motions of Direct Energy and Strategic Energy to participate in this proceeding as respondents. We will also accept the responses to the Motion filed by PES and WGES.<sup>5</sup>

We will direct any interested person who has not otherwise already filed a notice of participation and who desires to be a party in the proceeding to file a notice of participation. Any interested person who simply wishes to remain on or be added to the service list for future filings and orders in this docket, but not to participate as a party in this proceeding, and has not already done so will be required to file a statement of interest. Hereafter, the service list in this proceeding will only contain parties to the proceeding, the Staff, and those who have filed a statement of interest. Any future filings and orders will only be served on those persons or entities.

Accordingly, IT IS ORDERED THAT:

- (1) The Motion, subject to the revisions contained in the Reply, is hereby granted and the modifications to the Pilots are hereby approved.
- (2) On or before June 11, 2004, DVP shall file an original and fifteen (15) copies of the revised Terms and Conditions for each of the Pilots referenced in Section XXIV - Retail Access of the Company's Retail Rate Schedule reflecting the findings herein. The revised Terms and Conditions shall be subject to the review of the Staff for conformity with this Order.
- (3) On or before June 11, 2004, DVP shall file an original and fifteen (15) copies of the revised Tariff Rider RAP - Retail Access Pilot. The revised Rider RAP shall be subject to the review of the Staff for conformity with this Order.
- (4) On or before June 18, 2004, the Company shall provide written notice to those who have volunteered for the Pilots of the modifications to the Pilots approved herein. Such notice shall be in a form and content approved by the Staff.
- (5) The motions of Dominion Retail, Direct Energy, and Strategic Energy to participate in this matter are hereby granted.
- (6) On or before June 18, 2004, any interested person who has not otherwise filed a notice of participation and desires to be a party in the proceeding shall file a notice of participation in accordance with the Rules of Practice and Procedure.
- (7) On or before June 18, 2004, any interested person who simply wishes to remain on or be added to the service list for future filings and orders in this docket, but not be a party to this proceeding, and has not already done so shall file a statement of such interest.
- (8) This matter shall remain open for the receipt of reports by DVP as required by the Commission's September 10, 2003, Final Order, as well as for other matters concerning the Pilots as they may arise.

<sup>5</sup> PES has not previously tiled a notice of participation. WGES filed a statement of interest on June 4, 2003, pursuant to our April 29, 2003, Order Prescribing Notice and Inviting Comments and Requests for Hearing which directed interested persons who wished to remain on or be added to the service list for future filings and orders in this docket to file a statement of interest. Such a statement of interest is not a notice of participation as a respondent and a party to the proceeding as provided by 5 VAC 5-20-80 of the Rules of Practice and Procedure, 5 VAC 5-20-10 *et seq.* ("Rules of Practice and Procedure").

**CASE NO. PUE-2003-00180  
JULY 6, 2004**

APPLICATION OF  
VIRGINIA ELECTRIC AND POWER COMPANY

For authority to establish a credit facility

**DISMISSAL ORDER**

By Order dated May 21, 2003, the Virginia State Corporation Commission ("Commission") authorized Virginia Electric and Power Company ("Virginia Power" or "the Company") to establish a \$1.25 billion 364-day revolving credit and competitive loan facility ("Facility").

In its application, Virginia Power, along with its corporate parent, Dominion Resources, Inc. ("DRY"), and its affiliate, Consolidated Natural Gas Company ("CNG"), proposed to establish and share the Facility. The Facility was to consist of two borrowing arrangements: 1) a revolving credit loan facility; and 2) a competitive loan facility. Borrowings under the Facility by Virginia Power were to be used for general corporate purposes, including commercial paper liquidity back up. As directed by the Commission, Virginia Power filed its report of action. According to the report, there were no borrowings under the Facility. Based upon the information filed by Virginia Power in this case, it appears that its actions were in accordance with the authority granted.

On consideration whereby, IT IS ORDERED, that there appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2003-00230  
JULY 6, 2004**

APPLICATION OF  
TOLL ROAD INVESTORS PARTNERSHIP II, L.P.

Application to Revise Tolls

**FINAL ORDER**

On May 30, 2003, Toll Road Investors Partnership II, L.P. ("TRIP II" or the "Company"), the owner and operator of the Dulles Greenway ("Greenway"), filed an application with the State Corporation Commission ("Commission") to increase the Greenway's toll ceiling from the current \$2.00 maximum toll, which was authorized beginning in 1996, to \$3.00. By Commission orders dated June 27, 2003 (as corrected by order dated July 11, 2003), and July 30, 2003, and by Hearing Examiner's Ruling dated August 25, 2003, the Commission docketed the application, appointed a hearing examiner to conduct further proceedings, established a procedural schedule for the filing of prepared testimony and exhibits, scheduled a public hearing in Loudoun County, Virginia, scheduled an evidentiary hearing in Richmond, Virginia, and directed TRIP II to provide public notice of its application.

The Commission received over 700 electronically-submitted comments over a period of several months from persons interested in this proceeding. Most of those comments opposed an increase to the \$2.00 maximum toll. The comments also addressed, among other things, the timing of the proposed increase, the impact on usage of the Greenway, and the relative increases for drivers not traveling the entire length of the roadway. The Loudoun County Board of Supervisors adopted a resolution that opposed the increase and requested a hearing. The Metropolitan Washington Airport Authority filed a letter with the Commission that supported the Company's application.

No person or entity filed a notice of intent to participate as a respondent in this proceeding. Public hearings were held in Loudoun County on December 3, 2003, during which seven public witnesses appeared to offer testimony. The evidentiary hearing was held in Richmond before Chief Hearing Examiner Deborah V. Ellenberg on December 9, 2003. James C. Dimitri, Esquire, and Shannon Omia Pierce, Esquire, appeared as counsel for TRIP II. Wayne N. Smith, Esquire, appeared as counsel for the Commission's Staff ("Staff"). Post-hearing briefs were filed by TRIP II and by the Staff.

On June 21, 2004, the Chief Hearing Examiner issued a Report in this matter. The Examiner's Report discusses, among other things, the background of the Greenway, the Commission's authority in this matter under Title 56 of the Code of Virginia, and the testimony provided by public witnesses, the Company, and the Staff.

The Examiner concludes that "the record clearly demonstrates the Company's need for higher revenues to meet increasing debt service obligations, to properly operate the road, to help fund the substantial capital improvements for the road that will be necessary in the future, to stabilize the Company's financial condition, and to improve the likelihood of future investor returns." Report at 16. The Examiner also finds that the "Company's current revenue stream ... is adequate to pay its current operating expenses; however, rapidly escalating debt service requirements and payment of accrued interest will soon require additional revenue." Report at 18. In addition, the Examiner concludes that the Company should conduct studies regarding three rate design matters: (i) time-of-day or congestion pricing; (ii) distance pricing; and (iii) pricing for trucks with three axles and for those with four or more axles.

Accordingly, the Examiner's Report recommends that the Commission:

- (1) approve a maximum toll rate ceiling of \$3.00;
- (2) adopt a phased maximum ceiling, below and up to which the Company has flexibility to adjust tolls as the market dictates, as follows:
  - a) a maximum ceiling of \$2.40 effective upon issuance of a Final Order herein;

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- b) a maximum ceiling of \$2.70 effective December 31, 2005; and
- c) a maximum ceiling of \$3.00 effective July 1, 2007.
- (3) direct the Company to collect data and analyze time-of-day or congestion pricing, and report the data and results to the Staff;
- (4) direct the Company to study distance pricing including infrastructure changes and costs necessary to implement such pricing; and
- (5) direct the Company to study rate design for truck traffic.

On June 30, 2004, TRIP II filed a letter with the Commission, stating that it will not present comments or exceptions to the Examiner's Report. TRIP II also noted that it was authorized to state that the Staff will not file comments or exceptions to the Examiner's Report.

NOW THE COMMISSION, having considered the June 21, 2004, Chief Hearing Examiner's Report, the record, the pleadings, and the applicable law, is of the opinion and finds as follows. We adopt the Examiner's Report, except as modified below.

Section 56-543 of the Code of Virginia outlines the duties of the Company in this matter. This section states, among other things, as follows:

B. The operator shall have the following duties:

- 1. It shall file and maintain at all times with the Commission an accurate schedule of rates charged to the public for use of all or any portion of the roadway and it shall also file and maintain a statement that such rates will apply uniformly to all users within any such reasonable classification as the operator may elect to implement. These rates shall be neither applied nor collected in a discriminatory fashion; ....

Section 56-542 of the Code of Virginia provides the Commission with the authority to regulate TRIP II. Section 56-542 provides, in part, as follows:

.... The Commission also shall have the duty and authority to approve or revise the toll rates charged by the operator. Initial rates shall be approved if they appear reasonable to the user in relation to the benefit obtained, not likely to materially discourage use of the roadway and provide the operator no more than a reasonable rate of return as determined by the Commission. Thereafter, the Commission, upon application, complaint or its own initiative, and after investigation, may order substituted for any toll being charged by the operator, a toll which is set at a level which is reasonable to the user in relation to the benefit obtained and which will not materially discourage use of the roadway by the public and which will provide the operator no more than a reasonable return as determined by the Commission. .... (Emphasis added.)

We find that the Examiner's recommendation to increase the maximum toll rate ceiling to \$3.00, under the phased approach recommended in the Examiner's Report, is reasonable to the user in relation to the benefit obtained, will not materially discourage use of the roadway by the public, and will provide the Company no more than a reasonable return as determined by this Commission.

We do not, however, require the Company to prepare the three studies recommended by the Examiner. However, if TRIP II performs any such study, we direct the Company to forward the study to the Commission's Division of Public Utility Accounting forthwith. In addition, if the Company decides to implement new rate designs based on, among other things, time-of-day, distance, or truck pricing, the Company is directed to provide the Commission's Division of Public Utility Accounting a 30-day written notice of the tariff change, along with all studies and any other documents that support the rate design changes.

Accordingly, IT IS ORDERED THAT:

- (1) The June 21, 2004, Report of Deborah V. Ellenberg, Chief Hearing Examiner, is hereby adopted, except as modified by this Final Order.
- (2) This matter is dismissed.

**CASE NO. PUE-2003-00231  
MARCH 31, 2004**

APPLICATION OF  
VIRGINIA-AMERICAN WATER COMPANY

For an Annual Informational Filing

**ORDER ADOPTING RECOMMENDATIONS  
AND DISMISSING PROCEEDING**

On May 30, 2003, Virginia-American Water Company ("Virginia-American" or the "Company") filed with the State Corporation Commission ("Commission") the Company's Annual Informational Filing ("AIF") for the twelve months ending December 31, 2002, together with a Motion for Waiver to Late File Annual Informational Filing ("Motion"). In its Motion, the Company explained that its AIF for the twelve months ending December 31, 2002, should have been filed with the Commission on or about May 1, 2003. The Company represented that it required additional time to assemble its AIF because of the need to collect data and calculate the appropriate adjustments for its AIF because its rate application, docketed as Case No. PUE-2002-00375, was still pending before the Commission.

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On June 19, 2003, the Commission entered an Order granting the Company's Motion and accepting Virginia-American's AIF for the test period ending December 31, 2002, out of time.

On March 12, 2004, the Staff filed its Report in the captioned case. This Report included a financial and accounting analysis of the Company for the test period. In its financial review, the Staff commented that American Water Works, Virginia-American's parent, became a subsidiary of RWE Atkiengesellschaft ("RWE AG") as of January 10, 2003. According to Staff, this change in ownership could have an impact of the Company's ratemaking capital structure in future rate cases since American Water Capital is the entity raising debt capital for American Water's utility operations in the United States, and RWE AG is the ultimate source of equity for Virginia-American. Staff noted that the impact of the acquisition on Virginia-American's ratemaking capital will be an issue investigated in Virginia-American's pending rate case docketed as Case No. PUE-2003-00539.

According to the Staff, Virginia-American's overall weighted cost of capital as of December 31, 2002, was within a range of 7.799% to 8.229%. The Company's adjusted pro forma return on rate base on a total company basis was 7.82%, and its adjusted pro forma return on equity on a total company basis was 9.34%. Staff noted that the Company's adjusted pro forma returns on rate base and on equity for Virginia-American's Alexandria, Hopewell, and Prince William Districts were as follows:

	<u>Return on Rate Base</u>	<u>Return on Equity</u>
Alexandria District	8.69%	11.41%
Hopewell District	7.78%	9.25%
Prince William District	6.47%	6.13%

In its accounting analysis, the Staff examined the Company's test year results on an earnings test basis. It commented that an actual return on average equity above a utility's authorized return indicated the accelerated recovery of regulatory assets. Staff described and explained various adjustments that it had made in its earnings test analysis that differed from the adjustments made by the Company. For purpose of its earnings test analysis, Staff calculated a 9.92% return on equity benchmark for the test year and recommended the write-off of up to \$206,812 of the Company's unamortized regulatory assets in the Alexandria District.

Staff reported that the only regulatory asset remaining in the Alexandria District for Virginia-American was the Company's other postretirement benefits ("OPEB") implementation deferral. According to Staff, this regulatory asset had a balance of \$68,395 at the end of the test year. Staff recommended that this asset be written-off in its entirety, and that the asset and related amortization expense should be considered eliminated for ratemaking purposes in future proceedings. Staff further recommended that no other action be taken regarding the captioned application.

On March 22, 2004, the Company, by counsel, advised that it had reviewed the Staff Report and had no comments or exceptions to the Report.

NOW, UPON CONSIDERATION of the Company's application, the Staff Report, and the applicable statutes, the Commission is of the opinion and finds that the recommendations set out in the March 12, 2004, Staff Report should be adopted, and this case dismissed. In this regard, we concur with the Staff's proposal that the regulatory asset associated with the implementation of the OPEB deferral for the Alexandria District should be written off in its entirety, and that the regulatory asset and related amortization expense should be considered eliminated for ratemaking purposes in future proceedings.

Accordingly, IT IS ORDERED THAT:

- (1) Consistent with the findings made herein, the recommendations set out in the March 12, 2004 Staff Report are hereby adopted.
- (2) The regulatory asset associated with the implementation of the OPEB deferral for the Alexandria District shall be written off in its entirety. This regulatory asset and related amortization expense shall be considered eliminated for ratemaking purposes in future proceedings.
- (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 herein placed in the Commission's file for ended causes.

**CASE NO. PUE-2003-00272  
SEPTEMBER 22, 2004**

APPLICATION OF  
LAKE MONTICELLO SERVICE CORPORATION

For an Annual Information Filing

**ORDER ADOPTING RECOMMENDATIONS  
AND DISMISSING PROCEEDINGS**

On June 9, 2003, Lake Monticello Service Corporation ("Lake Monticello" or the "Company") filed its 2002 Annual Informational Filing ("AIF") with the State Corporation Commission ("Commission").<sup>1</sup>

<sup>1</sup> The Staff determined that the AIF was complete and in accordance with the provisions of the Commission's Rules Governing Utility Rate Applications and Annual Information Filings, 20 VAC 5-200-30 *et seq.* ("Rate Case Rules").

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On December 12, 2003, the Staff filed its Report in the above-captioned case, which included a financial and accounting analysis. Staff noted in the Report that Lake Monticello, which provides water and sewer service to over 3,600 customers in the Palmyra, Virginia area was acquired by AquaSource, Inc. ("AquaSource"), a subsidiary of DQE in April of 1999.<sup>2</sup> Subsequently, on January 28, 2002, AquaSource then sold its ownership interest in Lake Monticello to Philadelphia Suburban Corporation ("PSC"), effective July 31, 2003.<sup>3</sup>

While Lake Monticello was a subsidiary of AquaSource, its capital structure per books was 100% equity. The Staff recommended in its Report, as well as the Report filed in Lake Monticello's last AIF (Case No. PUE-2002-00243), that the Company should provide an imputed capital structure that reflects the consolidated DQE capitalization ratios and cost rates (contained in Schedule 3 of the Company's AIF). The imputed capital structure of its former parent, DQE Inc., would thus serve as a proxy for the Company's ratemaking capital structure for the period under review in this AIF. The Staff also made a number of accounting adjustments to the Company's reported revenue and expenses, consistent with the Company's prior AIF, and adjusted the rate base to conform with adjustments in the prior AIF proceeding.

The Staff determined the Company's return on equity, both per books and after Staff's adjustments, which are summarized below:

	<u>Return on Rate Base</u>	<u>Return on Equity</u>
Per Books-Corrected (Report, Exhibit 1, Col. 1)	4.38%	18.10%
After Staff Adjustments (Report, Exhibit 1, Col. 3)	5.285%	1.63%
Current Authorized Return on Equity		11.82%
Current Cost of Capital (Report, Exhibit 7)	8.416%	

The Staff made the following recommendations in its Report.

(1) The Company should continue to maintain accurate property records for each type of utility. This should include plant-in-service and contributions-in-aid-of-construction with offsets to these amounts in the form of accumulated depreciation and amortization. The depreciation and amortization of the above amounts should be at the 3% rate. At this time, Staff recommends continuation of the 3% composite rate although the Company no longer falls under the Small Water or Sewer Public Utility Act.

(2) Lake Monticello should provide capital structure information on its new parent company, PSC/Aqua America, Inc., when it files its next AIF. Schedules 3, 4 and 5 should include a capital structure that reflects the consolidated PSC/Aqua America, Inc., capitalization ratios and cost rates.

The Company, by counsel, filed its response to Staff's Report on August 17, 2004, indicating that the Company has no objection to the above recommendations.

NOW UPON CONSIDERATION of the Company's application, the Staff's Report and Company response, and the applicable law, the Commission is of the opinion and finds that the Staff's recommendations above should be adopted, and this case dismissed.

Accordingly, IT IS ORDERED THAT:

(1) The recommendations set out in Staff's Report and above 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 placed in the Commission's files for ended causes.

<sup>2</sup> Case No. PUA-1998-00048, Final Order dated March 8, 1999.

<sup>3</sup> The transfer was approved in Case No. PUE-2002-00052, Final Order dated January 21, 2003.

**CASE NO. PUE-2003-00274  
JUNE 21, 2004**

APPLICATION OF  
SKYLINE WATER CO., INC.

For authority to acquire and to dispose of utility assets and for a certificate of public convenience and necessity authorizing it to provide water service

**FINAL ORDER**

Before the State Corporation Commission ("Commission") is the application of Skyline Water Co., Inc. ("Skyline" or "Company"), for a certificate of public convenience and necessity authorizing it to furnish water in Culpeper, Fauquier, and Orange Counties. The Company also seeks approval of mergers with Skyline as the surviving corporation and transfers of utility assets to Skyline. The mergers and transfers application includes two systems, Pelham Manor Water Supply, Inc., and Wildwood Water Company, Inc., which hold certificates of public convenience and necessity issued by the Commission. The certificates for these two companies would be replaced by the certificate issued to Skyline.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The application for a certificate includes schedules of proposed rates and charges for all systems. The proposed schedules provide for increased rates for Pelham Manor Water Supply, Inc., and Wildwood Water Company, Inc., which hold certificates.

On July 30, 2003, the Commission entered an Order for Notice and Comment docketing the applications, as supplemented, for a certificate of public convenience and necessity and for approval of the merger and transfers. In response to public comments and requests for a hearing, the Commission entered its Preliminary Order of November 7, 2004, which provided for a hearing. The hearing was held on February 12, 2004, in Culpeper, Virginia.

On March 16, 2004, the Report of Alexander F. Skirpan, Jr., Hearing Examiner ("Report") was filed. Hearing Examiner Skirpan recommended that the Commission grant the application for a certificate<sup>1</sup> and for approval of the mergers and acquisitions. The Hearing Examiner also recommended approval of rates and charges with modifications proposed by the Commission Staff. The Company took issue with numerous recommendations in its response filed on May 5, 2004.

Upon consideration of the record in this proceeding, the Report, and the Company's response to the Report, the Commission will adopt the findings and recommendations made in the Report. Some of the issues raised in the Company's response merit discussion, and we will address these points.

The first issues raised by Skyline concern customers who leave the Company's systems. At the hearing, the Company withdrew its proposed disconnection charge and proposed instead a charge of \$30 per month for customers that leave its systems (Report at 11). The Hearing Examiner did not recommend that the Commission prescribe this proposed charge, and the Company devoted several pages of its response to the issue. The Commission will restate its holding that rates, rules, and regulations approved or prescribed by the Commission will not, by themselves, require any person to be a customer of a utility; to become a customer of a utility; or to remain a customer of a utility. Individuals may obligate themselves to become customers or to remain customers of a utility by entering into, or otherwise accepting, some enforceable agreement. These enforceable agreements may require payment of a charge whether the customer is connected to a system or not, but such a charge will not be established solely through rates, rules, and regulations approved or prescribed by the Commission. Only some otherwise enforceable obligation will support an availability charge or similar charge.

The Commission has so interpreted the law for many years. Prince George Sewerage & Water Co., Case No. PUE800097, 1981 S.C.C. Ann. Rep. 188, 192-93; In re. Lake of the Woods Utility Co., Case No. PUE800081, 1981 Ann. Rep. 172, *aff'd sub nom. Lake of the Woods Utility Co. v. State Corp. Commission*, 223 Va. 100, 286 S.E.2d 201 (1982). Commonwealth ex rel. Crowe v. The Po River Water & Sewer Co., Case No. PUE940014, 1995 S.C.C. Ann. Rep. 298, 299; Commonwealth of Virginia, ex rel. Ott v. Wintergreen Valley Utility Company, L.P., 1998 S.C.C. Ann. Rep. 352, 354. Those who invest in water companies must take into consideration the well-established law on charges for those not connected to a system.

In its comments, the Company also appears to confuse the law on the obligation to pay a charge regardless of whether the customer is connected with the law on the Commission's power to prescribe rates. In the Report, at 15-16, the examiner reviewed the decisions of the Virginia Supreme Court holding that the Commission could prescribe rates that differed from contractual rates established before the exercise of our jurisdiction. In the case before us, covenants in some deeds operate to set the rates for service. As the Hearing Examiner found, and we agree, the Commission has authority to set rates on a prospective basis.

The Company appears to argue that our authority to set rates prospectively also allows the Commission to approve a charge for customers who leave a system. The cases cited in the Report deal with the rates for customers served before and after the Commission exercised jurisdiction. The decisions do not support extending a charge to those who cease taking services. As discussed in our own decisions previously cited, the Commission has carefully distinguished between setting rates and requiring one to be a customer.

While most of the Company's response was devoted to the issue of a disconnection charge, several additional points were raised. The Company contends that its bookkeeping would be simplified if certain customers paying a minimum bill were excluded from the customer count. It is unclear from the response what benefit would be derived. We will adopt the Staff's computation, which reflects the actual number of customers and the allocation of costs.

The Company also questions the Staff's recommendation on accounting for the cost of this proceeding. We agree with the Staff that participating in regulatory proceedings and meeting regulatory obligations are ongoing activities for utility employees. This is part of the cost of doing the business of a regulated company. There are also start-up costs associated with the requirements to obtain a certificate. The Commission has historically declined to treat these start-up costs as a specific expense recovered in rates. Based on the record before us, the Commission finds no basis for deviating from our usual practices.

Based upon the record, the Report, and materials filed by the Company subsequent to the filing of the report, the Commission finds that the Company's application for approval of the transfer of utility assets and the merger plan should be approved. The merger and transfer will not jeopardize adequate service and may result in some efficiencies. In conjunction with other aspects of this proceeding, we are prescribing just and reasonable rates for customers.

The Commission also finds that a certificate of public convenience and necessity authorizing the acquisition of facilities and the furnishing of water service should be issued. We provided for a public hearing on the application, and the record demonstrates that governing bodies of affected political subdivisions gave the required approvals. We agree with the Hearing Examiner that the Commission may consider the certification of the Drysdale system in Fauquier County within the scope of this proceeding. The record establishes that it is in the public interest that the current customers of the various systems be served by a public service corporation subject to the Commission's jurisdiction.

By Preliminary Order of November 7, 2003, the Commission authorized the Company to place into effect its proposed rates for service provided to the Pelham Manor and Wildwood Systems after September 25, 2003, subject to our modification. In the same order, we also authorized the Company to put into effect its proposed rates for service to the other systems, subject to Commission modification. These rates were also subject to refunding or crediting against future bills. As we discuss in the following paragraphs, the Commission adopts the rate design proposed by the Staff. While the

<sup>1</sup> The Hearing Examiner found that the Company had not obtained the approval of Fauquier County for certification of the Drysdale system, and he recommended that the Commission consider certification after the filing of the necessary approval (Report at 22, 23). On April 5, 2004, the Company filed with the Clerk of the Commission a copy of the Fauquier County Board of Supervisors' resolution approving the application. Accordingly, we will consider certification of the Drysdale system.

Commission gave notice to the Company and to customers that refunds or credits might be ordered when the rates were prescribed at the conclusion of this proceeding, we will not so order in this case. First, the Company is limited to the overall increase in revenues for each system supported by its application for a certificate. As we find below, the Company operates most of its systems at a loss after the additional revenues are considered. Further, the Staff's proposed rate design does not differ significantly from that filed by the Company. As proposed by the Staff and the Company, most customers will pay the minimum bill of \$30 per month. Given the small amounts involved and the cost of making refunds and credits, the Commission will not exercise its authority to order refunds or credits in this case. Our decision is based on the circumstances of this case, and the Company should not consider it a precedent in the future.

Accordingly, the Commission finds as follows:

- (1) The use of a test year ending December 31, 2002, is proper in this proceeding.
- (2) Skyline's test year operating revenues, after all adjustments, were \$135,036 on a combined basis, including \$22,152 for the Pelham Manor system; \$26,607 for the Wildwood system; \$18,922 for the Overlook Heights system; \$5,416 for the Wolftrap system; \$3,452 for the Springwood system; \$16,856 for the Merrimac system; \$5,696 for the Gibson system; \$7,182 for the Norman Acres system; \$4,680 for the Hazel River system; \$10,424 for the Mountain View system; and \$13,649 for the Drysdale system.
- (3) Skyline's test year operating revenue deductions, after all adjustments, were \$156,995 on a combined basis, including \$27,147 for the Pelham Manor system; \$30,183 for the Wildwood system; \$22,124 for the Overlook Heights system; \$6,178 for the Wolftrap system; \$6,049 for the Springwood system; \$16,988 for the Merrimac system; \$5,354 for the Gibson system; \$10,092 for the Norman Acres system; \$7,046 for the Hazel River system; \$14,286 for the Mountain View system; and \$11,547 for the Drysdale system.
- (4) Skyline's test year adjusted net operating income or (loss), after all adjustments was (\$21,959) on a combined basis, including (\$4,995) for the Pelham Manor system; (\$3,576) for the Wildwood system; (\$3,202) for the Overlook Heights system; (\$762) for the Wolftrap system; (\$2,597) for the Springwood system; (\$132) for the Merrimac system; \$342 for the Gibson system; (\$2,910) for the Norman Acres system; (\$2,366) for the Hazel River system; (\$3,862) for the Mountain View system; and \$2,102 for the Drysdale system.
- (5) Skyline's adjusted test year rate base was \$248,353 on a combined basis, including \$29,398 for the Pelham Manor system; \$80,390 for the Wildwood system; \$40,758 for the Overlook Heights system; \$2,487 for the Wolftrap system; \$5,739 for the Springwood system; \$31,255 for the Merrimac system; \$5,137 for the Gibson system; \$9,529 for the Norman Acres system; \$3,343 for the Hazel River system; \$31,160 for the Mountain View system; and \$9,158 for the Drysdale system.
- (6) Skyline's proposed rates increase annual water revenues by \$34,247 on a combined basis, including \$852 for the Pelham Manor system; \$12,780 for the Wildwood system; \$4,941 for the Overlook Heights system; \$1,118 for the Wolftrap system; \$2,038 for the Springwood system; \$5,649 for the Merrimac system; \$1,152 for the Gibson system; \$2,742 for the Norman Acres system; \$0 for the Hazel River system; \$2,933 for the Mountain View system; and \$41 for the Drysdale system.
- (7) Skyline's proposed rates produce a net cash flow of (\$1,050) on a combined basis, including (\$7,057) for the Pelham Manor system; \$10,663 for the Wildwood system; \$1,693 for the Overlook Heights system; \$332 for the Wolftrap system; (\$1,141) for the Springwood system; \$39 for the Merrimac system; \$1,602 for the Gibson system; (\$8) for the Norman Acres system; (\$3,279) for the Hazel River system; (\$139) for the Mountain View system; and (\$3,754) for the Drysdale system.
- (8) The Staff's proposed rate structure of a \$30.00 monthly fee with a 2,800 gallon monthly allowance, and usage above this level billed at \$5.00 per thousand gallons should be implemented for Wildwood, Overlook Heights, Wolftrap, Springwood, Merrimac, Gibson, Norman Acres, and Mountain View.
- (9) The Staff's proposed rate structure of a \$27.00 per month flat rate should be implemented for Pelham Manor.
- (10) The Staff's proposed rate structure of a \$30.00 per month flat rate should be implemented for Hazel River.
- (11) The rates described in Ordering Paragraphs (8), (9), and (10) are just and reasonable.
- (12) The Staff's proposed revisions to delete the Service Connection section in its rates; to delete Rules 8, 10, and 11; and to renumber the rules should be adopted. All references to a disconnection charge should also be removed.
- (13) Skyline shall implement the Staff recommendations to use the Uniform System of Accounts; to establish a separate checking account; and to restate certain balance sheet accounts.

Upon consideration, IT IS ORDERED THAT:

- (1) As provided by the Utility Transfers Act, § 56-88 *et seq.* of the Code of Virginia, and related provisions of Title 56, the Company's application for approval of its plan of merger and the transfer of facilities is granted.
- (2) Within thirty (30) days of completing the transactions described in its application, subject to administrative extension by the Director of the Commission's Division of Public Utility Accounting, the Company shall file a report of action with the Clerk of the Commission, Document Control Center, State Corporation Commission, P.O. Box 2118, Richmond, Virginia 23218-2118. The report shall include the dates of mergers and transfers of assets and journal entries made to record the mergers and transfers.
- (3) As provided by the Utility Facilities Act, § 56-265.1 *et seq.* of the Code of Virginia, and related provisions of Title 56 of the Code of Virginia, the Company's application for a certificate of public convenience and necessity is granted to the extent described in this Order, and is otherwise denied.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

- (4) The Company be issued certificate of public convenience and necessity W-313, which authorizes the furnishing of water service in Culpeper, Fauquier, and Orange Counties, all as shown on maps attached to, and made part of, the certificate.
- (5) Certificate of public convenience and necessity W-292 issued to Pelham Manor Water Company, Inc., be canceled.
- (6) Certificate of public convenience and necessity W-299 issued to Wildwood Water Company, Inc., be canceled.
- (7) Within 21 days of the date of this Order, the Company shall submit to the Commission's Division of Energy Regulation its rules and regulations conforming to our findings in this Order.
- (8) The rates and charges prescribed in this Order may take effect as of the date of this Order.
- (9) Within 21 days of the date of this Order, the Company shall submit to the Division of Energy Regulation a schedule of its rates and charges conforming to our findings in this Order.
- (10) The approvals granted by this Order shall include only those matters addressed in Ordering Paragraphs (1) - (9).
- (11) This case be dismissed from the Commission's docket and that Case No. PST-2003-00069 be placed in closed status in the records of the Clerk of the Commission.

**CASE NO. PUE-2003-00277  
FEBRUARY 11, 2004**

APPLICATION OF  
REBEL WATER WORKS, INC.,  
SMALL WATER WORKS CONSOLIDATED, INC.,  
and  
PIEDMONT WATER WORKS, INC.

For approval of the merger and transfer of utility assets pursuant to Chapter 5 of Title 56 of the Code of Virginia

**ORDER GRANTING APPROVAL**

On July 23, 2003, Rebel Water Works, Inc. ("Rebel"), Small Water Works Consolidated, Inc. ("Small"), and Piedmont Water Works, Inc. ("Piedmont"), filed a complete application with the State Corporation Commission (the "Commission") requesting approval of a merger and transfer of utility assets pursuant to Chapter 5 of Title 56 (the "Utility Transfers Act") of the Code of Virginia (the "Code").

Rebel is a private water company that serves eight customers in the Cross Road area of Orange County, Virginia. Small is a private water company that serves four customers in the Catalpa area, eight customers in the Cedar Mountain area, four customers in the Fox Mountain area, eight customers in the Lewis Mountain area, five customers in the Poplar Corners area, and seven customers in the Salem Woods area of Culpeper County, Virginia. Piedmont is a private company that has contracts to operate the water systems at the Princess Anne and Tidewater mobile home parks in Culpeper County, Virginia.

Collectively, Rebel, Small, and Piedmont (the "Applicants") represent two private water companies serving 44 customers in the Counties of Orange and Culpeper and one private water service company. David K. Travers ("Mr. Travers") is the sole owner, officer, and director of the Applicants.

The Applicants are seeking approval of a Plan and Agreement of Merger (the "Merger Agreement") that was signed April 1, 2003. The Merger Agreement calls for Piedmont and Small (the "Disappearing Companies") to exchange all of their shares of stock for shares of Rebel stock on a one-to-one basis. After the merger, the Disappearing Companies will be dissolved, and Rebel will be the sole surviving corporation. Mr. Travers, who is the sole owner, officer, and director of Rebel and the Disappearing Companies, will retain those positions with Rebel after the merger.

The Applicants represent that the proposed merger and asset transfer transaction is in the public interest because Rebel will be able to draw on larger resources to provide services to its existing and growing customer base. The Applicants further represent that the merger will allow Mr. Travers to achieve efficiencies through the Combination of system operations.

NOW THE COMMISSION, upon consideration of the application and representations of the Applicants and having been advised by its Staff, is of the opinion and finds that the ownership and operation of the water systems will not be affected by the proposed merger and asset transfer. We, therefore, find that proposed merger and transfer of Rebel's, Small's, and Piedmont's utility assets will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates and should be approved.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to §§ 56-89 and 56-90 of the Code of Virginia, Rebel Water Works, Inc., Small Water Works Consolidated, Inc., and Piedmont Water Works, Inc., are hereby granted approval to enter into the Plan of Agreement and Merger wherein the outstanding shares of Small and Piedmont are exchanged for shares of Rebel, with Small and Piedmont dissolving their corporate status and leaving Rebel as the surviving corporation; and the assets of Small and Piedmont transferred to Rebel.
- (2) The approval granted herein shall have no ratemaking implications.



(3) Within thirty (30) days of completing the transaction, subject to administrative extension by the Commission's Director of Public Utility Accounting, Rebel Water Works, Inc., shall file a Report of Action with the Commission. Included in the Report of Action shall be the date of the merger and the accounting entries made to record the merger and transfer.

(4) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2003-00278  
MAY 12, 2004**

APPLICATION OF  
JP COMMUNICATIONS GROUP, LLC.

For a permanent license to conduct business as an electric aggregator

**ORDER GRANTING LICENSE**

On June 23, 2003, JP Communications Group, LLC, ("JP Communications" or "the Company"), filed an application with the State Corporation Commission ("Commission") for a license to provide gas aggregation service in the service territory of Virginia Natural Gas, Inc. ("VNG) and electric aggregation service in the service territory of Virginia Electric and Power Company ("Virginia Power") pursuant to the Commission's Rules Governing Retail Access to Competitive Energy Services ("Retail Access Rules"). By letter dated March 29, 2004, the Company filed information to complete its application and to further amend its application to withdraw its request for a gas aggregator's license. The Company attested that it would abide by all applicable regulations of the Commission as required by 20 VAC 5-312-40 B.

On April 1, 2004, the Commission issued an Order for Notice and Comment establishing the case, requiring that notice of the application be served upon appropriate persons, providing for the receipt of comments from the public, and requiring the Commission's Staff to analyze the reasonableness of JP Communications' application and present its findings in a Staff Report. The Company filed proof of publication of its notice on May 3, 2004. No comments from the public on the Company's application were received.

The Staff filed its Report on April 30, 2004, concerning JP Communications' fitness to conduct business as an electric aggregator. In its Report, the Staff summarized the Company's proposal and evaluated its financial condition and technical fitness. The Staff recommended that JP Communications be granted a license to conduct business as an electric aggregator in the service territory of Virginia Power.

No comments were filed by JP Communications or other parties in response to the Staff Report.

NOW UPON CONSIDERATION of the application and the Staff Report, the Commission finds that JP Communications' application to provide electric aggregation service should be granted, subject to the conditions set forth below.

Accordingly, IT IS ORDERED THAT:

(1) JP Communications Group, LLC is hereby granted license No. A-16 to provide competitive electric aggregation service to customers in the service territory of Virginia Power. This license to act as an aggregator 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-2003-00280  
FEBRUARY 12, 2004**

APPLICATION OF  
GROUNDHOG MTN. WATER & SEWER CO., INC.

For an increase in rates, fees, and charges pursuant to the Small Water or Sewer Public Utility Act

**FINAL ORDER**

By Order of December 22, 2003, the State Corporation Commission ("Commission") adopted the rates, rules, and regulations for water and sewer service contained in the Settlement Agreement offered by Groundhog Mtn. Water and Sewer Company, Inc. ("Groundhog" or "Company"), and respondent Doe Run Properties, LLC ("Doe Run"). In conjunction with the Settlement Agreement, the Company had filed an amendment to its application. Groundhog would expand its application filed under the Small Water or Sewer Public Utility Act, §§ 56-265.13:1 to -265.13:7 of the Code of Virginia ("Code") to include applications under the Utility Transfers Act, §§ 56-86 to -92 of the Code, and the Utility Facilities Act, §§ 56-265.1 to -265.13 of the Code. Pursuant to the Transfers Act, Groundhog Mtn. Property Owners, Inc.,<sup>1</sup> proposed to acquire certain facilities from Doe Run. Groundhog also proposed to expand its service territory subject to approval under the Facilities Act. In the Order of December 22, 2003, the Commission granted the application under the Transfers Act, subject to Groundhog providing notice to customers and receipt of any comments. The Commission prescribed the notice to be given to customers pursuant to the Facilities Act and directed that any comments on the application be filed by January 30, 2004.

<sup>1</sup> Groundhog Mtn. Property Owners, Inc., owns the stock of Groundhog and all facilities and plant, which Groundhog operates.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

On January 22, 2004, the Company filed a certificate of mailing of the public notice to customers, as directed by the Order of December 22, 2003. The Commission received no comments in response to the notice.

Accordingly, the Commission finds that an amended certificate of public convenience and necessity may be issued and that this case may be dismissed. IT IS ORDERED that

- (1) As provided by §§ 56-265.2, 56-265.3, and related provisions of the Code, Groundhog be authorized to construct, enlarge, or acquire, by lease or otherwise, facilities and to expand its territory all as set out in its Amended Application filed with the Commission.
- (2) As provided by §§ 56-265.2, 56-265.3, and related provisions of the Code, Groundhog be issued Certificate No. W-300(a) authorizing the furnishing of water service within the territory previously served and in additional territory, all as shown on the map attached to and made a part of the certificate, and that Certificate No. W-300 issued by Final Order of April 16, 2002, in Case No. PUE-1999-00814 be canceled.
- (3) As provided by §§ 56-265.2, 56-265.3, and related provisions of the Code, Groundhog be issued Certificate No. S-86(a) authorizing the furnishing of sewer service within the territory previously served and in additional territory, all as shown on the map attached to and made a part of the certificate, and that Certificate No. S-86 issued by Final Order of April 16, 2002, in Case No. PUE-1999-00814 be canceled.
- (4) This case be dismissed from the Commission's docket and placed in Closed Status.

**CASE NO. PUE-2003-00322  
MARCH 31, 2004**

APPLICATION OF  
VIRGINIA GAS PIPELINE COMPANY  
and  
NUI ENERGY BROKERS, INC.

For approval of application to renew affiliate agreement for successive terms pursuant to Chapter 4 of Title 56 of the Code of Virginia

**ORDER APPROVING  
TERMINATION OF AFFILIATE AGREEMENT**

On November 18, 2003, the State Corporation Commission ("Commission") issued an Order Granting Approval, which approved the revised and restated agreement between Virginia Gas Pipeline Company ("VGPC") and NUI Energy Brokers, Inc. ("NUIEB") (collectively "Affiliates"), pursuant to § 56-77 of the Code of Virginia. The Order Granting Approval provided that further "approval shall be required for any changes in the terms and conditions of the Revised Agreement approved by this Order, including any change in the successors or assigns under the Revised Agreement." (Ordering para. 4).

On March 15, 2004, VGPC and NUIEB filed an executed Termination Agreement dated March 10, 2004. By its terms, the Termination Agreement shall become effective only upon the Commission's approval.

The Commission is of the opinion that the Termination Agreement should be approved, thus terminating the Revised and Restated Agreement previously approved on November 18, 2003.

Accordingly, IT IS ORDERED THAT:

- 1) The Revised and Restated Agreement between VGPC and NUIEB approved on November 18, 2003, is hereby terminated, pursuant to the Termination Agreement.
- 2) There appearing nothing further to be done in this matter, it is hereby closed.

**CASE NO. PUE-2003-00323  
MARCH 31, 2004**

APPLICATION OF  
VIRGINIA GAS STORAGE COMPANY  
and  
NUI ENERGY BROKERS, INC.

For approval of application to renew affiliate agreement for successive terms pursuant to Chapter 4 of Title 56 of the Code of Virginia

**ORDER APPROVING  
TERMINATION OF AFFILIATE AGREEMENT**

On November 25, 2003, the State Corporation Commission ("Commission") issued an Order Granting Approval, which approved the revised and restated agreement between Virginia Gas Storage Company ("VGSC") and NUI Energy Brokers, Inc. ("NUIEB") (collectively "Affiliates"), pursuant to § 56-77 of the Code of Virginia. The Order Granting Approval provided that further "approval shall be required for any changes in the terms and conditions of the Revised Agreement approved by this Order, including any change in the successors or assigns under the Revised Agreement." (Ordering para. 4).

On March 15, 2004, VGSC and NUIEB filed an executed Termination Agreement dated March 10, 2004. By its terms, the Termination Agreement shall become effective only upon the Commission's approval.

The Commission is of the opinion that the Termination Agreement should be approved, thus terminating the Revised and Restated Agreement previously approved on November 18, 2003.

Accordingly, IT IS ORDERED THAT:

1) The Revised and Restated Agreement between VGSC and NUIEB approved on November 25, 2003, is hereby terminated, pursuant to the Termination Agreement.

2) There appearing nothing further to be done in this matter, it is hereby closed.

**CASE NO. PUE-2003-00331  
JANUARY 6, 2004**

APPLICATION OF  
NORTHERN NECK ELECTRIC COOPERATIVE

For review of tariffs and terms and conditions of service

**FINAL ORDER**

On July 24, 2003, Northern Neck Electric Cooperative ("NNEC" or the "Cooperative") filed an application with the State Corporation Commission ("Commission") for approval of the Cooperative's retail access tariffs and terms and conditions of service for retail access as required by Ordering Paragraph (3) of the Commission's Final Order issued on December 18, 2001, in the Cooperative's case for functional separation, Case No. PUE-2001-00006. NNEC states in its application that it anticipates commencing retail access in its service territory on January 1, 2004.

NNEC's retail access tariff filing includes: (1) Unbundled Tariffs and Rate Schedules for All Customer Classes; (2) Terms and Conditions for Providing Electrical Service Updated for Unbundled Service; (3) a Competitive Service Provider Coordination Tariff; (4) a Competitive Service Provider Agreement; (5) an Electronic Data Interchange ("EDI") Trading Partner Agreement; (6) a Transmission Customer Designation Form; (7) an Aggregator Agreement; (8) a Market Price and Competitive Transmission Charges Calculation; (9) an Old Dominion Electric Cooperative ("ODEC")/NNEC letter, constituting a binding agreement, on sharing of competitive transition charges; and (10) an Education Plan for Customers on Price to Compare.

On August 25, 2003, the Commission issued an Order Prescribing Notice and Inviting Comments and Requests for Hearing ("Order") in this proceeding, whereby it directed the Cooperative to publish notice of its application, and directed the Staff to investigate the application and file a Report detailing its findings and recommendations. On October 15, 2003, the Cooperative filed its required proof of publication of notice and proof of notice to local governments, as required by the Order.

On October 29, 2003, the Staff filed its Report in this proceeding wherein it recommended that the Commission approve NNEC's tariffs and terms and conditions with the adoption of certain modifications recommended by Staff. Staff stated in its Report that the methodology employed by NNEC in calculating projected market prices for generation applicable for the rate classes that will participate in retail choice was the methodology set forth in the electric cooperatives' Comprehensive Wires Charges Proposal, Case No. PUE-2001-00306, approved by Commission Order issued May 24, 2002. The Staff further indicated, however, that the Cooperative did not employ up-to-date market information and that base market prices should be updated to incorporate market information pursuant to the Commission's Final Order in Dominion Virginia Power's fuel factor application, entered on December 12, 2003, in Case No. PUE-2003-00285. Staff found that the Cooperative's methodology for calculation of competitive transition charges ("CTCs") was appropriate; however, Staff further recommended that the value used for the fuel adjustments should similarly be updated to reflect the most recent actual monthly fuel adjustment available. Staff noted that minor errors in the Market Price Tables had been corrected by NNEC and attached the corrected Tables to the Staff Report as Appendix A.

The Staff accepted the Cooperative's proposal reflected in its filed commitment document for the allocation of wires charges revenue between NNEC and its electric supply cooperative, ODEC. The Staff recommended that if the agreement is renegotiated after December 31, 2003, the renegotiated agreement must be submitted to the Commission for approval.

Staff further found that the proposed retail access schedules were consistent with the currently effective bundled service schedules and the rates proposed for each service class properly reflect the pricing approved by the Commission in NNEC's functional unbundling case, Case No. PUE-2001-00006. NNEC does not propose an unbundled lighting service schedule in this proceeding. This omission conforms with the Commission's Final Order in Case No. PUE-2001-00006. Staff also recommended minor revisions to Section VI, Extension of Facilities, B-1 Primary Line Extension, and to Section XI, Meters and Metering, C-Tests Requested by Customer.

Staff's Report objected to certain meter-reading fees under NNEC's CSP Coordination Tariff. Staff opposed the imposition of a \$20 meter-reading fee on CSPs because the current meter-reading fee is only \$10. The service is not different when performed for a CSP and should be performed for the existing fee.

Section 13.6 of the CSP Coordination Tariff also proposed applying the \$20 meter-reading fee when a CSP was initiating or terminating service to a "self-read" meter customer. Staff would impose the meter-reading fee only when a CSP chose not to rely upon the customer's own meter reading. In other words, if the CSP is satisfied with the accuracy of "self-read" metering, the last customer reading should be an acceptable starting point for the CSP's service connection.

Regarding Appendix B's Section IV. Customer Information E, the Staff recommended changes that would allow a Competitive Service Provider ("CSP") to obtain historical customer information, including interval meter data, during pre-enrollment, enrollment, and post-enrollment if it demonstrated proof of customer authorization. Staff did not object to any of the Competitive Service Provider, Aggregator and Trading Partner Agreements attached to the Competitive Service Provider Coordination Tariff. Staff noted that it reviewed these documents for general form and adherence to Commission rules. These documents furnish a guide to minimum requirements and are subject to expansion as agreed between NNEC and the other party.

Staff also found the attached Dispute Resolution Procedure to be acceptable. With the modifications and amendments discussed in its Report, Staff recommended that NNEC's proposed tariffs and terms and conditions be approved.

NNEC submitted its Response to the Staff Report ("Response") on November 10, 2003. The Response acknowledged that the Cooperative would make a compliance filing to update market price projections and to incorporate the most current fuel factor adjustment as part of its calculation of its CTC. The Response also noted that NNEC was pleased to have Staff's support for its binding commitment to pay a part of its wires charges revenues to its power supplier, ODEC.

The Cooperative agreed with Staff's suggested changes to Unbundled Tariffs and Rate Schedules. When updated, as described above, these rate schedules are ready to be implemented.

Regarding Terms and Conditions, the Response stated that NNEC would insert corrected language as suggested by Staff for subsection VI.B.2 and for subsection XI.C.

NNEC's Response asserts that the goal of its subsection IV.E is the same as Rule 20 VAC 5-312-60.D -- to protect sensitive customer information and to prohibit its release without the customer's knowledge and authorization. As an alternative, NNEC offered to amend subsection IV.E as follows:

Due to the sensitive nature of the information, historical energy usage information of Customers that have interval metering will be made available to Customer, or to registered CSPs that have and can prove the appropriate customer authorization, by an appropriate, cost-effective electronic medium.

NNEC's Response argued that the use of a higher meter-reading fee for CSPs was justified as a "new service" in order to recover a new business cost imposed upon NNEC as a result of retail choice. It also gave reasons for imposing a meter-reading fee when transferring a "self-read" customer to or from a CSP. It asserted that the same baseline meter-reading charge was approved for Shenandoah Valley Electric Cooperative in Case No. PUE-2002-00575 and had passed without objection in the Staff Report of October 17, 2003, for A&N Electric Cooperative in Case No. PUE-2003-00279.

NOW THE COMMISSION, having considered the Cooperative's application, the Staff Report, NNEC's Response to the Report, and applicable statutes, hereby approves NNEC's application as recommended by Staff and subject to the modifications prescribed below.

We incorporate, by reference, our findings in the Wires Charge Case (Case No. PUE-2001-00306). The methodology for the proposed CTC must reflect the appropriate fuel adjustments and wires charges calculations. The wires charges calculated are subject to the limitation of § 56-583 of the Code of Virginia, which permits adjustments no more frequently than annually. Thus, the effective date of NNEC's wires charges must conform with Ordering Paragraph (5) of the May 24, 2002, Order in the Wires Charges Case. As noted in the foregoing discussion, the value used for the fuel adjustment to base generation should be updated to reflect the most recent actual monthly fuel adjustment available prior to NNEC initiating retail access in its service territory. As agreed to by NNEC, the Cooperative shall resubmit updated Market Price Tables incorporating the market information specified in the Commission's Final Order on Dominion Virginia Power's fuel factor application, Case No. PUE-2003-00285, prior to initiating retail access on January 1, 2004.

With respect to NNEC's commitment document with ODEC, we note that the plain language of Virginia Code § 56-584 provides that the establishment by the Commission of wires charges is conditional upon such cooperative "entering into binding commitments by which it will pay to any power supply cooperative of which such distribution cooperative is or was a member, as compensation for such power supply cooperative's stranded costs, all or part of the proceeds of such wires charges, as determined by the Commission." This statute therefore assumes that there must be an active, unexpired commitment in place between the Cooperative and ODEC, NNEC's power supply cooperative, and that the allocation between the power supply cooperative and a distribution cooperative is established "as determined by the Commission." While the Cooperative may not charge a wires charge without an active binding commitment, nothing prevents NNEC from entering into a new agreement. Under those circumstances, the Cooperative must have the binding commitment establishing the wires charge approved by the Commission. It is our expectation that the Cooperative would file any new agreement for approval with the Commission before the existing agreement terminates.

With regard to Subsection IV.E. "Customer Information," we note that Retail Access Rule 20 VAC 5-312-60 D allows customers or the Commission to require the CSP to provide proof of its authorization. Local distribution companies ("LDCs") were not mentioned in this Rule to avoid opportunities for anticompetitive actions by the LDCs since LDCs or their affiliates may compete with the CSP to provide service to customers.

The Final Orders entered in Shenandoah's<sup>1</sup> and Community's<sup>2</sup> retail access cases do not plainly address whether the cooperatives are entitled to verify a CSP's entitlement to gain access to customer information. The authority to verify a CSP's entitlement to information not on the mass list has been deliberately lodged with the customer or the Commission. See Retail Access Rule 20 VAC 5-312-60 D and 20 VAC 5-312-80 B. NNEC should, therefore, modify its Retail Access General Rules and Regulations to remove IV.E. "Customer Information."

The Commission agrees with the Staff Report that meter-reading fees should be the same for CSPs as for existing retail customers. The actual reading of the meter itself does not represent a new service as contemplated by § 56-582 of the Virginia Electric Utility Restructuring Act. Those fees appear to be uniform for all customers in the tariffs filed by Shenandoah Valley Electric Cooperative (Case No. PUE-2002-00575). A&N Electric

<sup>1</sup> See Application of Shenandoah Valley Electric Cooperative, Application for approval of retail access tariffs and terms and conditions of service for retail access, Case No. PUE-2002-00975, Slip op. (April 2, 2003, Final Order).

<sup>2</sup> Application of Community Electric Cooperative, Application for approval of retail access tariffs and terms and conditions of service for retail access, Slip op. (July 30, 2003, Final Order).

Cooperative (Case No. PUE-2003-00279) has not yet filed compliance tariffs following the entry of its Final Order on December 23, 2003, but no Retail Access Meter-Reading Fee was included in Schedule 1 to its CSP Coordination Tariff as filed on June 24, 2003. We direct NNEC to use its existing meter-reading fee of \$10 for CSPs.

Regarding "self-read" customers who might transfer to or from a CSP, we believe that all parties benefit from having an accurate meter reading performed at the time of the transition. We will allow the charge for this baseline meter reading to be imposed upon CSPs. As noted above, the fee for this meter-reading service must be the same for CSPs as it is for retail members of NNEC.

With regard to the CSP, Trading Partner, and Aggregator Agreements, we accept the inclusion of these agreements as attachments to the CSP Coordination Tariff.

Accordingly, IT IS ORDERED THAT:

(1) NNEC's tariffs and terms and conditions of service as recommended by Staff and subject to the modifications discussed herein are hereby approved.

(2) NNEC shall file revised tariffs and terms and conditions of service reflecting the findings made herein with the Commission's Division of Energy Regulation as soon as practicable after the date of this Order.

(3) NNEC may initiate retail choice in its service territory upon the filing required by Ordering Paragraph (2) herein.

(4) This case shall be dismissed, and the papers filed herein shall be made a part of the Commission's files for ended causes.

**CASE NO. PUE-2003-00338  
JANUARY 15, 2004**

APPLICATION OF  
CRAIG-BOTETOURT ELECTRIC COOPERATIVE

For review of tariffs and terms and conditions of service for retail access

**FINAL ORDER**

On August 1, 2003, Craig-Botetourt Electric Cooperative ("Craig-Botetourt" or the "Cooperative") filed an application with the State Corporation Commission ("Commission") for approval of the Cooperative's retail access tariffs and terms and conditions of service for retail access as required by Ordering Paragraph (3) of the Commission's Final Order of December 18, 2001, issued in the Cooperative's case for functional separation<sup>1</sup> and pursuant to the Virginia Electric Utility Restructuring Act, Chapter 23 of Title 56 (§ 56-576 et seq.) of the Code of Virginia.

Craig-Botetourt's retail access tariff filing includes: (1) proposed Terms and Conditions for Providing Electric Service, which include Appendix B, Retail Access General Rules and Regulations; (2) proposed Rate Schedules, which provide unbundled rates and charges for customers participating in retail choice; and (3) a proposed Competitive Service Provider Coordination Tariff, which includes a Competitive Service Provider Agreement, a Dispute Resolution Procedure, and an Aggregator Agreement. In addition, the Cooperative filed its "Market Prices and Wires Charges," which includes illustrative market prices and competitive transition charges, and its "Price-to-Compare Plan" required by the Commission's Rules Governing Retail Access to Competitive Services ("Retail Access Rules"), 20 VAC 5-312-90 K. Craig-Botetourt represents that its application is submitted in anticipation of the Cooperative commencing retail access in its service territory on January 1, 2004.

On August 29, 2003, the Commission issued its Order for Notice. The Commission directed the Cooperative to publish notice of its application and to serve notice on officials of localities in its service territory. The Commission also provided for receipt of comments and requests for hearing filed electronically or in writing. The Commission Staff was directed to investigate the application and file a report detailing its findings and recommendations.

The Cooperative filed on September 22, 2003, replacement pages to its Terms and Conditions for Providing Electric Service, which deleted a charge for relocation of service. According to the Cooperative, it did not intend to propose any new or increased charges in this proceeding.

Craig-Botetourt filed on September 29, 2003, as supplemented on October 13, 2003, its proof of publication of notice and proof of notice to local officials as required by the Commission's Order of August 29, 2003.

In response to the public notice, the Commission received no comments or requests for a hearing.

As directed by the Commission, the Staff filed on November 14, 2003, its Staff Report ("Report") on the application. The Staff recommended that the Commission approve Craig-Botetourt's tariffs and terms and conditions of service, subject to the adoption of certain modifications.

Staff stated in its Report, at 4-5, that Craig-Botetourt used the electric cooperatives' Comprehensive Wires Charges Proposal methodology approved by the Commission in Case No. PUE-2001-00306 to calculate projected market prices for generation for the rate classes that will participate in retail choice. While the Staff supported the methodology for calculating projected market prices, the Staff commented that the current base market prices are to be updated following the Commission's Final Order in Virginia Electric and Power Company's fuel factor application, Case No. PUE-2003-00285. The

<sup>1</sup> See Application of Craig-Botetourt Electric Cooperative, For approval of a functional separation plan pursuant to the Virginia Electric Utility Restructuring Act, Case No. PUE-2001-00009, 2001 S.C.C. Ann. Rep. 531,533.

Staff recommended that projected market prices incorporate the up-to-date market information specified in the fuel factor proceeding to reflect current market conditions.

The Cooperative's Market Prices and Wires Charges included Table 11, Calculation of Competitive Transition Charges, which illustrated the charge for each of its services schedules. The Staff noted in its Report, at 5, that the value  $-\$0.001175/\text{kWh}$  used for the fuel adjustment to base generation in determining the competitive transition charge was the Cooperative's July 2003 fuel factor. The Staff recommended updating to the most recent actual monthly fuel adjustment available prior to initiation of retail access in its service territory.

In the Report, at 6, the Staff concluded that the proposed retail access schedules were consistent with Craig-Botetourt's current bundled service schedules. The Staff determined that the rates proposed for each service class properly reflected the pricing approved by the Commission in Craig-Botetourt's functional separation case, Case No. PUE-2001-00009.

Additionally, Staff indicated that the Cooperative did not propose a retail access (unbundled) lighting service schedule in this proceeding. Staff noted that the Commission approved in the functional separation case Craig-Botetourt's proposal to offer unmetered lighting service only as a bundled service.

As discussed in the Staff Report, at 7-8, Craig-Botetourt's proposed Retail Access General Rules and Regulations, set out in Appendix B of its Terms and Conditions for Providing Electric Service, supplement the general terms and conditions for customers who purchase energy from a competitive service provider ("CSP"). The Staff identified in Appendix B a provision, which should be revised. As proposed in Rule IV, subsection E, if a customer's historical energy usage information is available in interval meter data form, "upon request, the information will be provided directly only to that Customer prior to enrollment by a CSP." The Retail Access Rules, 20 VAC 5-312-60 D, require a CSP to "obtain customer authorization prior to requesting any customer usage information not included on the mass list from the local distribution company." Staff noted that, under 20 VAC 5-312-60 D, the competitive service provider is responsible for providing proof that it has the customer's authorization to receive this information upon request by the customer. The Staff concluded that Craig-Botetourt should release historical information to a competitive service provider upon request at pre-enrollment, during enrollment, and post-enrollment. The proposed language in Rule IV, Customer Information, subsection E should be eliminated or modified. (Staff Report at 7-8.)

The Cooperative's proposed Competitive Service Provider Coordination Tariff would generally govern dealings with competitive service providers. This Tariff includes Competitive Service Provider Fees, Competitive Service Provider Agreement, Trading Partner Agreement, Transmission Customer Designation Form, Dispute Resolution Procedure, and Aggregator Agreement. The Staff determined that cost data supported the proposed fees, and the Staff recommended approval of the agreement forms and dispute resolution procedure. (Staff Report at 8-9.)

Craig-Botetourt filed on November 25, 2003, its Response to the Staff Report ("Response"). The Cooperative represented that it intended to include updated market price projections in a compliance filing made with the Commission prior to the commencement of retail access in the Cooperative's service territory. It also acknowledged that its competitive transition charges calculations are to be reviewed for updating prior to the commencement of retail access. The Cooperative also stated that it intends to incorporate the most current fuel factor adjustment available in the compliance filing. (Response at 3-4.)

Craig-Botetourt took exception to the Staff's analysis of proposed Rule IV, subsection E, of Appendix B, Retail Access General Rules and Regulations, which addresses provision of historical energy usage data available in interval meter data form. The Cooperative stated that the Commission accepted the same wording proposed in Rappahannock Electric Cooperative's retail access case, Case No. PUE-2002-00419, and Shenandoah Valley Cooperative's retail access cases, Case No. PUE-2002-00575. (Response at 4.) Additionally, the Cooperative asserted that Retail Access Rule 20 VAC 5-312-60 D does not require a local distribution company to release any available historical energy usage information upon a CSP's request. According to Craig-Botetourt, this Rule requires CSPs to obtain customer authorization before requesting information not on the mass list required by Retail Access Rule 20 VAC 5-312-60 B and to provide evidence of such authorization. (*Id.* at 5.)

In Craig-Botetourt's view, the Staff interprets Retail Access Rule 20 VAC 5-312-60 D to prohibit the Cooperative from requesting the CSP to provide proof that disclosure was authorized or to confirm authorization with the customer. (*Id.* at 6.) The Cooperative asserts that the proposed language included in Rule IV, subsection E, would protect sensitive customer information and prohibit its release without the customer's express authorization. (*Id.* at 7-8.)

NOW THE COMMISSION, having considered the Cooperative's application, the Staff Report, and the Cooperative's Response, and applicable statutes, hereby approves Craig-Botetourt's application subject to the modifications prescribed below.

With regard to competitive transition charges, the Commission incorporates, by reference, its findings in the Wires Charge Case (Case No. PUE-2001-00306). The methodology for the proposed competitive transition charge must reflect the appropriate fuel adjustments and wires charges calculations. The wires charges calculated are subject to the limitation of § 56-583 of the Code of Virginia, which permits adjustments no more frequently than annually. As noted in the foregoing discussion, the value used for the fuel adjustment to base generation should be updated to reflect the most recent actual monthly fuel adjustment available prior to Craig-Botetourt initiating retail access in its service territory. In its Response, at 3, Craig-Botetourt stated that it would resubmit updated market prices. The Commission entered its Order Establishing 2004 Fuel Factor on December 12, 2003, in Case No. PUE-2003-00285. The Cooperative should update the value  $-\$0.001175/\text{kWh}$  to include the most recent actual monthly fuel adjustment prior to initiating retail access.

With respect to the Cooperative's proposed unbundled lighting service schedule, we will accept this schedule. We note that this schedule was previously approved in Craig-Botetourt's functional separation case, Case No. PUE-2001-00009.

Craig-Botetourt devotes most of its Response to the defense of Rule IV, subsection E, of its proposed Retail Access General Rules and Regulations. As noted in the previous discussion, the Cooperative opposes a Staff recommendation to alter the wording of the identified subsection, which deals with disclosure of historical energy usage information. The Commission has previously considered and rejected identical language proposed by another electric cooperative. Final Order of January 7, 2004, in Northern Neck Electric Cooperative, Application for approval of tariffs and terms and conditions, Case No. PUE-2003-00331, at 4-5, 6-7. We adopt that analysis and our conclusions in this proceeding. The Commission will direct Craig-Botetourt to modify its Appendix B, Retail Access General Rules and Regulations, to remove Rule IV, subsection E.

With regard to the Craig-Botetourt's Competitive Service Provider Coordination Tariff, we accept the terms, the schedule of fees, and the attached agreement forms.

Accordingly, IT IS ORDERED THAT:

(1) Craig-Botetourt's proposed Terms and Conditions for Providing Electric Service, including Appendix B, Retail Access General Rules and Regulations; proposed rate schedules, which provide unbundled rates and charges for customers participating in retail choice; and its Competitive Service Provider Coordination Tariff are approved subject to the modifications discussed herein.

(2) Craig-Botetourt shall file revised tariffs and terms and conditions of service reflecting the findings made herein with the Commission's Division of Energy Regulation as soon as practicable after the date of this Order.

(3) Craig-Botetourt may initiate retail choice in its service territory upon the filing required by Ordering Paragraph (2) herein.

(4) This case shall be dismissed, and the papers filed herein shall be made a part of the Commission's files for ended causes.

**CASE NO. PUE-2003-00404  
MARCH 2, 2004**

JOINT APPLICATION OF  
M&J DEVELOPERS, L.L.C.

and

MARINERS LANDING WATER & SEWER COMPANY, INC.

For authority to acquire and dispose of utility assets pursuant to the Utility Transfers Act and for the issuance of a Certificate of Public Convenience and Necessity pursuant to Va. Code §§ 56-265.2 and 56-265.3

**FINAL ORDER**

On September 3, 2003, M&J Developers, L.L.C. ("M&J"), and Mariners Landing Water and Sewer Company, Inc. ("Company") (collectively, "Joint Applicants"), filed their application with the State Corporation Commission ("Commission") seeking authority to acquire and dispose of utility assets pursuant to the Utility Transfers Act (§§ 56-88 *et seq.* of the Code) ("Act") and seeking a certificate of public convenience and necessity to furnish sewer service pursuant to §§ 56-265.2 and 56-265.3 of the Code.

The Commission's Preliminary Order of November 4, 2003, directed the Joint Applicants to furnish public notice, provided an opportunity for interested persons to comment on the application or to request a hearing upon it, and directed the Commission Staff to review the application and submit a report.

As required by the Preliminary Order, the Joint Applicants furnished public notice and filed their proof of such notice on December 3, 2003. Comments and requests for hearing were due on or before December 19, 2003. None have been filed. The Staff Report was filed January 21, 2004. On January 29, 2004, the Joint Applicants filed their response stating that they accept the recommendations of the Staff Report.

Having considered the application, the lack of objections, and the Staff Report, the Commission finds that the application should be granted in conformance with the recommendations set out in the Staff Report.

The Commission approves the transfer of the sewer assets serving the community known as Mariners Landing from M&J to the Company by license agreement. The Commission finds that such transfer will not impair or jeopardize adequate service to the public at just and reasonable rates. The Company shall file a report with the Commission providing the date the transfer took place, within thirty (30) days of such transfer.

The Company is currently providing water service, and is operating the system in a manner consistent with both this Commission's and the Virginia Department of Health's requirements. M&J clearly has the financial ability to build the proposed sewer system, and the development schedule for the sewer system and the business plan under which the Company will then operate the system are sound.

The Commission finds that it is in the public interest for Company to be issued, pursuant to § 56-265.3:1 of the Code of Virginia, a certificate of public convenience and necessity to provide sewer service. We approve the Company's proposed rules and regulations, declare the proposed rates to be interim, and require the Company to submit a year's worth of financial information to the Commission's Division of Public Utility Accounting after one full year of furnishing sewer service to customers. That financial information shall include an Income Statement, Balance Sheet, Cash Flow Statement, and the most current Federal Income Tax Return.

Accordingly, IT IS ORDERED THAT:

(1) M&J Developers, L.L.C. is hereby granted authority to dispose of the assets of its sewer system as described in the Application.

(2) Mariners Landing Water & Sewer Company is hereby granted authority to acquire from M&J Developers, L.L.C. the assets of its sewer system as described in the Application.

(3) A report shall be filed with the Commission no later than thirty (30) days after the transfer of utility assets from M&J to the Company notifying the Commission that such transfer has taken place, subject to administrative extension by the Director of Public Utility Accounting. The report shall detail the date of transfer, sales price, and accounting entries reflecting the transfer.

- (4) The Company be issued Certificate No. S-87 authorizing it to provide sewer service to the Mariners Landing community.
- (5) The Company's proposed rates, charges, and terms of service may take effect on an interim basis, subject to refund.
- (6) After one full year of serving sewer customers, the Company shall submit twelve months of financial information to the Division of Public Utility Accounting, to include an Income Statement, Balance Sheet, Cash Flow Statement, and the most current Federal Income Tax Return.
- (7) The approvals granted herein shall not be deemed to include any approvals other than specifically granted herein.
- (8) This matter is continued generally in order to allow Commission review of the report referred to in paragraph (3) above and the financial information referred to in paragraph (6) above.

**CASE NO. PUE-2003-00425  
MARCH 15, 2004**

APPLICATION OF  
ROANOKE GAS COMPANY

For an expedited increase in rates

**FINAL ORDER**

On September 16, 2003, Roanoke Gas Company ("Roanoke" or the "Company") filed a rate application, supporting testimony, and exhibits with the State Corporation Commission ("Commission") for an expedited increase in rates.<sup>1</sup> Roanoke sought to increase its annual revenues by \$1,821,190, an increase of approximately 2.28%. The Company also proposed that it be allowed an incentive to continue and further develop its interstate pipeline capacity release program through its use of "asset management services." The Company proposed that it be allowed to keep ten percent of the credits as a below-the-line revenue item. Pursuant to a Stipulation entered by all parties, the Company subsequently withdrew its "asset management services" incentive proposal.

By Order dated October 20, 2003, the Commission authorized the Company to place its rates into effect on an interim basis subject to refund. The Commission also established a procedural schedule for the case and set a hearing date for February 25, 2004, to receive evidence on the Company's application.

The hearing was convened as scheduled on February 25, 2004. Richard D. Gary, Esquire, appeared as counsel for the Company. Don R. Mueller, Esquire, appeared as counsel for the Staff. The Office of Attorney General, Division of Consumer Counsel ("Consumer Counsel"), appeared by its counsel, Raymond L. Doggett, Jr., Esquire. No public witnesses appeared at the hearing.

The Company, Staff, and the Consumer Counsel offered an executed Stipulation at the hearing in which they proposed to offer their respective prefiled testimony into the record with waiver of all cross-examination.<sup>2</sup> The Stipulation sets forth the agreement of all parties and Staff that the record supports a fair and reasonable annual increase in revenues of \$1,539,549 based on the capital structure reflected in the Staff's testimony and exhibits. The increase is based on a return on equity of 10.1% and a range of 9.6% to 10.6%. The Stipulation also adopts the Company's proposed accounting adjustment for company-use gas and the adjustments made to advertising expense, payroll expense, and income tax expense. The Stipulation further adopts the weather normalization methodology proposed by Consumer Counsel's witness Watkins for this and future rate cases. The executed Stipulation was received into the record at the hearing. Also, the Company's prefiled testimony of John B. Williamson, III, J. David Anderson, and Dale P. Moore, the prefiled Staff testimony of John B. Barker, Daniel F. Powell, and Marc A. Tufaro, and the prefiled testimony of Glenn A. Watkins on behalf of the Consumer Counsel was all received into the record.

Pursuant to the Stipulation, the Company requested that Roanoke be permitted to place the lower rates into effect since the revenue requirement in the Stipulation is lower than the revenue requirement that rates now in effect on an interim basis are designed to recover. Such action would decrease the Company's ultimate refund liability. The Company agreed to file tariffs prepared in conformance with the parties' Stipulation and the rate design proposed by the Staff.

On February 27, 2004, Hearing Examiner Michael D. Thomas issued a Report in which the Hearing Examiner recommended the Commission enter an Order approving the Stipulation and the proposed revenue increase, accounting adjustments, weather normalization methodology, and refund of the difference between the approved tariffs and the tariffs that went into effect on October 16, 2003.<sup>3</sup> All parties and Staff waived comments on the Report based upon acceptance of the Stipulation on the record by the Hearing Examiner.

The Commission accepts the recommendations of the Hearing Examiner and finds, pursuant to the Stipulation and supporting testimony, as follows:

- (1) The use of a test year ending June 30, 2003, is proper in this proceeding;
- (2) Roanoke's test year operating revenues, after all adjustments, were \$55,781,615;

<sup>1</sup> The application was amended on January 21, 2004, with supporting supplemental testimony. The amendment modified the Company's accounting treatment and rate design to account for company-use gas.

<sup>2</sup> Pursuant to the Stipulation of the parties and Staff, all prefiled testimony addressing the "asset management services" incentive proposal was not offered.

<sup>3</sup> The refund will include interest at the Commission's prescribed interest rate.



## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

- (3) Roanoke's test year operating deductions, after all adjustments, were \$52,876,657;
- (4) Roanoke's current rates produce a return on adjusted rate base of 6.108%.
- (5) A reasonable return on equity for Roanoke is in the range of 9.6% to 10.6%, and the midpoint of 10.10% should be used to calculate rates;
- (6) Roanoke's adjusted test year rate base is \$46,877,982;
- (7) Roanoke requires \$57,321,164 in gross annual revenues to earn a return on rate base of 8.134% and a return on common equity of 10.10%;

and

(8) Roanoke's proposed change in rate design and accounting treatment to book company-use gas in the gas account rather than as an operating expense is reasonable. The Company should be authorized to initiate this change in its rate design effective with the Company's first Purchased Gas Adjustment change following this Final Order.

Accordingly, IT IS ORDERED THAT:

- (1) The findings and recommendations of the February 27, 2004, Hearing Examiner's Report are hereby adopted.
- (2) The Company shall forthwith file revised schedules of rates and charges designed to produce the additional revenue found reasonable herein effective for service rendered on and after October 16, 2003.
- (3) On or before June 1, 2004, Roanoke shall recalculate, using the rates and charges prescribed in Ordering Paragraph (2) above, each bill it rendered that used, in whole or in part, the rates and charges that took effect under bond and subject to refund on October 16, 2003. Where application of the new rates results in a reduced bill, Roanoke shall refund the difference with interest as set out below.
- (4) 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 months of the preceding calendar quarter.
- (5) The refunds ordered in Ordering Paragraph (3) above may be credited to current customers' accounts (each refund category shall be shown separately on each customer's bill). 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. Roanoke 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. Roanoke may retain refunds to former customers when such refund is less than \$1. Roanoke 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 of Virginia.
- (6) On or before July 30, 2004, Roanoke shall deliver to the Divisions of Public Utility Accounting and Energy Regulation a report showing that all refunds have been made pursuant to this Order, detailing the costs of the refunds and the accounts charged.
- (7) Roanoke shall bear all costs incurred in effecting the refund ordered herein.
- (8) Since there is nothing further to come before the Commission, this case is hereby dismissed and the papers herein placed in the Commission's file for ended causes.

**CASE NO. PUE-2003-00426  
JUNE 3, 2004**

APPLICATION OF  
SOUTHWESTERN VIRGINIA GAS COMPANY

For approval of an increase in rates and to initiate a weather normalization adjustment

**FINAL ORDER**

On September 17, 2003, Southwestern Virginia Gas Company ("SWVG" or the "Company") filed a rate application, supporting testimony and exhibits with the State Corporation Commission ("Commission") for an expedited increase in rates. The Company sought to increase its annual revenues by \$260,152, an increase of approximately 2.5%. The primary reason for the application is the loss of major industrial gas users that were responsible for approximately 26 percent of the Company's total throughput for the fiscal year ending June 30, 2003. In addition, the Company also requested to include in its rates for the first time a Weather Normalization Adjustment ("WNA"). The Company's Application requested that the increase go into effect, subject to refund, for services rendered on and after October 28, 2003.

The Company also requested 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 has historically 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.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Company further requests a waiver of the requirement to prepare a jurisdictional cost of service study - Schedule 30. SWVG states that it serves very few governmental non-jurisdictional customers; in fact, the Company states that the only non-jurisdictional customers - governmental offices and schools - represent less than 1.1% of the Company's customers and 2.8% 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 the money, time and effort to create a non-jurisdictional cost study.

By Order dated October 27, 2003, the Commission authorized the Company to place its proposed rates into effect on an interim basis subject to refund. The Commission also established a procedural schedule and set a hearing date for February 24, 2004, to receive evidence on the Company's application.

On January 20, 2004, the Company filed an Amendment to its Application accompanied by the supplemental direct testimony of Bernadette J. Stowe. The Amendment sets forth an adjustment to the Company's bad debt reserve to reflect the bankruptcy of one of its largest customers, C P Films, Inc.

The hearing was convened as scheduled on February 24, 2004. Richard D. Gary, Esquire, and D. Zachary Grabill, Esquire, appeared as counsel for the Company. Rebecca W. Hartz, Esquire and Wayne N. Smith, Esquire, appeared as counsel for the Staff. Raymond L. Doggett, Jr., Esquire, appeared for the Division of Consumer Counsel, Office of the Attorney General ("Consumer Counsel"). No public witnesses appeared to offer comments on the Application.

The Company, Staff, and Consumer Counsel offered a Stipulation at the hearing in which they proposed to offer the prefiled testimony into the record without causing the witnesses to come forward and be subject to cross-examination. The Stipulation sets forth the agreement of the Company, Staff, and Consumer Counsel that the record supports a fair and reasonable annual increase in revenues of \$219,177 based on the capital structure and cost of capital reflected in the Staff's testimony and exhibits. The increase is based on a return on equity of 10.1% and a range of 9.6% to 10.6%.

Pursuant to the Stipulation, the Company offered the prefiled testimony of Lance G. Heater, Company President and CEO, and Bernadette J. Stowe, assistant treasurer, in support of its amended application. Consumer Counsel offered the testimony of Glenn A. Watkins, which included recommendations relating to the proposed WNA. The Staff offered the prefiled testimony of Thomas P. Handley, a public utility accountant with the Commission's Division of Public Utility Accounting, Farris M. Maddox, a principal financial analyst in the Division of Economics and Finance, and David A. Roberts, a utilities analyst in the Division of Energy Regulation. Pursuant to the Stipulation, all of the prefiled testimony was entered into evidence without cross-examination, and the Stipulation was also entered into the record of this case.

At the hearing, counsel for the Company moved that SWVG be allowed to place the lower rates into effect for bills rendered on and after February 29, 2004. Counsel stated such an action would decrease the Company's ultimate refund liability and afford customers an expedited lower rate. This motion was granted subject to check by Commission Staff of the revised schedules.

On April 15, 2004, Hearing Examiner Howard P. Anderson issued a Report in which the Examiner summarized the record and reviewed and analyzed the evidence and issues in this proceeding. The Examiner's Report also included the following findings:

- (1) The use of a test year ending June 30, 2003, is proper in this proceeding;
- (2) The Company's test year operating revenues, after all adjustments, were \$10,233,157;
- (3) The Company's test year operating deductions, after all adjustments, were \$9,968,486;
- (4) The Company's current rates produce a return on adjusted rate base of 5.031%;
- (5) A reasonable return on equity for the Company is in the range of 9.60% and 10.60%, and the midpoint of 10.10% should be used to calculate rates;
- (6) The Company's adjusted test year rate base is \$5,080,344;
- (7) The Company requires \$219,177 in additional gross annual revenues to earn a return on rate base of 7.704% and a return on common equity of 10.10%;
- (8) The Company should be granted a waiver of the rules requiring the report of information for its Parent and the consolidated information of the Parent and the Company;<sup>1</sup>
- (9) The Stipulation agreed to by Staff and the parties is reasonable and should be adopted; and
- (10) A WNA, as set forth in the Stipulation, should be adopted in this proceeding.

Accordingly, the Examiner recommended that the Commission adopt the Stipulation and findings in his Report and grant an increase in annual gross revenues of \$219,177 as set forth in the Stipulation. The Examiner also recommended that the Commission direct the Company to refund with interest any excess revenues that have been collected and recommended the company be granted authority to implement a WNA as outlined in the Stipulation.

<sup>1</sup> While not addressed in the findings, the company did request a waiver of the requirement to prepare a jurisdictional cost of service study - Schedule 30 - as noted above. Because the non-jurisdictional customers pay the same rates as jurisdictional customers and account for only 1.1% of total customers and 2.8% of total gas throughput, Staff did not object to this waiver request. Staff, therefore, prepared its exhibits without jurisdictionalizing the Company's revenues, expenses, and rate base. (Exhibit No. 7, pp. 2-3.) We find this request for waiver of the requirement to prepare a jurisdictional cost of service study should be granted for this case only.

On April 23, 2004, counsel for SWVG filed a letter noting a clarification of the Examiner's Report of the procedural history, which restates that the Company's Application requested the proposed rate increase to go into effect subject to refund "for **service** rendered on and after October 28, 2003" (and not for **bills** rendered on and after October 28, 2003).

NOW THE COMMISSION, having considered the record, the Stipulation, the Examiner's Report, and the applicable law, is of the opinion and finds that the recommendations of the Examiner, including the waiver of the requirement to file a jurisdictional cost of service study, should be adopted.

Accordingly, IT IS ORDERED THAT:

(1) The findings and recommendations of the April 15, 2004, Hearing Examiner's Report are hereby adopted, consistent with the findings above.

(2) Rates reflecting the new revenue requirement are to be billed to the Company's customers, pursuant to the Company's Motion granted, on and after February 29, 2004.

(3) Within ninety (90) days from the date of entry of this Order, SWVG shall recalculate using the rates and charges prescribed in Ordering Paragraph 2 above, each bill it rendered that used, in whole or in part, the rates and charges that took effect under bond and subject to refund on October 28, 2003. Where application of the new rates resulted in a reduced bill, SWVG shall refund the difference with interest as set out below.

(4) 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 months of the preceding calendar quarter.

(5) The refunds ordered in Ordering Paragraph 3 above may be credited to current customers' accounts (each refund category shall be shown separately on each customer's bill). 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. SWVG 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. SWVG may retain refunds owed to former customers when such refund is less than \$1. SWVG 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 of Virginia.

(6) Within one hundred twenty days (120) from the date of entry of this Order, SWVG shall deliver to the Divisions of Public Utility Accounting and Energy Regulation a report showing that all refunds have been made pursuant to this Order and detailing the costs of the refund and the accounts charged.

(7) SWVG shall bear all costs incurred in effecting the refund ordered herein.

(8) Since there is nothing further to come before the Commission, this case is hereby dismissed and the papers herein placed in the Commission's file for ended causes.

**CASE NO. PUE-2003-00464  
MARCH 25, 2004**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION  
v.  
ATMOS ENERGY CORPORATION,  
Defendant

**ORDER GRANTING MOTION  
AND DISMISSING PROCEEDING**

On December 22, 2003, the State Corporation Commission ("Commission") entered an Order of Settlement ("Order") wherein the Commission fined Atmos Energy Corporation ("Atmos" or the "Company") \$18,250. Ordering Paragraph (3) of that Order provided \$11,500 could be suspended in whole or in part, provided the Company timely undertook the action required in Undertaking Paragraph (2) of the Order and filed the timely certification of the remedial action as directed in the Order. Undertaking Paragraph (2) found at Page 4 of the Order set out Atmos' representation that it would revise its operating and maintenance procedures, before January 15, 2004, to require that a fire extinguisher be readily available during tie-ins, squeeze-offs, tapping or purging operations, or if a hazardous amount of gas could be introduced into the area. Undertaking Paragraph (3) found at page 4 of the Order provided that on or before February 2, 2004, Atmos "shall tender to the Clerk of the Commission, with a copy to the Division of Utility and Railroad Safety, an affidavit certifying that the Company . . . [had] completed the remedial actions set forth in Paragraph (2) . . ." of the Order.

On March 19, 2004, the Company, by counsel, filed a Motion to Submit Late-Filed Affidavit ("Motion"). Atmos represented that for various reasons, the Company attempted unsuccessfully to file the affidavit required by the Order. The Company submitted an affidavit dated February 6, 2004, with its Motion that it requested be accepted out of time.

On March 23, 2004, the Staff, by counsel, filed a Response to Atmos' Motion. In its Response, the Staff recommended that the Commission grant Atmos' Motion, receive the Affidavit attached to the Motion out of time, suspend the remaining \$11,500 balance of the \$18,250 fine, and dismiss the case from the Commission's docket of active cases.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

NOW UPON consideration of Atmos' Motion, the Staff's Response, and the applicable statutes, the Commission is of the opinion and finds that Atmos' Motion should be granted; the Affidavit appended to the Motion should be accepted for filing; the remaining \$11,500 of the \$18,250 fine should be suspended; and that this case should be dismissed from the Commission's docket of active proceedings.

Accordingly, IT IS ORDERED THAT:

- (1) The Company's Motion is hereby granted.
- (2) The Affidavit appended to the Motion shall be accepted for filing.
- (3) The \$11,500 balance of the \$18,250 penalty shall be suspended as permitted by Ordering Paragraph (3) of the Order.
- (4) This case shall be dismissed from the Commission's docket of active cases, and the papers herein shall be lodged in the Commission's file for ended causes.

**CASE NO. PUE-2003-00467  
FEBRUARY 24, 2004**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION  
v.  
CENTRAL LOCATING SERVICE, LTD.,  
Defendant

**ORDER OF SETTLEMENT**

Pursuant to § 56-265.30 of the Code of Virginia, the Virginia 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 of Virginia. 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 between January 8, 2003, and September 8, 2003, listed in Attachment A, involving Central Locating Service, Ltd. ("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 of Virginia.
- (2) During the aforementioned period the Company has violated the Act by the following conduct.
- (3) 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 and D of the Code of Virginia.
- (4) Failing on certain occasions to mark within the time prescribed in the Act, in violation of §§ 56-265.19 A and D of the Code of Virginia.
- (5) Failing on certain occasions to report to the notification center that lines had been marked or they were not in conflict with the proposed excavation, in violation of §§ 56-265.19 A and D of the Code of Virginia.

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 on October 7, 2003, 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 \$9,250 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.

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 be, and it hereby is, accepted.
- (2) The sum of \$9,250 tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers herein shall be placed in the Commission's file for ended causes.

**CASE NO. PUE-2003-00468  
JANUARY 28, 2004**

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

v.

COLUMBIA GAS OF VIRGINIA, INC.,  
Defendant

**ORDER OF SETTLEMENT**

The Natural Gas Pipeline Safety Act of 1968, as amended by the Accountable Pipeline Safety and Partnership Act of 1996, and as modified by the Pipeline Safety Improvement Act of 2002, 49 U.S.C. § 60101 et seq. ("Act"), requires 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 Virginia 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 under § 56-5.1 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 public service corporation as that term is defined in § 56-1 of the Code of Virginia and, specifically, a natural gas company within the meaning of § 56-5.1 of the Code of Virginia; and

(2) The Company violated the Commission's Safety Standards by the following conduct:

- a) 49 C.F.R. § 192.225 - Failing to have a qualified welding procedure for 16-inch pipe;
- b) 49 C.F.R. § 192.235 - Failing to preserve pipe alignment while the root bead was being deposited by removing the alignment clamp prior depositing 50% of the root bead;
- c) 49 C.F.R. § 192.241 (a) - Failing on seven occasions to visually inspect welds to insure it was performed in accordance with the welding procedures;
- d) 49 C.F.R. § 192.303 - Failing to have written procedures for monitoring the serviceability of pipe that includes equipment and methods to determine the severity that imperfections, damage, or repairs may have on a length of steel pipe;
- e) 49 C.F.R. § 192.305 - Failing on seven occasions to follow the Company's Policy and Procedure Reference No. 641-6, Section 2, by not having a qualified welding inspector;
- f) 49 C.F.R. § 192.353 (a) - Failing to protect a meter and service regulator from vehicular damage;
- g) 49 C.F.R. § 192.355 (b) - Failing on one hundred seventy occasions to install service regulator vents so that they terminate outdoors;
- h) 49 C.F.R. § 192.503 (c) - Failing on three occasions to properly pressure test a new facility by using a gaseous material and exceeding 50% of the specified minimum yield strength in a Class 3 location;
- i) 49 C.F.R. § 192.605 (a) - Failing on two occasions to have and follow an accurate written plan for a main tie-in operation as required by the Company's Policy and Procedure 640-7(38) Section 4;
- j) 49 C.F.R. § 192.605 (a) - Failing to follow the Company's Policy and Procedure 640-8 Section 3.3 by not properly purging a section of main;
- k) 49 C.F.R. § 192.605 (a) - Failing to follow the Company's Supplement to the Tie-in and Bypass Plan by not manning a fire extinguisher at all times;
- l) 49 C.F.R. § 192.619 (a)(2) - Failing on three occasions to operate a system at or below its maximum allowable operating pressure;
- m) 49 C.F.R. § 192.707 (d)(l) - Failing to have the words "Gas Pipeline" displayed on a marker at a regulator station;
- n) 49 C.F.R. § 192.739 - Failing on two occasions to inspect each pressure limiting station at intervals not exceeding 15 months, but at least once per calendar year;
- o) 49 C.F.R. § 192.747 - Failing on twenty-nine occasions to check and service at intervals not exceeding 15 months, but at least once per calendar year, each valve, the use of which may be necessary for the safe operation of a distribution system;
- p) 49 C.F.R. § 192.751 - Failing to take steps to minimize the danger of accidental ignition;

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- q) 49 C.F.R. § 192.751 (a) - Failing to provide a fire extinguisher while purging;
- r) 49 C.F.R. § 193.2017 (a) - Failing to maintain at the Company's LNG plant all the plans and procedures required for the plant;
- s) 49 C.F.R. § 193.2503 - Failing to have procedures at the LNG plant for the use of a primary communication system;
- t) 49 C.F.R. § 193.2509 (b)(4)(iii) - Failing to have procedures relative to keeping local officials advised of communication and emergency control capabilities at the Company's LNG plant;
- u) 49 C.F.R. § 193.2605 (b)(2) - Failing to have procedures relative to the prompt corrective or remedial actions that must be taken whenever atmospheric corrosion is found;
- v) 49 C.F.R. § 193.2605 (c) - Failing to have procedures relative to the recognition of safety related conditions; and,
- w) 49 C.F.R. § 193.2903 - Failing to have procedures relative to the use of alternative power sources required to maintain security lighting.

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 a fine to the Commonwealth of Virginia in the amount of \$127,087 of which \$98,250 shall be paid contemporaneously with the entry of this Order. The remaining \$28,837 is due as outlined in paragraph (2), below, and may be suspended in whole, or in part, by the Commission, provided the Company tenders the requisite certification that it has completed specific remedial actions, as set forth below in paragraph (2) on or before the scheduled date for completion of said remedial action. At the completion of all remedial actions described below, the Commission may vacate any outstanding amounts. The initial payment, and any subsequent payments, will be made by check, payable to the Treasurer of Virginia, and directed to the attention of the Director, Division of Utility and Railroad Safety, Post Office Box 1197, Richmond, VA 23218-1197;

(2) The Company shall take the following remedial actions:

- a) The Company shall revise its operating and maintenance procedures to require that a fire extinguisher be readily available whenever purging a service line from air to gas, and it shall be checked for service and placed upwind;
- b) The Company shall locate and mark the underground piping which extends from the outlet side of service meters known as "farm taps" in response to notices of excavation received on and after February 2, 2004;
- c) The Company shall develop and implement a process that, at a minimum, includes the following:
  - i. Prior to each heating season, each measurement and regulation station is checked to ensure it is set for the appropriate flow rates based upon historical demand, and
  - ii. Prior to each heating season, confirm that all water bath and catalytic heaters required for operation are on-line and fully functional; and,
- d) The Company shall, on or before February 2, 2004, conduct an independent training overview with each Measurement and Regulation Field Technician to emphasize the criticality of appropriate, timely response and preventative measures.

(3) On or before February 12, 2004, CGV shall tender to the Clerk of the Commission, with a copy to the Division of Utility and Railroad Safety, an affidavit executed by the President of CGV, certifying that the Company has completed the remedial actions set forth in Paragraph (2) above.

(4) Upon timely receipt of said affidavit, the Commission may suspend up to \$28,837 of the fine amount specified in Paragraph (1) above. Should CGV fail to tender said affidavit or take the actions required by Paragraph (2) by February 12, 2004, a payment of \$28,837 shall become due. In the event CGV fails to take the requisite actions required by Paragraph (2) or tender the affidavit required by Paragraph (3), the Company shall immediately notify the Division of the reasons for its failure to accomplish the actions required by paragraphs (2) and (3) herein, and upon investigation, if the Division determines that the reason for said failure justifies a payment lower than \$28,837, it may recommend to the Commission a reduction in the amount due. The Commission shall determine the amount due. Upon the Commission's determination of the amount due, the Company shall immediately tender to the Commission that amount.

(5) Any fines paid in accordance with this Order shall not be recovered in the Company's rates as part of CGV's cost of service. Any such fines and costs shall be booked in Uniform System of Account No. 426.3. The Company shall verify its booking by filing a copy of the bid balance showing this entry with the Commission's Division of Public Utility Accounting.

The Commission, being fully advised in the premises of the foregoing and 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 CGV has made a good faith effort to cooperate with the Staff during the investigation of this matter; and that, the offer of compromise and settlement should be accepted.

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 compromise and settlement made by CGV be, and it hereby is, accepted.

(2) Pursuant to § 56-5.1 of the Code of Virginia, CGV be, and it hereby is, fined in the amount of \$127,087.

(3) The sum of \$98,250 tendered contemporaneously with the entry of this Order is accepted. The remaining \$28,837 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 paragraphs (2) and (3) found on pages 4 and 5 of this Order, and files the timely certification of the remedial actions as outlined herein.

(4) The Commission shall retain jurisdiction over this matter for all purposes, and this case shall be continued, pending further orders of the Commission.

**CASE NO. PUE-2003-00468  
MARCH 3, 2004**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
COLUMBIA GAS OF VIRGINIA, INC.,  
Defendant

**ORDER DISMISSING PROCEEDING AND SUSPENDING BALANCE OF FINE**

On January 28, 2004, the State Corporation Commission ("Commission") entered an Order of Settlement ("Order") that, among other things, directed Columbia Gas of Virginia, Inc. ("Columbia" or the "Company"), to undertake the actions described in Paragraph (2) at pages 4-5 of the Order to settle various alleged violations of the minimum gas pipeline safety standards adopted by the Commission in Case No. PUE-1989-00052. In settlement of these alleged violations, Columbia represented, among other things, that it would pay a fine in the amount of \$127,087, of which \$98,250 would be paid contemporaneously with the Order.

In the Order, the Commission directed Columbia to file on or before February 12, 2004, an affidavit executed by the Company's President affirming that the Company had completed the remedial actions set out in Paragraph (2) of the Order. The Order further provided that upon timely receipt of the affidavit, the Commission could suspend up to \$28,837 of the \$127,087 fine.

On February 11, 2004, Columbia filed the Affidavit of Kathleen O'Leary, President of the Company. In her Affidavit, the Company President affirmed that the Company had taken the remedial actions identified in Paragraph (2) of the Order.

NOW THE COMMISSION, upon consideration of the foregoing and having been advised by its Staff, is of the opinion and finds that the remaining \$28,837 balance of the \$127,087 fine should be suspended, and this proceeding should be dismissed.

Accordingly, IT IS ORDERED THAT:

(1) In accordance with the findings made herein and Ordering Paragraph (3) of the January 28, 2004, Order, the \$28,837 balance of the \$127,087 fine is hereby suspended.

(2) This proceeding shall be dismissed, and the papers herein shall be lodged in the Commission's file for ended causes.

**CASE NO. PUE-2003-00469  
JANUARY 28, 2004**

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, the Virginia 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 of Virginia. 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 between May 13, 2003, and September 4, 2003, 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 of Virginia;
- (2) During the aforementioned period, the Company has 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 of Virginia.
  - (b) Failing on certain occasions to mark within the time prescribed in the Act, in violation § 56-265.19 A of the Code of Virginia.

- (c) Failing on certain occasions to report to the notification center that lines have been marked or they were not in conflict with the proposed excavation, in violation of § 56-265.19 A of the Code of Virginia.

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 on October 7, 2003, 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 \$15,150 to be paid contemporaneously with the entry of this Order. This payment will be made by check, payable to the Commonwealth of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

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 be, and it hereby is, accepted.
- (2) The sum of \$15,150 tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. PUE-2003-00470  
JUNE 11, 2004**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
ROANOKE GAS COMPANY,  
Defendant

**ORDER SUSPENDING BALANCE OF  
PENALTY AND DISMISSING PROCEEDING**

On December 23, 2003, the State Corporation Commission ("Commission") entered an Order of Settlement ("Order") in the captioned matter. That Order related that Roanoke Gas Company ("Roanoke" or the "Company") agreed, as an offer to settle various alleged violations of the Commission's regulations addressing minimum gas pipeline safety standards, to pay a fine in the amount of \$11,500, of which \$3,200 was to be paid contemporaneously with the entry of the Order. The Order further directed that the remaining \$8,300 could be suspended provided that: (i) the Company took remedial actions, including the review of the installation of commercial and industrial meters on its system to ensure the adequacy of the overpressure protection on each of such meters, (ii) the Company took corrective action where necessary, (iii) and that the Company filed an affidavit by February 2, 2004, certifying that Roanoke had completed the remedial actions set forth in Undertaking Paragraph (2) of the Order.

On January 30, 2004, Roanoke filed its Affidavit where, among other things, it certified that it had reviewed the installation of its commercial and industrial meters on its system to ensure the adequacy of overpressure protection on each such meter and had taken corrective actions where necessary.

On February 12, 2004, the Company, by counsel, filed a Motion to Submit a Supplemental Affidavit ("Motion"), together with the Supplemental Affidavit of John B. Williamson, III, Chairman, President, and Chief Executive Officer of Roanoke, with the Clerk of the Commission. The Supplemental Affidavit dated February 11, 2004, related that the Company had initially understood that its duty to remediate the commercial meters was limited to those meters with a potential for pipeline pressures that exceeded the meters' 25 psig maximum allowable operating pressure ("MAOP") rating. It further acknowledged that the Order could be interpreted as applicable to all of the Company's commercial and industrial meter installations. The Supplemental Affidavit confirmed Roanoke's willingness to comply with the literal language of the Order to review the installation of all commercial and industrial meters to ensure the adequacy of the overpressure protection on each of such meters and to take corrective actions, where necessary. This Affidavit advised that the Company would require an additional 120 days in which to conduct an in-depth evaluation of its commercial and industrial meter installations. Roanoke represented that it would file, on or before June 10, 2004, a Final Affidavit attesting to the completion of the review of all commercial and industrial meters to ensure that each such meter had adequate overpressure protection.

On February 25, 2004, the Commission issued an Order ("February 25, 2004, Order") that granted Roanoke's Motion and extended the time by an additional 120 days from the date of the execution of the Supplemental Affidavit in which Roanoke could complete an in-depth evaluation and correction, where necessary, of the overpressure protection on all of the Company's commercial and industrial meters. The Commission directed Roanoke to file with the Clerk of the Commission and a copy to the Division of Utility and Railroad Safety on or before June 10, 2004, a Final Affidavit executed by the Chairman and Chief Executive Officer of the Company, certifying that the Company had completed the required remedial actions. The February 25, 2004, Order provided that upon receipt of the Final Affidavit required by the Order, the Commission could suspend up to \$8,300 of the \$11,500 penalty.

On June 9, 2004, the Company filed its Final Affidavit herein. That Affidavit averred that Roanoke had reviewed the installation of its commercial and industrial meters to ensure the adequacy of the overpressure protection on each of the subject meters and had taken corrective actions where necessary.

NOW UPON CONSIDERATION of the foregoing, the Commission is of the opinion and finds that the Final Affidavit represents that the Company has completed the remedial actions required by the December 23, 2003, Order of Settlement, and the February 25, 2004, Order on Motion; that,



based on the representations made in the Final Affidavit, the remaining \$8,300 balance of the \$11,500 penalty should be suspended as permitted by Ordering Paragraph (3) of the December 23, 2003, Order of Settlement and Ordering Paragraph (4) of the February 25, 2004, Order on Motion; and that this case should be dismissed from the Commission's docket of active proceedings.

Accordingly, IT IS ORDERED THAT:

(1) Based upon the representations made in the Company's Final Affidavit, the remaining \$8,300 balance of the \$11,500 penalty shall be suspended.

(2) This case shall be dismissed from the Commission's docket of active proceedings, and the papers filed herein shall be lodged in the Commission's file for ended causes.

**CASE NO. PUE-2003-00472  
JANUARY 21, 2004**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION  
v.  
VIRGINIA NATURAL GAS, INC.,  
Defendant

**ORDER OF SETTLEMENT**

The Natural Gas Pipeline Safety Act of 1968, as amended by the Accountable Pipeline Safety and Partnership Act of 1996, and as modified by the Pipeline Safety Improvement Act of 2002, 49 U.S.C. § 60101 et seq. ("Act"), requires 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 Virginia 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 under § 56-5.1 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. The Division has conducted various inspections of records, construction, operation, and maintenance activities during the period July 29, 2002, through February 21, 2003, involving Virginia Natural Gas, Inc. ("VNG" or "Company"), the Defendant, and alleges that:

(1) VNG is a public service corporation as that term is defined in § 56-1 of the Code of Virginia and, specifically, a natural gas company within the meaning of § 56-5.1 of the Code of Virginia; and

(2) The Company violated the Commission's Safety Standards by the following conduct:

- a) 49 C.F.R. § 192.203 (b) - Failing to ensure that a regulator in service is designed to meet the particular conditions of service;
- b) 49 C.F.R. § 192.303 - Failing to follow the Company's Gas Operating Standards ("GOS") Part 3, Section 3.7.5.3(A)(15), by not waiting the allotted time before stressing a joint;
- c) 49 C.F.R. § 192.303 - Failing to follow VNG GOS Part 3, Section 3.7.5.3(A)(14), by leaving a fusion in the system that did not pass a visual test;
- d) 49 C.F.R. § 192.3 11 - Failing to remove an injurious defect that exceeded 10 percent of the minimum wall thickness of a main;
- e) 49 C.F.R. § 192.355 (b)(l) - Failing to ensure that a service regulator vent was insect resistant;
- f) 49 C.F.R. § 192.355 (b)(2) - Failing to ensure that a customer regulator vent was located in a place where gas could escape freely into the atmosphere and away from a building opening;
- g) 49 C.F.R. § 192.357 (a) - Failing on two occasions to install meters in such a way as to minimize anticipated stresses upon the connecting piping and the meter;
- h) 49 C.F.R. § 192.361 (d) - Failing to follow the company's GOS Part 3, Section 3.12 Table 15 by having an improperly sized "weak-link";
- i) 49 C.F.R. § 192.605 (a) - Failing to follow the Company's GOS Part 3, Section 3.9.2.9, by not marking the location of a squeeze-off;
- j) 49 C.F.R. § 192.605 (a) - Failing to follow the Company's GOS Part 3, Section 3.7.5.8(B), by not using external line-up clamps while performing electrofusion;

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

- k) 49 C.F.R. § 192.605 (a) - Failing to follow the Company's GOS Part 3, Section 3.13 Table 16 by failing to pressure test a main for a minimum of one hour;
- l) 49 C.F.R. § 192.605 (b)(8) - Failing to have written procedures to periodically review work done by Company personnel to determine the effectiveness and adequacy of the procedures used in normal operation and maintenance and modifying the procedures when deficiencies are found;
- m) 49 C.F.R. § 192.605 (b)(9) - Failing to have written procedures to take adequate precautions in excavated trenches to protect personnel from the hazards of unsafe accumulations of gas;
- n) 49 C.F.R. § 192.751 - Failing on fourteen occasions to take steps to minimize the danger of accidental ignition; and,
- o) 49 C.F.R. § 192.751 (a) - Failing on six occasions to have a fire extinguisher present while a hazardous amount of gas was being vented into open air during purging operations.

The Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

Subsequent to the discovery of the probable violations listed above, VNG took various corrective actions. The Company revised its operating and maintenance procedures to require that a fire extinguisher be present while purging piping to protect individuals from the dangers of accidental ignition and to ground all metallic tools when working with plastic pipe to minimize the accumulation and discharge of static electricity. Further, the Company took over the operation and maintenance of four master meter gas systems.

In addition to these actions, and as an offer to settle all matters arising from the allegations made against it, VNG represents and undertakes that:

(1) The Company shall pay a fine to the Commonwealth of Virginia in the amount of \$39,500 of which \$16,975 shall be paid contemporaneously with the entry of this Order. The remaining \$22,525 is due as outlined in paragraph (2), below, and may be suspended in whole, or in part, by the Commission, provided the Company tenders the requisite certification that it has completed specific remedial action, as set forth below in paragraph (2) on or before the scheduled date for completion of said remedial action. At the completion of the remedial action described below, the Commission may vacate any outstanding amounts. The initial payment, and any subsequent payments, will 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, VA 23218-1197.

(2) The Company shall revise its operating and maintenance procedures to include an inspection program, to begin on February 2, 2004, for large commercial and industrial meter sets having an external downstream control or static line. The inspection program must include, among other things, a review of the installation, documentation, and correction of any leaks, signs of corrosion, regulator and overpressure protection equipment set points and capacities, meter protection, meter support and valve operations. Under this program, each large commercial and industrial meter set having an external downstream control or static line will be inspected initially by March 1, 2007. Thereafter, the Company may modify the inspection criteria and intervals based on the results from the initial inspection period. Any modifications to the program, after the initial inspection period, will be reflected appropriately in the Company's operating manual and submitted to Staff. The information from these inspections for each commercial and industrial meter set must be documented and retained.

(3) On or before February 16, 2004, VNG shall tender to the Clerk of the Commission, with a copy to the Division of Utility and Railroad Safety, an affidavit executed by the President of VNG certifying that the Company has revised its operating and maintenance procedures as set forth in Paragraph (2) above.

(4) Upon timely receipt of said affidavit, the Commission may suspend up to \$22,525 of the fine amount specified in Paragraph (1) above. Should VNG fail to tender said affidavit or take the actions required by Paragraph (2) by February 16, 2004, a payment of \$22,525 shall become due. In the event VNG fails to take the requisite actions required by Paragraph (2) or tender the affidavit required by Paragraph (3), the Company shall immediately notify the Division of the reasons for its failure to accomplish the actions required by paragraphs (2) and (3) herein, and upon investigation, if the Division determines that the reason for said failure justifies a payment lower than \$22,525, it may recommend to the Commission a reduction in the amount due. The Commission shall determine the amount due. Upon the Commission's determination of the amount due, the Company shall immediately tender to the Commission that amount.

(5) Any fines paid in accordance with this Order shall not be recovered in the Company's rates as part of VNG's cost of service. Any such fines and costs 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 Public Utility Accounting.

The Commission, being fully advised in the premises and 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 VNG has made a good faith effort to cooperate with the Staff during the investigation of this matter; and that, the offer of compromise and settlement should be accepted.

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 compromise and settlement made by VNG be, and it hereby is, accepted.

(2) Pursuant to § 56-5.1 of the Code of Virginia, VNG be, and it hereby is, fined in the amount of \$39,500.

(3) The sum of \$16,975 tendered contemporaneously with the entry of this Order is accepted. The remaining \$22,525 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 paragraphs (2) and (3) found on pages 4 and 5 of this Order, and files the timely certification of the remedial actions as outlined herein.

(4) The Commission shall retain jurisdiction over this matter for all purposes, and this case shall be continued, pending further orders of the Commission.

**CASE NO. PUE-2003-00472  
MARCH 3, 2004**

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

v.

VIRGINIA NATURAL GAS, INC.,  
Defendant

**ORDER DISMISSING PROCEEDING  
AND SUSPENDING BALANCE OF FINE**

On January 21, 2004, the State Corporation Commission ("Commission") entered an Order of Settlement ("Order") in the captioned matter. In the Order, the Commission accepted certain undertakings made by Virginia Natural Gas, Inc. ("VNG" or the "Company"), and imposed a fine of \$39,500 to settle various alleged violations of the minimum natural gas pipeline safety standards adopted in Case No. PUE-1989-00052. As part of its undertakings offered in settlement of the case, VNG represented that it would revise its operating and maintenance procedures to include an inspection program beginning on February 2, 2004, for large commercial and industrial meter sets having external downstream control or static lines.

As described in Undertaking Paragraph (2) at pages 4 and 5 of the Order, VNG's inspection program must include, among other things, a review of the installation, documentation, and correction of any leaks, signs of corrosion, regulator and overpressure protection equipment set points and capacities, meter protection, meter support, and valve operations. Under this inspection program, VNG must initially inspect each large commercial and industrial meter set having an external downstream control or static line by March 1, 2007. After that date, the Company may modify the inspection criteria and intervals of inspection based on the results from the initial inspection period. VNG agreed, as part of its offer of settlement, that any modifications to the program, after the initial inspection period, would be reflected appropriately in the Company's operating manual and submitted to Staff. Finally, as part of its settlement offer, the Company represented that it would document and retain information from the inspections for each commercial and industrial meter set.

The January 21, 2004, Order required VNG to file an affidavit with the Commission on or before February 16, 2004, certifying that the Company had revised its operating and maintenance procedures as provided in Undertaking Paragraph (2). It also provided that upon timely receipt of the affidavit, the Commission could suspend up to \$22,525 of the \$39,500 fine.

On February 10, 2004, VNG filed the Affidavit of Henry P. Linginfelter, President of the Company. The Affidavit affirmed that: (i) VNG has adopted new operating and maintenance procedures that comply with the requirements set out in Paragraph (2) of the Order; (ii) VNG began inspecting the commercial and industrial meter sets with external downstream control or static lines pursuant to its new operating and maintenance procedures by February 2, 2004; and (iii) VNG will complete the inspection of the commercial and industrial meter sets by March 1, 2007, as required by Undertaking Paragraph (2) of the Order. VNG submitted for the Commission's review a copy of its revised operating and maintenance procedures and an example of its inspection form.

NOW THE COMMISSION, upon consideration of the foregoing and having been advised by its Staff, is of the opinion and finds that the \$22,525 balance of the \$39,500 fine should be suspended and that this proceeding should be dismissed. While we will dismiss this proceeding, we expect that the Company will continue its inspection of large commercial and industrial meter sets having external downstream control or static lines and implement its inspection program, all as described in Undertaking Paragraph (2) at pages 4-5 of the Order. Failure to comply with the provisions of the January 21, 2004, Order of Settlement may subject the Company to such further action as is necessary to ensure compliance with that Order and with the Commission's minimum gas pipeline safety standards.

Accordingly, IT IS ORDERED THAT:

- (1) In accordance with the findings made herein and Ordering Paragraph (3) of the Order, the \$22,525 remaining balance of the \$39,500 fine is hereby suspended.
- (2) This proceeding shall be dismissed, and the papers filed herein shall be lodged in the Commission's file for ended causes.

**CASE NO. PUE-2003-00490  
MARCH 9, 2004**

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

Ex Parte: In the matter of revisions to the Commission's Rules for the Enforcement of the Underground Utility Damage Prevention Act

**ORDER ADOPTING RULES**

This Order promulgates revised Rules for Enforcement of the Underground Utility Damage Prevention Act ("Rules") pursuant to the State Corporation Commission's ("Commission") authority under the Underground Utility Damage Prevention Act, Chapter 10.3 (§ 56-265.15 *et seq.*) of Title 56 of the Code of Virginia (the "Act"). On November 17, 2003, the Commission entered an Order Prescribing Notice and Inviting Comments and/or Requests for Hearing ("Order Prescribing Notice") regarding revisions to the Rules as proposed by the Commission's Division of Utility and Railroad Safety

("Division" or "Staff"). The Order Prescribing Notice, among other things, initiated this proceeding, attached the proposed revisions to the Rules, required public notice of the proposed revisions, provided interested persons an opportunity to file comments and/or requests for hearing, directed the Staff to file a report in this matter, and directed the Commission's Division of Information Resources to forward the Order Prescribing Notice to the Virginia Register of Regulations for publication.

The proposed Rules reflect technical revisions identified by the Staff and changes in the Act since the Commission adopted the Rules in Case No. PUE-1999-00786. For example, as discussed in the Order Prescribing Notice, subsequent amendments to the Act, among other things: (i) clarify the period during which an excavator's notification to the notification center would be valid; (ii) provide for the issuance of "designer" notices by the notification center at the request of designers, *i.e.*, licensed professionals designing industrial projects or governmental, commercial, or residential projects consisting of twenty-five or more units; (iii) require operators to provide information on the operator's underground utility lines and to locate these lines if the designer requests a field locate; and (iv) authorize the Commission to adopt regulations governing (a) the letter designations for each operator to be used in conjunction with the marking of underground utility lines, and (b) symbols for marking of underground utility lines that are "in compliance with subsection B (sic) [2] of § 56-265.17:3" of the Act and in accordance with industry standards. See 2002 Va. Acts ch. 841.

The Order Prescribing Notice also explained that the Division established a committee of stakeholder representatives, developed proposals for the designation of letters for each operator to be used in conjunction with the marking of all underground utility lines, and developed a proposal regarding symbols for marking of underground lines in compliance with the requirements of § 56-265.17:3 of the Act, *i.e.*, procedures for operators to mark their underground facilities in response to a designer notice. The consensus recommendations of this committee on marking best practices were incorporated in the proposed Rules.

On December 10, 2003, the Division of Information Resources filed with the Clerk of the Commission proof of the notice prescribed in Ordering Paragraph (6) of the Order Prescribing Notice. Ordering Paragraph (9) of the Order Prescribing Notice required the Division of Information Resources to file its proof of publication on or before January 30, 2004.

Verizon Virginia Inc. and Verizon South Inc. ("Verizon") filed a letter on December 16, 2003, in response to the Order Prescribing Notice. Verizon did not comment on the proposed revisions to the Rules but advised that it was interested in the subject matter and would like to be included on the service list and participate in any hearing convened on the rulemaking.

Virginia Electric and Power Company ("Dominion Virginia Power") also filed a letter on December 18, 2003, in response to the Order Prescribing Notice. Dominion Virginia Power did not have any comments on the proposed revisions but advised that it would like to be included on the service list and reserved the right to participate in any hearing convened in the rulemaking or to comment on any additional revisions to the proposed rules.

Appalachian Power Company d/b/a American Electric Power ("AEP") filed comments on December 30, 2003 ("AEP Comments"). AEP stated that it generally supported the revised Rules. While AEP did not request a hearing, it requested permission to participate in any hearing conducted at the request of other participants. AEP also expressed concerns regarding subdivisions 2 and 3 of Rule 20 VAC 5-309-140, which were proposed as follows:

Any person excavating around underground utility lines shall take all reasonable steps to protect such utility lines. These steps shall include, but are not limited to, the following:

\* \* \*

2. The excavator shall expose the underground utility line to its extremities by hand digging;
3. The excavator shall not utilize mechanized equipment within two feet of the extremities of all exposed utility lines; . . .

AEP asserted that "[i]t is possible to interpret [subdivision 2 of proposed Rule 20 VAC 5-309-140] to require an excavator to expose the entire length of the line, both horizontally and vertically, even if the line, or portions of the line, are not within the proposed excavation area."<sup>1</sup> AEP contended that subdivision 3 of proposed Rule 20 VAC 5-309-140 was also similarly imprecise.

Columbia Gas of Virginia, Inc. ("Columbia"), filed a letter on December 31, 2003. Columbia did not have any specific comments on the proposed revisions but reserved its right to participate in any hearing and to comment on any additional revisions to the rules.

The Staff filed its Report on February 6, 2004 ("Staff Report"). In response to AEP's concerns, the Staff recommended the following modification to subdivision 2 of proposed Rule 20 VAC 5-309-140:

2. The excavator shall expose the underground utility line to its extremities by hand digging within the excavation area when excavation is expected to come within two feet of the marked location of the underground utility line; . . .

The Staff did not suggest any changes to subdivision 3 of proposed Rule 20 VAC 5-309-140, concluding that the rule is consistent with § 56-265.24 A of the Act. Finally, the Staff explained that "AEP has authorized the Staff to state that they concur with the Staff's analysis and the proposed Rules as discussed in [the Staff Report]."<sup>2</sup>

Staff counsel has advised that Verizon, Columbia, Dominion Virginia Power, and AEP do not desire to file further comments in response to the Staff Report.

<sup>1</sup> AEP Comments at 2.

<sup>2</sup> Staff Report at 7.

NOW THE COMMISSION, having reviewed the record for this case and applicable law, is of the opinion and finds as follows. We adopt the proposed Rules as set forth in our Order Prescribing Notice, with one modification. Subdivision 2 of Rule 20 VAC 5-309-140 shall be modified as recommended in the Staff Report with AEP's concurrence.

As revised, subdivision 2 of Rule 20 VAC 5-309-140 clarifies the reasonable actions that excavators must take when excavating within two feet of the marked location of an underground utility line. As § 56-265.24 A of the Act provides, whenever excavation is required within two feet of the marked location of a utility line, that utility line must be exposed to its extremities by hand digging. The Staff Report explains that "extremities" refers to the outermost portion of the outside shape of the underground utility line. According to the Staff Report, no mechanized equipment used for excavation should be operated within two feet of the extremities of an exposed underground utility line. Subdivisions 2 and 3 of Rule 20 VAC 5-309-140 adopted herein serve to clarify the obligation of the excavator to protect the entire utility line by visually verifying the size and type of the underground utility line within the excavation area. We agree with the Staff's analysis in this instance and, accordingly, adopt it.

Finally, references to the Virginia Underground Utility Marking Standards appearing in subsections O, P, and R of Rule 20 VAC 5-309-110 have been revised to reflect a March 2004 instead of February 2003 publication date for that document. Some of the Rules adopted herein will be reprinted in the Virginia Underground Utility Marking Standards. See, e.g., subsection Q of Rule 20 VAC 5-309-110. The Virginia Underground Utility Marking Standards will have to be revised to include this and other rules. We anticipate that this republication will occur in March 2004.

Accordingly, IT IS ORDERED THAT:

- (1) The Rules for Enforcement of the Underground Utility Damage Prevention Act, appended hereto as Attachment A, are hereby adopted, effective March 12, 2004.
- (2) A copy of this Order and the Rules adopted herein shall be forwarded to the Virginia Register of Regulations for publication.
- (3) There being nothing further to be done in this matter, 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.

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. PUE-2003-00509  
MARCH 9, 2004**

COMMONWEALTH OF VIRGINIA, ex rel.  
RUSSELL F. WALKER,  
Petitioner,  
v.  
SOUTHSIDE ELECTRIC COOPERATIVE,  
Respondent

**FINAL ORDER**

On November 7, 2003, Russell F. Walker ("Petitioner") filed a formal petition with the State Corporation Commission ("Commission") against Southside Electric Cooperative ("Cooperative"). The Petitioner requests the Commission to (i) review the actions taken at the Cooperative's annual meeting held on September 27, 2003; (ii) order a new election take place for the Board of Directors' for District 7; and (iii) review the bylaws of the Cooperative for internal conformity and conformity with Virginia law.

In the Petition, Mr. Walker states that upon making a request at the Cooperative's annual meeting to be a write-in candidate for the 7th District of the Board of Directors, he was refused and told he was out of order by the attorney of the Cooperative who was directing the meeting, John M. Boswell. The Petitioner further states that the directors were then recognized as having been elected by acclamation, no vote occurred, and the Petitioner was not provided the opportunity to vote. The Petitioner argues that the due process clause of the Fourteenth Amendment to the United States Constitution and Va. Code §§ 13.1-675(d) and 13.1-855(d) were violated. The Petitioner indicates that prior to the annual meeting, he had discussions with Mr. Boswell about the interpretation of Article IV, Section 3 of the Cooperative's bylaws. The Petitioner further argues that the last sentence of Article IV, Section 5 of the Cooperative's bylaws is a due process violation and is internally inconsistent with Articles III and IV of the Cooperative's bylaws.

On November 21, 2003, the Cooperative, by counsel, filed its Answer to the Petition. In its Answer, the Cooperative argues that the Petition does not state a cause of action which is within the purview of this Commission. The Cooperative further states that the election for District 7 of the Board of Directors took place in conformity with the bylaws of the Cooperative, and the bylaws of the Cooperative are in conformity with Virginia law. The Cooperative requests the Commission dismiss the Petition arguing that the Commission does not have jurisdiction to give the relief sought, and the relief requested is without merit on its face. Finally, the Cooperative requests that it be awarded costs and attorney fees for having spent its members' equity in defense of the Petitioner's frivolous and unfounded allegations.

NOW THE COMMISSION, upon consideration of the foregoing, is of the opinion and finds that the Petition should be denied. The Petitioner requests the Commission to take action on matters not under its jurisdiction. The Commission regulates the rates and services of Virginia utility cooperatives pursuant to the Utility Consumer Services Property Act ("Act"), Va. Code § 56-231.15 et seq. It is evident that the subject matter of the Petition, the election of a utility cooperative's board of directors and the lawfulness of its bylaws, comes under the purview of the various statutory

provisions of Virginia's Stock and Nonstock Corporation Acts, Va. Code §§ 13.1-601 *et seq.* and 13.1-801 *et seq.*, respectively.<sup>1</sup> Moreover, Virginia Code § 56-231.19 of the Act specifically states that all provisions of the Virginia Stock and Nonstock Corporation Acts apply to utility cooperatives.

In addition, we deny the Cooperative's request to be awarded costs and attorney fees incurred in the defense of the Petition. The applicable law does not provide for the awarding of costs and attorneys fees in this instance.

Accordingly, IT IS ORDERED THAT:

- (1) The Petition is hereby denied.
- (2) This matter is dismissed and, there nothing further to come before the Commission, the papers herein are passed to the file for ended causes.

<sup>1</sup> In his Petition, Mr. Walker specifically alleges violations of Va. Code §§ 13.1-675(d) and 13.1-855(d) of Virginia's Stock and Nonstock Corporation Acts.

**CASE NO. PUE-2003-00534  
FEBRUARY 4, 2004**

APPLICATION OF  
SANVILLE UTILITIES CORPORATION  
and  
HENRY COUNTY PUBLIC SERVICE AUTHORITY

For authority to transfer utility assets

**ORDER GRANTING AUTHORITY**

On November 7, 2003, Sanville Utilities Corporation ("Sanville") and the Henry County Public Service Authority ("HCPSA") (collectively, the "Applicants") filed an application with the State Corporation Commission (the "Commission") requesting authority pursuant to Chapter 5 of Title 56 of the Code of Virginia ("Code") to transfer the utility assets of Sanville to HCPSA. HCPSA does not propose any payment of consideration for assumption of the Sanville utility assets.

Sanville was a public service corporation, incorporated in June 1978, that owned and operated the Fairway Acres sewer system, the Westwood water and sewer system, and the Rock Hill water system in Henry County, Virginia, until its corporate status lapsed in November 1998 and its owner Richard M. Anthony abandoned the systems in Fall 1999. On October 1, 1999, the Commission issued an Order appointing HCPSA as Receiver of Sanville and authorizing HCPSA "to do all acts necessary or appropriate for the conservation or rehabilitation of Sanville."<sup>1</sup>

The Fairway Acres sewer system is served by an existing treatment plant that does not meet current standards for domestic wastewater treatment under the Virginia Pollutant Discharge Elimination System Permit Regulation. The system serves approximately 197 residential and business customers, consists of 9,500 feet of six-and eight-inch sewer line and appurtenances, and is thirty-three (33) years old.

The Westwood sewer system is served by a sewer lagoon that is currently not discharging or permitted to do so. The system serves approximately thirty (30) residential customers, consists of 2,300 feet of six-and eight-inch sewer lines and appurtenances, and is twenty-nine (29) years old.

The Westwood water system was served by an outdated well system that has been abandoned and added to the Philpott Water Filtration Plant service area since HCPSA took over operations. The system serves approximately thirty (30) residential customers, consists of 1,805 feet of six-inch water lines and appurtenances, and is twenty-nine (29) years old.

The Rock Hill water system is served by one well that meets current Virginia Department of Health requirements. The system serves approximately seventeen (17) residential customers, consists of 1,800 feet of two-and six-inch water lines and appurtenances, and is twenty-eight (28) years old.

HCPSA is a municipal public service corporation created by Henry County, Virginia, pursuant to the Virginia Water and Waste Authority Act with a budget of \$16 million, forty-two (42) employees, and more than 400 miles of utility lines.

The Applicants represent that, upon approval of the transfer, HCPSA plans to connect the Sanville systems to its public sewer system and discontinue use of and close the Fairway Acres Package Treatment Plant, the Westwood Lagoon, and some wells. HCPSA represents that its proposed takeover of the Sanville systems is a public service to the community. For various reasons provided by HCPSA, it believes that the Sanville systems have no market value.

HCPSA has applied to Rural Utilities Service ("RUS") for a grant/loan to finance the installation of a gravity sewer service that would connect the Fairway Acres and Westwood customers to the HCPSA public sewer system. RUS has tentatively agreed to provide a grant of \$2.304 million and a loan of \$1.030 million for the project, with HCPSA funding the remaining \$1 17,000, on the condition that HCPSA assume ownership of the Sanville systems. Without the RUS grant/loan financing, HCPSA has concluded that it cannot expect its existing rate payers to continue subsidizing the Sanville systems.

<sup>1</sup> *Commonwealth of Virginia, ex. rel. State Corporation Commission v. Sanville Utilities Corp., Defendant*, Case No. PUE-1998-00334, Order issued October 1, 1999, 1999 S.C.C. Ann. Rep. 424-426.

HCPSA represents that, if the proposed transfer is approved, it will continue to provide water and sewer service to all of Sanville's customers. There will be no impact on jobs due to the transfer, because Sanville has no employees. As Receiver, HCPSA operates the Sanville systems with its existing staff. HCPSA represents that it has not received any complaints from Westwood and Rock Hill water system customers concerning the quality of service since it assumed operations in 1999. Once the sewer construction project is completed, 181 Sanville residential customers and several business customers will be connected to the HCPSA public sewer system. An additional 18 homes not currently on the system will also be served. HCPSA represents that the new sewer connection should significantly improve the quality and reliability of service to Sanville's sewer customers.

The Applicants represent that Sanville is not a viable stand-alone utility. Sanville's stockholders have no desire to reacquire the systems. Henry County is a depressed economic area with few if any potential buyers. HCPSA is the only local entity with both the expertise and resources available to operate the Sanville water and sewer systems while financing the capital improvements needed to bring the systems into regulatory compliance. HCPSA represents that it has not received any objections to the proposed transfer.

NOW THE COMMISSION, upon consideration of the application and representations of the Applicants and having been advised by its Staff, is of the opinion and finds that the above-described transfer of assets 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 §§ 56-89 and 56-90 of the Code, the Applicants are hereby granted authority to transfer the ownership of control of Sanville's utility assets from Sanville to HCPSA.
- (2) Certificate No. W-232 and Certificate No. S-72 authorizing Sanville Utilities Corporation to provide water and sewer service to a certain area of Henry County, Virginia, are hereby cancelled upon transfer of the assets.
- (3) The authority granted herein shall have no ratemaking implications.
- (4) Applicants shall file a report with the Commission within thirty (30) days of the transfer taking place, subject to administrative extension by the Commission's Director of Public Utility Accounting, providing the date of the transfer.
- (5) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2003-00535  
FEBRUARY 6, 2004**

APPLICATION OF  
VIRGINIA NATURAL GAS, INC.  
and  
PIVOTAL PROPANE OF VIRGINIA, INC.

For approval of a Propane Sales Agreement under Chapter 4 of Title 56 of the Code of Virginia

**ORDER GRANTING APPROVAL**

On November 10, 2003, Virginia Natural Gas, Inc. ("VNG" or "Company"), and Pivotal Propane of Virginia, Inc. ("Pivotal") (collectively referred to as "Applicants"), filed an application with the State Corporation Commission ("Commission") under Chapter 4 (§ 56-76 *et seq.*) of Title 56 of the Code of Virginia ("Code") for approval of a Propane Sales Agreement (the "Agreement") pursuant to which Pivotal will construct a facility for the storage and vaporization of propane for sale to VNG. By Order Extending Time for Review dated January 8, 2004, the Commission extended its review period through February 9, 2004.

VNG is a Virginia public service corporation, based in Norfolk, Virginia, that provides natural gas services to more than 230,000 residential, commercial, and industrial customers in southeastern Virginia. VNG is a wholly owned subsidiary of AGL Resources, Inc. ("AGLR").

Pivotal is a newly formed, wholly owned subsidiary of AGLR that will construct and operate a proposed propane air facility in Chesapeake, Virginia, to supply peak day propane services to VNG.

AGLR is a registered holding company under the Public Utility Holding Company Act of 1935, whose subsidiaries provide natural gas pipeline and distribution services, wholesale energy services, retail energy marketing services, and telecommunications services. AGLR's three local distribution companies, Chattanooga Gas Company, Atlanta Gas Light Company, and VNG, serve more than 1.8 million customers in Tennessee, Georgia, and Virginia. As of September 30, 2003, AGLR reported total assets of \$3.7 billion, and revenues of \$705 million and net income of \$92 million for the nine months ending September 30, 2003.

The Applicants request approval of the Agreement wherein Pivotal plans to construct a propane air facility in Chesapeake, Virginia, to provide dedicated peak day capacity to the Chesapeake, Suffolk, Norfolk, and Virginia Beach areas ("Southern Segment") of VNG's distribution system, beginning in December 2004.

The proposed facility will be located on Pivotal-owned property at the intersection of Bainbridge Boulevard and Smith Douglas Road in Chesapeake, Virginia. The facility consists of a liquefied propane gas ("LPG") receiving, refrigerated storage tank with a capacity of three million gallons, propane vaporization equipment with a send-out capability of 28,800 dekatherms ("Dth") per day, and systems for delivering propane air approximately one mile via a 20-inch pipeline to VNG's southern city gate station. The Applicants estimate that the facility will cost \$30 million to construct and will have a

service life of fifteen (15) to twenty (20) years. The Applicants plan to start construction on the facility in early February 2004, complete construction by November 2004, and begin service in December 2004.

Under the Agreement, VNG pays four distinct charges for the propane service. First, the monthly Commodity Sales Price Charge ("Commodity Charge") includes the purchase cost of the propane, the cost of transporting propane to the facility, and an inventory carrying charge on the commodity and transportation costs priced at the prime lending rate plus 200 basis points.

Second, the monthly Base Reservation Charge ("BRC") includes the monthly depreciation and income tax expense and costs of debt and equity capital associated with the \$30 million propane facility. The facility is assumed to be depreciated over fifteen (15) years, taxed at a 38.7% composite rate, and financed on a 47.4% debt /52.6% equity basis with a cost of debt of 6.83% and a cost of equity of 11.3%. The 11.3% matches the midpoint of VNG's approved range of return on equity in its most recent rate case, Case No. PUE-1996-00227.

Third, the monthly Operations and Maintenance Charge ("O&M Charge") includes, but is not limited to, the costs of subcontracted operation and maintenance services, property taxes, property insurance, repairs, permitting and licensing requirements, fuel, materials and supplies, and rents. VNG will pay an estimated O&M Charge for the first twelve (12) months, after which the monthly charge will be adjusted to equal the average of the actual O&M expenses incurred during the prior twelve (12) months. Any cumulative true-ups will occur at the termination of the Agreement.

Fourth, the Additional Peaking Charge ("Peaking Charge") covers propane purchases in excess of the Maximum Annual Quantity ("MAQ") of 288,000 Dth per Winter Period, which extends from November 1 to March 31. The charge is calculated on a per Dth basis by dividing the annual BRC by the MAQ.

The initial term of the Agreement is for ten years, with successive renewals for twenty-four (24) months unless terminated by VNG after giving six months' prior written notice. The Agreement contains a clause that requires any controversy, claim, or breach arising out of the Agreement to be settled by arbitration in accordance with the arbitration rules of the American Arbitration Association in the City of Norfolk, Virginia. The Agreement also has a Successors and Assigns clause, which implies that the Applicants have the ability to assign their part in the Agreement to third parties.

As represented by the Applicants, VNG's distribution system is capacity-constrained. The proposed propane facility is intended to supply additional peaking capacity to VNG's Southern Segment for at least ten years, beginning in winter 2004. Pivotal will be a captive supplier, directing all of the facility's output to VNG. The AGLR Service Company employees who currently operate VNG's propane air facility will also operate the proposed Pivotal facility. The AGLR employees will allocate their time between the two facilities as appropriate. As indicated by the Applicants, they structured the Agreement so that Pivotal will charge VNG the same amount as it would cost for VNG to operate the facility itself. The Applicants state that the proposed Agreement allows VNG to avoid certain risks associated with the construction and operation of the facility. As represented by the Applicants, VNG did not issue competitive bids for the project, and competitive bidding cannot be completed in time for the facility to be placed in service for next winter.

VNG plans to account for the costs of the Agreement such that the Commodity Charge, BRC, O&M Charge, and Peaking Charge will be treated as a component of the cost of gas and flowed through the purchase gas adjustment clause ("PGA").

On January 22, 2004, the Virginia Industrial Gas Users' Association ("VIGUA") filed a Notice of Participation and Request for Hearing. VIGUA asserts, among other things, that the Commission's approval of the application would allow a utility to enter into agreements with its affiliate to construct, own, and operate natural gas facilities within the certificated territory of the utility, flow its investment and operating costs through the PGA, and avoid having to initiate a rate case. VIGUA concludes that the Commission's approval of the Agreement could significantly alter Virginia law because it would allow utilities to avoid rate cases and certificated territories by entering into agreements with affiliates.

On January 28, 2004, VNG filed a response ("Response") to a draft Action Brief prepared by the Commission's Staff ("Staff"). VIGUA also filed a response to Staff's draft Action Brief on January 28, 2004. Staff's Action Brief is being filed contemporaneously with this Order.

NOW THE COMMISSION, having considered the pleadings and the applicable law and having been advised by its Staff, is of the opinion and finds as follows. VNG has a need for additional upstream peaking capacity for the Southern Segment of its distribution system beginning December 2004. Accordingly, based on the unique circumstances of this case and subject to the requirements discussed below, we find that the proposed Agreement is in the public interest.

In this case, the Commission is faced with a situation where VNG has established an imminent need for reliable peaking capacity for its Southern Segment. VNG discusses its prior efforts to obtain dependable peaking capacity and concludes that Pivotal "was the only available alternative to meet VNG's design day capacity need for the 2004-05 winter."<sup>1</sup> VIGUA and Staff do not dispute VNG's need for additional capacity by the winter of 2004-05. VIGUA and Staff question, among other things, the Company's proposed ratemaking treatment, including VNG's choice of the Pivotal project vis-à-vis other supply alternatives and VNG's proposal to pass certain costs through the PGA. However, we are not addressing such questions in this case; our approval of arrangements under Chapter 4 (§ 56-76 et seq.) of Title 56 of the Code has no ratemaking implications.

Further in this regard, the Company asserts that "this is not the forum for resolving the appropriate ratemaking treatment of the costs that might result from [the Agreement]."<sup>2</sup> VNG states that "[t]he Commission's approval in an affiliate docket does not approve changes in rates to customers; it is only an approval of a course of dealing that allows a utility and its affiliate to enter into a contract or arrangement."<sup>3</sup> We agree. Any ratemaking treatment, including the reasonableness of the costs and how such costs will be recovered, should be addressed in a separate proceeding. Accordingly, as a condition of our approval herein, within sixty (60) days of the date of this Order Granting Approval, VNG shall file an application with the Commission supporting the Company's proposed ratemaking treatment, including how it proposes to recover the various cost components under the Agreement and the reasonableness of such costs. The Company shall serve a copy of the application upon counsel for VIGUA contemporaneously with the filing of the application with the Commission.

<sup>1</sup> VNG's Response at 4.

<sup>2</sup> VNG's Response at 5.

<sup>3</sup> VNG's Response at 5.



In addition, our approval herein is conditioned on the propane air plant being subject to Commission regulation under the pipeline safety regulations. VNG states that the propane air plant "falls under the Commission's jurisdiction for enforcement of the pipeline safety regulations found in 49 C.F.R. Part 192."<sup>4</sup> The proposed facility shall be subject to the Commission's pipeline safety regulations in 49 C.F.R. Part 192 and the reporting requirements set out in 49 C.F.R. Part 191 as applicable to this facility, and violations of the foregoing shall be enforceable as provided in § 56-5.1 of the Code.

Finally, this proceeding and our Order Granting Approval is limited to approval under Chapter 4 (§ 56-76 *et seq.*) of Title 56 of the Code. We do not address in this matter whether VNG or Pivotal require any additional statutory approvals, such as a certificate of public convenience and necessity under Chapter 10.1 (§ 56-265.1 *et seq.*) of the Code.

Accordingly, IT IS HEREBY ORDERED THAT:

- (1) Pursuant to § 56-77 of the Code of Virginia, we grant approval of the Propane Sales Agreement as discussed herein.
- (2) The approval granted herein shall have no ratemaking implications.
- (3) As a condition of our approval herein, within sixty (60) days of the date of this Order Granting Approval, VNG shall file an application with the Commission supporting the Company's proposed ratemaking treatment, including how it proposes to recover the various cost components under the Propane Sales Agreement and the reasonableness of such costs. The Company shall serve a copy of the application upon counsel for VIGUA contemporaneously with the filing of the application with the Commission.
- (4) As a condition of our approval herein, the propane air plant to be constructed and owned by Pivotal shall be subject to the Commission's pipeline safety regulations found in 49 C.F.R. Part 192 and the reporting requirements set out in 49 C.F.R. Part 191 as applicable to this facility, and violations of the foregoing shall be enforceable as provided in § 56-5.1 of the Code of Virginia.
- (5) Any changes in the terms and conditions of the Propane Sales Agreement, including those involving Successors and Assigns, shall require further Commission approval.
- (6) Any continuation of the Propane Sales Agreement beyond the initial ten-year term shall require further Commission approval.
- (7) 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.
- (8) 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.
- (9) VNG shall include the transactions covered by the Propane Sales Agreement approved herein in its Annual Report of Affiliate Transactions to be submitted to the Commission's Director of Public Utility Accounting.
- (10) VIGUA's request for hearing is denied.
- (11) The approval granted herein shall not be deemed to include any approvals other than for the Propane Sales Agreement approved in Ordering Paragraph (1).
- (12) There appearing nothing further to be done in this matter, it is hereby dismissed.

<sup>4</sup> VNG's Response at 12.

**CASE NO. PUE-2003-00536  
SEPTEMBER 15, 2004**

COMPLAINT AND PETITION FOR RELIEF  
METROMEDIA ENERGY, INC.

Regarding Washington Gas Light Company's Plan to Return Customers to Sales Service Effective December 1, 2003

**ORDER**

On November 12, 2003, Metromedia Energy, Inc.<sup>1</sup> ("MME") filed a Complaint and Petition for Relief ("Petition") with the State Corporation Commission ("Commission") regarding a notice by Washington Gas Light Company<sup>2</sup> ("WGL" or "Company") stating that it would return MME's

<sup>1</sup> MME is a competitive supplier of natural gas to retail customers in Virginia and throughout the Northeast United States. As of September 30, 2003, MME served a total of 381 customers system-wide on WGL's natural gas distribution system, including 358 Commercial and Industrial ("C&I") and 23 Group Metered Apartment ("GMA") customers. Of this total, MME served 141 C&I and 19 GMA customers in Virginia.

<sup>2</sup> WGL is a public service company organized and existing under the laws of the Commonwealth of Virginia and the District of Columbia and is qualified to conduct business in Maryland. As of September 30, 2003, WGL provided natural gas distribution service subject to the jurisdiction of the Commission through more than 416,000 customer meters in Northern Virginia.

customers to WGL's sales service effective December 1, 2003, and that it would refuse to permit any new customers of MME to commence service unless MME provided additional financial security to WGL in the amount of \$523,915. This matter arises from a dispute between MME and WGL as to the appropriate amount of financial security it must provide to WGL.<sup>3</sup>

MME requested the Commission to initiate an investigation and hearing concerning, among other things, WGL's methodology for establishing its financial security deposit, which MME argued has not been approved by the Commission. MME further requested the Commission to issue an order prohibiting WGL from involuntarily returning MME's customers to WGL's sales service, and ordering WGL to permit MME to sell natural gas to its customers on WGL's system until such time as the Commission has ruled otherwise.

By Order entered on November 21, 2003, the Commission temporarily enjoined WGL, until December 22, 2003, at 11:59 p.m., from: (1) returning MME's current Virginia retail customers to WGL's sales service; and (2) barring MME from selling natural gas to MME's existing Virginia retail customers on WGL's system. The Commission directed WGL to file a response to the Petition on or before December 2, 2003.

On December 2, 2003, WGL filed its Response to the Petition. WGL stated the increase in financial security required from MME was due primarily to: (1) a relatively large increase in MME's design day load (from 3,067 dekatherms ("dths") to 5,018 dths), coupled with a smaller percentage increase in the total system design day load (from approximately 1,571,000 dths to approximately 1,716,000 dths), which led to an increase in MME's percentage of system design day requirement (from 0.199% to 0.292%); and (2) an increase in the NYMEX futures prices (from \$4.017/dth to \$5.300/dth) used in calculating the security deposit. WGL argued the increase in MME's share of the Company's design day load was attributable, in part, to the addition of new customers<sup>4</sup> and to an understatement in the calculation because MME's District of Columbia customers were inadvertently excluded.

On December 13, 2003, MME filed a Motion to Extend Temporary Injunction and For Other Relief ("Motion") and a Supplemental Petition and Reply in Support of its Complaint and Petition for Relief ("Supplemental Petition and Reply").<sup>5</sup> In its Motion, MME moved the Commission to: (1) extend the temporary injunction until the Commission rules on the underlying issues in the case; (2) accept the Supplemental Petition and Reply; and (3) order discovery, the filing of testimony, and schedule a hearing.

On December 17, 2003, the Staff of the Commission ("Staff") filed a Support for Motion of MME and Suggested Procedure for Resolution. Staff stated the supplemental Petition and Reply raised substantial questions and concerns regarding the financial security requirement of WGL that could not be resolved through further pleadings from MME and WGL. Staff urged the Commission to extend the temporary injunction until the Commission could rule on the underlying issues and to schedule a hearing to develop the evidence needed for a proper and final resolution of the issues.

On December 19, 2003, WGL filed a response to the Motion and to the Staff's pleading in support thereof.<sup>6</sup> WGL opposed MME's request to extend the injunction and urged the Commission to issue an order on the merits of the Petition. Alternatively, should the Commission extend the injunction pending a hearing to resolve the issues, WGL requested: (1) the Commission require MME to deposit additional security in the amount of \$105,923, subject to refund, pending resolution of this matter; and (2) the Commission open the proceeding to all interested CSPs so all issues involving financial security for all suppliers could be resolved in one proceeding.

On December 22, 2003, the Commission entered an Order Establishing Proceeding and Modifying and Extending Temporary Injunction. In the order, the Commission modified its temporary injunction to prohibit WGL from refusing to permit MME to add new customers, if MME provides additional financial security as calculated by WGL attendant to those specific new customers, and extended the injunction pending a final order in this case. However, the Commission continued the prohibition of WGL requiring additional financial security for MME's existing customers, pending a final order. Also, the Commission assigned the case to a Hearing Examiner and directed the Staff to participate in the proceeding. Additionally, the Commission directed the Clerk of the Commission to distribute a copy of its order to all CSPs licensed to provide competitive natural gas service in the Commonwealth, to allow an opportunity for those providers to intervene in this proceeding.

Motions to Intervene were filed timely by Pepco Energy Services, Inc. ("Pepco"); Stand Energy Corporation ("Stand Energy"); Virginia Energy Savings Corp. ("VESC"); Amerada Hess Corporation ("Amerada Hess"); and the National Energy Marketers Association ("NEMA").<sup>7</sup>

On January 15, 2004, WGL filed a Motion for Leave to File Proposed Tariff Provisions Governing Security Requirements. Therein, WGL proposed to revise its methodology for calculating the level of financial security required from MME and all other competitive natural gas suppliers, and to incorporate such methodology in its tariff. WGL stated the new methodology refines the calculation of the level of financial security required based on the three components of risk that it faces: volume, price, and time. WGL proposed to apply the new tariff provision prospectively to MME and all CSPs upon approval by the Commission. WGL argued the present proceeding should focus on its new proposed tariff, rather than on the formula used previously by the Company.

<sup>3</sup> MME posted financial security of \$371,546 less than a year ago, and WGL seeks an increase of financial security of \$523,915, which results in a total security deposit of \$895,461.

<sup>4</sup> The Company contends that its formula for calculating security deposits was provided to MME and uniformly applied in September 2003 to all competitive service providers ("CSPs") doing business with WGL.

<sup>5</sup> In its Supplemental Petition and Reply, MME stated, among other things, that: (i) WGL refused to provide MME with the calculation or support for the substantial increase in MME's design day load, or to provide MME with the algorithm for determining design day load so that MME could evaluate whether WGL made any errors; (ii) WGL's position that certain customers were excluded from the original calculation was contradicted by other statements made by WGL and remains unconfirmed; and (iii) the security demanded by WGL is unreasonable, its application discriminatory, and that WGL's competitive marketing affiliate is not required to provide its security in cash.

<sup>6</sup> WGL disagreed with MME's factual representation that MME's load was relatively unchanged from the time WGL previously established MME's financial security deposit. WGL also disagreed with MME's representation that WGL refused to provide its calculation of MME's design day load.

<sup>7</sup> WGL filed a timely response to Motions to Intervene, acknowledged that the movants appeared to have an interest in this matter, and did not oppose the interventions.

By Hearing Examiner Ruling entered on January 23, 2004, WGL's Motion for Leave to File Proposed Tariff Provisions Governing Security Requirements was denied.<sup>8</sup> The Examiner concluded that WGL's proposed tariff changes should be heard in an application proceeding rather than a complaint proceeding.<sup>9</sup>

On February 2, 2004, MME filed a Motion to Compel WGL's Responses to MME's First Set of Interrogatories and Document Requests. By Hearing Examiner's Ruling entered on February 3, 2004, WGL was provided an opportunity to respond to the motion. On February 6, 2004, WGL filed its response. On February 10, 2004, oral argument was heard on the Motion to Compel.<sup>10</sup> In his ruling of February 18, 2004, the Examiner determined that the Motion to Compel should be granted in part and denied in part. Also, in that ruling, the Examiner established that the scope of the proceeding is to determine whether: (1) WGL is authorized by its tariff to impose a financial security requirement on CSPs operating in its Virginia territory; and (2) WGL's methodology for calculating its financial security requirement is reasonable. The Examiner found that the inquiry should be limited to determining whether the amount of financial security required of a CSP is commensurate with the risk assumed by WGL.<sup>11</sup>

On April 15, 2004, the hearing was convened as scheduled. MME appeared by its counsel Phyllis J. Kessler, Esquire, and presented the testimony of one witness, Brian G. Alexander, the former director of business development for MME. WGL appeared by its counsel Donald R. Hayes, Esquire, and presented the testimony of two witnesses, Kenneth W. Yagelski, department head for regulatory affairs, and Michael G. Donovan, area head - risk analysis and mitigation. Amerada Hess appeared by its counsel Brian R. Greene, Esquire. VESC appeared by its counsel Jacqueline R. Java, Esquire, and presented the testimony of one witness, Debbie S. Wernet, president of U.S. Energy Savings Corp. ("USESC") and its direct subsidiary VESC. The Staff appeared by its counsel Robert M. Gillespie, Esquire, and presented the testimony of one witness, John A. Stevens, Senior Utilities Engineer. Although they filed Notices of Participation, Pepco and NEMA did not participate in the hearing.<sup>12</sup>

The threshold issues in this case are: (1) whether WGL is authorized by its tariff to impose a financial security requirement on CSPs operating in its Virginia service territory; and (2) whether WGL's methodology for calculating its financial security requirement is reasonable.

After reviewing the filings submitted, the evidence received and the applicable law, the Hearing Examiner issued his report ("Report") on July 22, 2004. Therein, the Examiner made the following findings and recommendations:

(1) WGL's financial security requirement does not comply with the provisions of 20 VAC 5-312-50 D in that the amount of such financial security cannot be determined from WGL's approved tariff;

(2) WGL's financial security requirement does not comply with the provisions of 20 VAC 5-312-50 D in that the amount of such financial security is not reasonably related to the risk assumed by WGL;

(3) WGL's use of a design day requirement in its delivery risk methodology is unreasonable;

(4) WGL's use of a peaking and storage adjustment factor of 50% of the daily required volume in its delivery risk methodology is reasonable;

(5) WGL's use of a delivery risk coverage factor of sixty (60) in its delivery risk methodology is unreasonable;

(6) WGL's use of the highest forecasted NYMEX price in its delivery risk methodology is reasonable; and

(7) WGL's payment risk methodology, with the corrections noted by Mr. Donovan and his recommended use of the weighted average of the jurisdictional balancing rates, are reasonable.<sup>13</sup>

<sup>8</sup> Prior to the Hearing Examiner's Ruling of January 23, 2004, timely responses to WGL's motion were filed by Amerada Hess and Stand Energy. Pepco's response was filed out of time and accepted for filing by Hearing Examiner's Ruling of January 27, 2003. Stand Energy subsequently withdrew from participating in the proceeding.

<sup>9</sup> On July 13, 2004, WGL filed an application with the Commission seeking approval of proposed amendments to its tariff, Rate Schedule No. 9, Firm Delivery Service Gas Supplier Agreement. The matter is assigned Case No. PUE-2004-00085.

<sup>10</sup> During oral argument on the Motion to Compel, the exact scope of the proceeding was questioned: whether the proceeding was limited to WGL's methodology for calculating its financial security deposit or whether WGL's security deposit was discriminatory or anticompetitive.

<sup>11</sup> In its Order Establishing Proceeding and Modifying and Extending Temporary Injunction, the Commission stated that "factual questions exist relevant to whether WGL has required 'reasonable financial security' from MME pursuant to 20 VAC 5-312-50 D." This rule provides, in part, that:

[t]he local distribution company may require reasonable financial security from the competitive service provider to safeguard the local distribution company and its customers from the reasonably expected net financial impact due to the nonperformance of the competitive service provider. The amount of such financial security shall be commensurate with the level of risk assumed by the local distribution company, as determined by the local distribution company's applicable tariff approved by the State Corporation Commission. Such financial security may include a letter of credit, a deposit in an escrow account, a prepayment arrangement, a surety bond, or other arrangements that may be mutually agreed upon by the local distribution company and the competitive service provider.

<sup>12</sup> At the commencement of the hearing, MME moved to strike WGL's rebuttal testimony, which was not timely served on MME. In its Motion to Suspend and Reschedule Hearing of April 13, 2004, WGL acknowledged its failure to timely serve MME. MME's motion was denied. However, the Examiner provided the parties with additional time to present their respective testimony.

<sup>13</sup> Hearing Examiner's Report at 23.

The Examiner recommended that the Commission:

- (1) Adopt the findings contained in the Report;
- (2) Require WGL to file an application with the Commission within thirty (30) days of the Final Order herein to amend its tariff to include a financial security requirement that complies with 20 VAC 5-312-50 D;
- (3) Extend the injunction issued in this case until such time as WGL's financial security requirement is approved by the Commission;
- (4) Permit WGL to collect a financial security deposit from CSPs on an interim basis using the formula set forth below until such time as its financial security requirement is approved by the Commission;<sup>14</sup> and
- (5) Pass the papers herein to the file for ended causes.

MME, WGL and Amerada Hess filed comments to the Report of the Hearing Examiner. In its comments, MME, among other things, concurs with the Examiner's findings that: (1) WGL has minimal delivery risks, due to its existing risk management tools; and (2) several of the components of the formula used by WGL to calculate its security requirement are unreasonable.<sup>15</sup> MME contends that the Report's proposed interim financial security formula is "ultra conservative" and contradicts the Report's factual findings, and is not reasonably related to the risk assumed by WGL. MME further contends that the risks that WGL faces relate to payment, not delivery. MME believes that the Report properly concluded that WGL's financial security requirement violates the Commission's Rules Governing Retail Access to Competitive Energy Services ("Retail Access Rules") because the amount of security is not reasonably related to the risks assumed by WGL. MME supports the Report's finding that WGL's security requirements violate the Commission's Retail Access Rules because the amount of such financial security cannot be determined from WGL's approved tariff.

In its comments, Amerada Hess objects to the Examiner's recommendations regarding the coverage period and the price used by WGL to calculate its delivery risks. Amerada Hess contends that WGL's use of its 60-day or a 30-day coverage period, as recommended by the Examiner, as well as a gas price that consists of the highest forecasted NYMEX price, is unreasonable. Amerada Hess requests that the Commission: (1) adopt the Examiner's recommendation that a 60-day coverage period is unreasonable; (2) reject the Examiner's recommendation that a 30-day coverage period is reasonable; (3) reject the Examiner's recommendation that WGL's use of the highest forecasted NYMEX price for the upcoming heating season is reasonable; and (4) direct WGL to use, as part of any temporary delivery risk formula adopted as a result of this case, (i) a 15-day coverage period for calculating its delivery risk, and (ii) a projected gas price based on the average of the highest three months in a one-year NYMEX strip.

On August 12, 2004, WGL filed Comments to the Hearing Examiner's Report. Therein, WGL disagreed with several of the findings made by the Hearing Examiner.<sup>16</sup> However, the Company proposed that if its financial security formula submitted to the Commission in Case No. PUE-2004-00085<sup>17</sup> is not approved for use on an interim basis, the Company supports the Hearing Examiner's recommendation to use an interim financial security formula, with certain clarification and a minor revision to that formula.<sup>18</sup>

NOW THE COMMISSION, having considered the record, the Report of the Hearing Examiner, the comments submitted thereto, and the applicable law, is of the opinion and finds that the findings and recommendations of the Hearing Examiner should be adopted subject to the modifications described below.

The Hearing Examiner recommended a 30-day delivery risk coverage factor. WGL supported a 60-day delivery risk coverage factor. VESC and Staff supported a delivery risk coverage factor of 15 days. MME supported a delivery risk coverage factor of 10 days. WGL's tariff states in part:

<sup>14</sup> The Examiner's recommended interim financial security formula is as follows: (30-Year Average Peak Winter Day Requirement - (.5 x 30-Year Average Peak Winter Day Requirement)) x 30 Days x Highest Forecast NYMEX Price for the 2004 - 2005 Heating Season as Published on or about September 30, 2004.

<sup>15</sup> MME agrees with the Report's conclusion that WGL's use of a 60-day coverage factor is inappropriate and unreasonable, and contends that the Report's alternative of a 30-day coverage factor is also inappropriate. Additionally, MME supports the Report's finding that WGL's use of a design day requirement is unreasonable, however, it contends that the alternative approach recommended by the Examiner, using a 30-year average peak winter day, is contrary to the finding in the Report. Lastly, MME disagrees with the Report's finding that WGL's use of a peaking and storage adjustment factor of 50 percent of the delivery volume employed in its delivery risk methodology is reasonable.

<sup>16</sup> In disagreement with the Examiner's findings, WGL contends, among other things, that: (i) the methodology for calculating the amount of the security requirement need not be in the tariff; and (ii) WGL's tariff provisions relative to a CSP's gas reserves in storage, mandatory capacity assignment, and penalties associated with a CSP's under delivery of its daily required volumes, provides little or no security, and are not so valuable to the Company in controlling delivery risks imposed by CSPs participating in the retail access program.

<sup>17</sup> On July 13, 2004, WGL filed an application with the Commission for approval of proposed amendments to Rate Schedule No. 9, Firm Delivery Gas Supplier Agreement. Application of Washington Gas Light Company For approval of amendments to Rate Schedule No. 9, Firm Delivery Gas Supplier Agreement of its Gas Tariff, Case No. PUE-2004-00085.

<sup>18</sup> The Hearing Examiner's recommended interim financial security formula is as follows: (30-Year Average Peak Winter Day Requirement - (.5 x 30-Year Average Peak Winter Day Requirement)) x 30 days x Highest Forecast NYMEX Price for the 2004-05 Heating Season as published on or about September 30, 2004. WGL seeks modification of this recommended interim financial security formula to reflect as the price component the highest NYMEX price for the 2004-05 heating season as published on or about August 31, 2004.

A failure by a CSP to either provide a customer with at least fifty percent of its daily required volume (DRV) for fifteen consecutive days or to reconcile a FAILURE TO DELIVER THE DRV, as described below will be considered a breach of the contract and the contract will be considered terminated.<sup>19</sup>

Under this tariff provision, WGL may terminate a supplier's contract for failing to provide a customer with a least 50 percent of its daily required volume of gas for 15 days. Staff testified that the above tariff language allows WGL to limit its exposure to no more than 15 days of gas supply. Therefore, we reject the finding of the Hearing Examiner of a 30-day delivery risk coverage factor as a component of the recommended interim financial security formula. We deem that a 15-day delivery risk coverage factor is appropriate.

In figuring the price component of the delivery risk calculation, WGL used the highest forecast NYMEX Price for the 2004-2005 heating season as published on or about September 30, 2004. In his Report, the Hearing Examiner recommended the inclusion of the highest forecast NYMEX price for the 2004-2005 heating season published on or about September 30, 2004. In its Comments to the Examiner's Report, WGL contends that it would be unable to provide notice of any required credit security prior to the winter heating season beginning November 1, 2004, until the first week of October, which may not provide adequate time for CSP's to make necessary credit arrangements. Consequently, WGL requested that the interim financial security formula as recommended by the Examiner, if approved by the Commission, be revised to reflect as the price component the highest NYMEX price for the 2004-2005 heating season as published on or about August 31, 2004. As indicated above, the Commission will modify the Examiner's recommended interim financial security formula. However, we believe that WGL's request to revise the interim financial security formula to reflect the price component of the highest NYMEX price for the 2004-2005 heating season as published on or about August 31, 2004, is reasonable.

Accordingly, IT IS ORDERED THAT:

- (1) The findings of the Report of the Hearing Examiner are adopted except as modified herein.
- (2) The recommendation of the Hearing Examiner that the Company file an application with the Commission within 30 days of the Final Order in this case to amend its Firm Delivery Service Gas Supplier Agreement, Rate Schedule No. 9 tariff to include a financial security requirement that complies with 20 VAC 5-312-50 D is not adopted since the Company has complied with this recommendation.<sup>20</sup>
- (3) The recommendation of the Hearing Examiner to extend the injunction issued in this case until such time as WGL's financial security requirement is approved by the Commission is adopted.
- (4) The Hearing Examiner's recommended interim financial security formula is modified to reflect: (i) a 15-day delivery risk coverage factor; and (ii) the price component of the highest NYMEX price for the 2004-05 heating season as published on or about August 31, 2004.
- (5) This matter is dismissed, and the papers herein are passed to the file for ended causes.

<sup>19</sup> WGL's Firm Delivery Service Gas Supplier Agreement, Rate Schedule No. 9, First Revised Page No. 43, para. B.

<sup>20</sup> As indicated above, on July 13, 2004, WGL filed an application with the Commission for approval of proposed amendments to Rate Schedule No. 9, Firm Delivery Gas Supplier Agreement. Application of Washington Gas Light Company For approval of amendments to Rate Schedule No. 9, Firm Delivery Gas Supplier Agreement of its Gas Tariff, Case No. PUE-2004-00085. This matter has been assigned to a Hearing Examiner for determination.

### CASE NO. PUE-2003-00536 OCTOBER 4, 2004

COMPLAINT AND PETITION FOR RELIEF  
METROMEDIA ENERGY, INC.

Regarding Washington Gas Light Company's Plan to Return Customers to Sales Service Effective December 1, 2003

#### ORDER DENYING RECONSIDERATION

On September 15, 2004, the State Corporation Commission ("SCC") entered an order ("September 15 Order") which, among other things, determined that the financial security requirement as expressed in the tariff<sup>1</sup> of Washington Gas Light Company ("WGL" or "Company") did not comply with provisions of 20 VAC 5-312 50-D of the Commission Rules Governing Retail Access to Competitive Energy Services<sup>2</sup> in that: (i) the amount of such financial security could not be determined from WGL's tariff and (ii) the amount of the financial security was not reasonably related to the risk assumed by the Company. In the September 15 Order the Commission established an interim financial security formula<sup>3</sup> for WGL to impose certain financial security requirements on customer service providers ("CSP") operating in its Virginia service territory. The interim financial security formula would remain in effect until such time as approved by the Commission.<sup>4</sup>

<sup>1</sup> Rate Schedule No. 9, Firm Delivery Gas Supplier Agreement, Va. S.C.C. No. 9.

<sup>2</sup> 20 VAC 5-312-10 *et seq.*

<sup>3</sup> The interim financial security formula is as follows: (30-Year Average Peak Winter Day Requirement – (.5 x 30-Year Average Peak Winter Day Requirement)) x 15 Days x Highest Forecast NYMEX Price for the 2004 – 2005 heating season as published on or about August 31, 2004.

<sup>4</sup> On July 13, 2004, WGL filed an application with the Commission for Approval of proposed amendments to Rate Schedule No. 9, Firm Delivery Gas Supplier Agreement. Application of WGL for approval of amendments to Rate Schedule No. 9, Firm Delivery Gas Supplier Agreement of its Gas Tariff, Case No. PUE-2004-00085. This matter is presently pending before a Commission hearing examiner.

On October 1, 2004, the Company filed a Petition for Reconsideration ("Petition") with the Commission. Therein, the Company requested the Commission reconsider its September 15 Order by clarifying that during the period in which the interim financial formula is in effect, WGL may recover costs incurred in excess of security provided by a defaulting CSP through the Purchased Gas Charge ("PGC")<sup>5</sup> or Gas Supply Realignment Adjustment ("GSRA")<sup>6</sup> of its tariff.

NOW UPON CONSIDERATION of the Petition and the record herein, the Commission is of the opinion and finds that the Petition should be denied.

Accordingly, IT IS ORDERED THAT:

- (1) The Petition of Reconsideration submitted by WGL is denied.
- (2) The papers herein are passed to the file for ended causes.

<sup>5</sup> General Service Provision No. 16 of WGL's tariff, Va. S.C.C. No. 9.

<sup>6</sup> General Service Provision No. 23 of WGL's tariff, Va. S.C.C. No. 9.

**CASE NO. PUE-2003-00538  
APRIL 12, 2004**

APPLICATION OF  
INGENCO WHOLESAL POWER, LLC

For Approval to Construct, Own, and Operate an Electric Generation Facility in Chesterfield County pursuant to Virginia Code §§ 56-46.1 and 56-580 D"

**FINAL ORDER**

On November 13, 2003, INGENCO Wholesale Power, LLC ("INGENCO" or the "Company"), filed with the State Corporation Commission ("Commission") its application, pursuant to Virginia Code §§ 56-46.1 and 56-580 D, for approval to construct, own, and operate an electric generating facility in Chesterfield County, Virginia (the "Facility"). The Facility will be located adjacent to Shoosmith Brothers Landfill, over 600 feet off of Route 10 in Chesterfield County, between Lewis and Quarry Roads.

The Facility will consist of forty-eight (48) high-efficiency reciprocating engine/generators which have been modified to accept waste landfill gas and diesel fuel. The Facility will provide 16 MW of peaking generation capacity and will be connected to the existing Dominion Virginia Power distribution system at 34.5 KV. The landfill gas will be provided to the Facility by a pipe connecting to the existing landfill flare system, directly adjacent to the Facility's site. Fuel oil will be delivered by truck, which INGENCO represents will have no significant impact on local traffic. The Company represents that the Facility may have positive impacts through voltage support upon the Dominion Virginia Power distribution system during periods of high demand.

By Order Prescribing Notice and Inviting Comments and Requests for Hearing dated December 16, 2003, the Commission: docketed and assigned this case to a hearing examiner to conduct all further proceedings and to file a report; made the Application available to the public via the Commission's website or upon request to counsel for the Company; required the Company to publish notice and file proof of notice; and established a procedural schedule.

On January 30, 2004, INGENCO filed its proof of notice, including proof of publication in newspapers of general circulation in the counties of Chesterfield, Powhatan, Amelia, Dinwiddie, Prince George, Henrico, and the cities of Richmond, Hopewell, Petersburg, and Colonial Heights, and proof of service to the Secretary of Natural Resources, Director of the Department of Environmental Quality ("DEQ"), and to each investor-owned and cooperative electric utility in the Commonwealth.

On February 9, 2004, one comment from the public was filed. The comment opposed the application, questioned whether sufficient notice was given, and requested a hearing. On February 12, 2004, a response by the Company was filed, which included a detailed description of public notices and meetings conducted to review the proposed facility.

On February 18, 2004, the Commission's Division of Energy Regulation and the Division of Economics and Finance filed their Staff Report. On February 24, 2004, INGENCO filed its response to the Staff Report.

On April 1, 2004, Hearing Examiner Alexander F. Skirpan, Jr., entered a Report ("Report") summarizing the record and analyzing the evidence and issues in this proceeding. The Examiner made the following findings:

1. INGENCO's proposed facility will have no material adverse effect upon the reliability of electric service provided by any regulated public utility;
2. INGENCO's proposed facility advances the goal of electric competition in the Commonwealth;
3. INGENCO's proposed facility will have no adverse effect upon the rates paid by customers for electric, natural gas, water, or sewer service from any regulated public utility in the Commonwealth;

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4. INGENCO's proposed facility will have no material adverse effect on any threatened or endangered plant or animal species, any wetlands, air quality, water resources, or the environment generally;
5. INGENCO's proposed facility will have a positive impact on economic development;
6. Construction and operation of INGENCO's proposed facility will not be contrary to the public interest;
7. Any Certificate issued by the Commission in this case should require INGENCO to comply with all recommendations of the DEQ; and
8. Any certificate issued by the Commission in this case should require INGENCO to obtain all environmental and other permits necessary to construct and operate its proposed facility.

NOW THE COMMISSION, having considered the record, the pleadings, the Hearing Examiner's Report, and the applicable law, is of the opinion and finds that a certificate of public convenience and necessity to construct and operate the Facility shall be granted INGENCO.

As we have indicated in previous orders,<sup>1</sup> the Code establishes six general areas of analysis applicable to electric generating plant applications: (1) reliability;<sup>2</sup> (2) competition;<sup>3</sup> (3) rates;<sup>4</sup> (4) environment;<sup>5</sup> (5) economic development;<sup>6</sup> and (6) public interest.<sup>7</sup> We have evaluated the Facility according to these six areas.

We find that the Facility will have no material adverse effect upon reliability of electric service provided by any regulated public utility. The Facility should have no impact on the transmission or distribution system of Dominion Virginia Power, and the Facility will increase reliability by providing voltage support for the distribution system.

We find that INGENCO's entry as a new producer into the market promotes competition by reducing existing market power.<sup>8</sup>

Based upon the economic benefits reported by the Staff and found by the Hearing Examiner, we find that the Facility will have a positive impact on the economy of Chesterfield County.

We find that, with the exception of the one public comment noted above, the Facility has been met with little or no public opposition. We find that the construction and operation of the Facility will not be contrary to the public interest in that, among other things, there will be no adverse impact on the rates for any Virginia-regulated public utility.

Sections 56-580 D and 56-46.1 A of the Code direct us to give consideration to the effect of the proposed Facility "on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact." In this regard, the 2002 General Assembly passed legislation to amend §§ 56-580 D and 56-46.1 of the Code "to avoid duplication of governmental activities." These statutes provide, among other things, that any valid permit or approval regulating environmental impact and mitigation of adverse environmental impact, "whether such permit or approval is granted prior to or after the Commission's decision," shall be deemed to satisfy the requirements of §§ 56-46.1 A and 56-580 D of the Code "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."

As found by the Examiner, DEQ submitted in this proceeding four environmental recommendations pertaining to matters that are not governed by permits or approvals issued by other governmental entities. Those four recommendations are as follows:

- Take all precautions necessary to restrict emissions of volatile organic compounds ("VOCs") and oxides of nitrogen ("NO<sub>x</sub>") during construction.

<sup>1</sup> See, e.g., Application of Tenaska Virginia II Partners, L.P., For approval of a certificate of public convenience and necessity pursuant to Va. Code Section 56-265.2, an exemption from Chapter 10 of Title 56, and interim approval to make financial commitments and undertake preliminary construction work, Case No. PUE-2001-00429, Final Order at 6 and n. 3 (Jan. 9, 2003); Application of Old Dominion Electric Cooperative, For a certificate of public convenience and necessity for electric generation facilities in Louisa County, Case No. PUE-2001-00303, Final Order at 6 and n.1 (July 17, 2002); Application of James City Energy Park, LLC, For authority to construct and operate an electric generating facility pursuant to Va. Code § 56-580 D, Case No. PUE-2002-00150, Final Order at 4 (March 12, 2004).

<sup>2</sup> Va. Code §§ 56-46.1 A and 56-580 D(i).

<sup>3</sup> Va. Code § 56-596 A.

<sup>4</sup> Va. Code § 56-580 D(ii). See also 20 VAC 5-302-20 14; Commonwealth of Virginia, At the relation of the State Corporation Commission, Ex Parte: In the matter of amending filing requirements for application to construct and operate electric generating facilities, Case Nos. PUE-2001-00313 and PUE-2001-00665, Order Adopting Rules and Prescribing Additional Notice, 2001 S.C.C. Ann. Rep. 585, 586 (Dec. 14, 2001).

<sup>5</sup> Va. Code §§ 56-46.1 A and 56-580 D.

<sup>6</sup> Va. Code §§ 56-46.1 and 56-596 A.

<sup>7</sup> Va. Code § 56-580 D(ii).

<sup>8</sup> Staff noted that a call option was given of 20 percent (20%) of the available hours of output to Sempra Energy Trading Corporation ("Sempra"). Neither Staff nor the Hearing Examiner considered this call option will lead to exercise of market power by Sempra. H.E. Report at 10.

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- Cease all ground disturbing activities immediately if unexpected discoveries of archaeological resources occur and then contact the Department of Historic Resources.
- Limit the use of pesticides and herbicides.
- Follow pollution prevention principles, including the reduction of solid wastes at the source and re-use and recycling of materials to the maximum extent practicable.

INGENCO agreed to incorporate these recommendations into its construction and operation plans. We shall require the Company to comply with these four recommendations as a condition of the certificate granted herein.

Further, we condition the certificate granted herein upon the Company's receipt of all environmental and other permits necessary to construct and operate the Facility. The certificate granted herein also is conditioned on INGENCO obtaining all permits necessary to operate the proposed Facility and providing to the Division of Energy Regulation a complete list of the permits obtained. Finally, the certificate will expire two (2) years from the date of this Final Order if construction on the Facility has not commenced.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to § 56-580 D of the Code of Virginia, in accordance with the record developed herein, INGENCO is hereby granted authority and a certificate of public convenience and necessity to construct and operate the Facility as described in this proceeding and this Final Order.

(2) The Division of Energy Regulation shall issue certificate number ET-171 to INGENCO for authority to construct and operate the Facility as described in this proceeding and this Final Order.

(3) As a condition of the certificate granted herein, INGENCO shall comply with the following four recommendations made by DEQ in this case: (a) take all precautions necessary to restrict emissions of VOCs and NO<sub>x</sub> during construction; (b) cease all ground disturbing activities immediately if unexpected discoveries of archaeological resources occur and then contact the Department of Historic Resources; (c) limit the use of pesticides and herbicides; and (d) follow pollution prevention principles, including the reduction of solid wastes at the source and re-use and recycling of materials to the maximum extent practicable.

(4) The certificate granted herein shall be conditioned upon the receipt of all environmental and other permits necessary to construct and operate the Facility.

(5) As a condition of the certificate granted herein, INGENCO shall provide the Commission's Division of Energy Regulation with the Company's complete list of all necessary permits to operate the Facility.

(6) The certificate granted herein shall expire in two (2) years from the date of this Final Order, if construction of the Facility has not commenced.

(7) There being nothing further to come before the Commission in this proceeding, this case shall be removed from the docket and the papers transferred to the file for ended causes.

**CASE NO. PUE-2003-00539  
SEPTEMBER 17, 2004**

APPLICATION OF  
VIRGINIA-AMERICAN WATER COMPANY

For a general increase in rates

**FINAL ORDER**

Before the State Corporation Commission ("Commission") is the Report of Howard P. Anderson, Jr., Hearing Examiner, of August 6, 2004 ("Report"), and the record in this proceeding. Examiner Anderson recommended that the application of Virginia-American Water Company ("Virginia-American" or "Company") be granted, in part, and that the Company be directed to make appropriate refunds. For the reasons discussed in this Order, the Commission will adopt the recommendations made in the Report.

The Company filed its application for a general increase in rates on January 30, 2004, and the application was completed with the filing of additional materials on February 10, 2004. The Company filed amendments on February 20, 2004, which included reductions in its proposed rates. Virginia-American proposed to increase its rates for water service in its Hopewell and Alexandria districts. The Company also proposed an "Account Activation Fee" and to increase its charge to turn-on and to turn-off service in its Hopewell, Alexandria, and Prince William districts. The proposed rates and charges filed on February 20, 2004, would produce additional annual revenues of \$2.2 million. By Hearing Examiner's Ruling of March 9, 2004, the proposed rates and charges filed on February 20, 2004, took effect on March 15, 2004, subject to the Commission's authority to fix and substitute just and reasonable rates and to order refunds.

As discussed in the Report, Virginia-American, Respondents City of Hopewell and Hopewell Committee for Fair Water Rates, and the Commission Staff offered a proposed settlement at the hearing on the application. The parties and the Staff identified the settlement as the "Stipulation," and a copy is attached to the Report. As proposed, rates and charges would increase to produce additional annual revenues of \$950,650. In support of the increase, the parties and the Staff recommended adoption of the Staff's proposed accounting adjustments with specific modifications for debt cost, waste-



water expense, and payroll expense. The parties and the Staff agreed that the increase in additional annual revenues reflected a return on equity of 9.3% to 10.3% with a return on equity of 10.1% used to design rates. Examiner Anderson found that the proposal was reasonable, and the Commission agrees. We will adopt the Examiner's findings supporting an increase in rates and charges. Also in the record is Exhibit 23, which includes the Staff's proposed revised rates designed to produce the additional revenues. We find that this rate design should be implemented.

The Report included recommendations, which were not addressed in the Stipulation, but are supported by the record. The Examiner found that, in the absence of Company objection, Staff recommendations on reducing the Account Activation Fee from \$30 to \$25 and modifying tariff language on turn-ons and turn-offs should be accepted. He also recommended that the Commission adopt Staff recommendation on the preparation of cost-of-service studies supporting any future application to increase rates. We agree that the Company should not expressly separate fire service costs in future studies and should explicitly allocate costs between the small and large non-potable water classes. The Commission will also direct the reduction in the Account Activation Fee.

The Stipulation filed by the parties and the Staff also included terms for the timing of future Virginia-American applications for a rate increase and for calculating the amount of the increase. These terms follow:

9. In consideration for the compromises set forth in this Stipulation, the Company agrees not to file an application for an increase in rates (general or expedited) before July 1, 2006, subject to the requirements set forth in the following sections.

10. The Stipulating Parties acknowledge that this Stipulation, including the filing moratorium, is conditioned on the absence of a Force Majeure Event (as defined below) occurring during the filing moratorium.

11. If a Force Majeure Event occurs during the filing moratorium, the Company shall also be entitled to request, with notice to the Stipulating Parties, that the Commission defer any expenses incurred as a result of such Force Majeure Event for consideration in a rate case application filed after the end of the filing moratorium. The Company shall not request the deferral of lost revenues.

12. For purposes of this Stipulation, a "Force Majeure Event" shall mean an event due solely to causes beyond the reasonable control and without the fault or negligence of the Company, that significantly impacts its financial integrity or its ability to meet its public service obligation in any of the Districts, including, but not limited to, acts of God, fire, war, acts of terrorism, condemnation actions, the demand, failure to act or requirement of law of any competent governmental authority with jurisdiction over the Company, and any event or combination of events that results in the loss or shutdown (partial or total) of one or more of the Company's current five largest industrial customers in the Hopewell District, which in the aggregate results in a decrease in annual revenues of \$750,000 or more as compared to test-year revenues.

13. The Company agrees that, absent a Force Majeure Event, the first rate application filed between July 1, 2006, and June 30, 2007, shall not seek an increase in metered sales rates for any rate class in any District of more than 11%.

14. The Company agrees that if the Company's first rate application filed on or after July 1, 2006, is an expedited rate application, such application will include evidence demonstrating that there has not been a substantial change in circumstances since this proceeding.

Pursuant to provisions of Title 56 of the Code of Virginia, a water company may propose revisions to its rates and charges so as to increase its revenues. Virginia law also empowers the Commission, to approve, to reject, or to substitute other rates and charges, all after complying with rigorous safeguards. Virginia-American has bargained to limit or delay its use of statutory procedures in exchange for benefits agreed to in the Stipulation. The Commission encourages settlement of rate cases, and we regularly accept as presented or with minimal changes those settlements based on a sound record. The Commission is certain that the Company, the Respondents, and the Staff know that Virginia-American's agreement to limit its resort to the ratemaking procedures does not limit the Commission in the discharge of its powers.

In their Stipulation, the Company, the Respondents, and the Staff did not address enforcement of the limitations on Virginia-American in seeking rate relief. The record in this case does not provide a basis for the Commission to enjoin compliance or to retain jurisdiction to enforce the provisions of the Stipulation, which require the Company to defer or limit an application for a rate increase. We are confident that the Company, the Respondents, and the Staff negotiated in good faith and that Virginia-American intends to adhere to the terms of the Stipulation. It is our expectation that the terms of the Stipulation will be observed as negotiated, but the Commission does not reach the issues of compliance or enforcement.

Upon consideration of the Report and the foregoing discussion of issues, the Commission finds as follows:

- The use of a test-year ending September 26, 2003, is proper in this proceeding;
- Virginia-American's test year operating revenues, after all adjustments, were \$10,137,529 for the Alexandria District; \$5,416,427 for the Prince William District; and \$9,199,037 for the Hopewell District;
- Virginia-American's test year operating revenue deductions, after all adjustments, were \$8,233,770 for the Alexandria District; \$4,174,545 for the Prince William District; and \$7,352,543 for the Hopewell District;
- Virginia-American's test year adjusted net operating income, after all adjustments was \$1,896,819 for the Alexandria District; \$1,239,544 for the Prince William District; and \$1,844,605 for the Hopewell District;

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- Virginia-American's current rates produce a return on adjusted rate base of 6.850 % for the Alexandria District; 7.206 % for the Prince William District; and 7.037 % for the Hopewell District;
- Virginia-American's current rates produce a return on equity of 7.492% for the Alexandria District; 8.377% for the Prince William District; and 7.956% for the Hopewell District;
- Virginia-American's current cost of equity is within a range of 9.3% to 10.3%. For purposes of designing rates, a return on equity of 10.1% should be used;
- Virginia-American's overall cost of capital, using the return of 10.1%, which is within the range of the cost of equity, and the capital structure as set forth in Exhibit 23, is 7.898%;
- Virginia-American's adjusted test year rate base is \$27,690,175 for the Alexandria District; \$17,202,004 for the Prince William District; and \$26,214,296 for the Hopewell District;
- Based on the record and the Stipulation, Virginia-American requires additional gross annual revenues of \$460,698 from the Alexandria District; \$359,137 from the Hopewell District; and \$109,000 from the Prince William District to afford the Company an opportunity to earn a reasonable return on rate base;
- The revised rates identified as Proposed in Exhibit 23 are just and reasonable and should be implemented;
- The Company's Account Activation Fee should be set at \$25.00 and apply to turn-ons and turn-offs associated with new accounts and seasonal customers as well as with non-payment and rules violations situations;
- Staff's recommendations regarding the treatment of fire service costs and industrial non-potable water service in future cost-of service studies are reasonable and should be adopted; and
- The Company should bear the administrative expense and interest expense of any refund, and that these expenses should not be recovered in rates subject to the Commission's jurisdiction.

Accordingly, IT IS ORDERED that

- (1) The Company's application for a general increase in rates is granted to the extent found above and is otherwise denied.
- (2) As provided by § 56-235 of the Code of Virginia, rates and charges found just and reasonable above are fixed and substituted for the rates and charges and terms and conditions, which took effect on March 15, 2004.
- (3) The Company shall submit to the Commission's Division of Energy Regulation on or before October 1, 2004, revised tariff sheets incorporating the findings on rate design, Account Activation Fee, and language, and these rates and charges shall be effective for service provided on and after November 1, 2004.
- (4) The Company shall use the rates and charges prescribed in ordering paragraph (2) to recalculate all bills rendered, which were calculated using, in whole or in part, the rates and charges, which took effect on March 15, 2004. Where application of the rates prescribed by this Order results in a reduced bill, the difference in all bills shall be refunded with interest on or before March 1, 2005, as directed in the ordering paragraphs below.
- (5) The refunds with interest directed in ordering paragraph (4) for current customers may be made by a credit to the customers' accounts and shown on bills. The bills shall show the refunds as a separate item or items. For former customers, refunds with interest, which exceed \$1.00, shall be made by check mailed to the last known address of such customers. The Company may set off the credit or refund against any undisputed outstanding balance. No setoff shall be permitted against any disputed portion of an outstanding balance.
- (6) The Company shall maintain a record of former customers due a refund of \$1.00 or less and shall promptly make the refund by check upon request. For any refunds not paid or claimed, the Company shall comply with § 55-210.6:2 of the Code of Virginia.
- (7) The refund amounts calculated as directed in ordering paragraph (4) shall bear interest at a rate for each calendar quarter, which shall be the arithmetic mean, to the nearest one-hundredth of one percent, of the "Bank prime loan" values published in Federal Reserve Statistical Release H.15 (519), *Selected Interest Rates*, for the three months of the preceding calendar quarter. The interest shall be computed from the date payments were due as shown on bills to the date of the bill showing the credit to current customers or the date of the refund check mailed to former customers.
- (8) On or before June 1, 2005, the Company shall submit to the Divisions of Public Utility Accounting and Energy Regulation a report showing that all refunds have been made pursuant to this Order and listing the expenses of refunding and the accounts charged.
- (9) The Company shall not recover the interest paid or the expenses incurred in rates and charges subject to the Commission's jurisdiction.
- (10) Henceforth and until further order of the commission, whenever the Company is required by the Rules Governing Utility Rate Increase Applications and Annual Information Filings, 20 VAC 5-200-30 et. seq., or is otherwise directed, jurisdictional or cost-of service studies shall not separate costs of fire service from the cost of the classes of service provided and shall separate the cost of service for customers who purchase non-potable service and have annual average consumption of less than three (3) million gallons per day from the cost of service for customers who purchase non-potable service and have annual average consumption of three (3) million gallons per day or more.
- (11) Case No. PUE-2003-00539 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-2003-00539  
NOVEMBER 30, 2004**

APPLICATION OF  
VIRGINIA-AMERICAN WATER COMPANY

For a General Increase in Rates

**ORDER**

Before the Commission is the Motion for Additional Time to Complete Refund filed by Virginia-American Water Company ("Virginia-American" or "Company") on November 1, 2004. The Company seeks an extension of the date for completing refunding, March 1, 2005, set by the Commission's Final Order of September 17, 2004. In support of its motion, Virginia-American explained that its quarterly billing schedule would not permit crediting all customers for refunds until June 1, 2005. Consequently, the Company seeks extension of the refunding date to June 1, 2005, and the date for reporting on the refund to August 1, 2005.

In a response filed on November 19, 2004, respondent Hopewell Committee for Fair Water Rates expressed no opposition to the extension of date. No other responses were filed.

Upon consideration of the matter, the Commission will grant the motion.

Accordingly, IT IS ORDERED THAT:

- (1) Case No. PUE-2003-00359 be restored to the Commission's docket and be placed in active status in the records of the Clerk of the Commission.
- (2) Virginia-American's Motion for Additional Time to Complete Refund be granted.
- (3) The date for completing refunds fixed by ordering paragraph (4) of the Commission's Final Order of September 17, 2004, be extended to June 1, 2005.
- (4) The date for submitting a report fixed by ordering paragraph (8) of the Commission's Final Order of September 17, 2004, be extended to August 1, 2005.
- (5) Except as revised by ordering paragraphs (3) and (4) above, the Commission's Final Order of September 17, 2004, shall remain in full force and effect.
- (6) Case No. PUE-2003-00539 be dismissed from the Commission's docket and be placed in closed status in the records maintained by the Clerk of the Commission.

**CASE NO. PUE-2003-00541  
JANUARY 9, 2004**

APPLICATION OF  
ATMOS ENERGY CORPORATION

For authority to incur short-term indebtedness pursuant to Virginia Code §§ 56-60 and 56-65.1 and for approval of an affiliate arrangement pursuant to Virginia Code § 56-76 *et seq.*

**ORDER ON RECONSIDERATION**

On December 4, 2003, Atmos Energy Corporation ("Atmos" or "Applicant") completed an application with the State Corporation Commission ("Commission") under Chapters 3 and 4 of Title 56 of the Code of Virginia for authority to issue short-term debt during 2004 in excess of twelve percent (12%) of total capitalization as defined in § 56-65.1 of the Code of Virginia and for authority to lend short-term funds to affiliates in an amount not to exceed \$100,000,000 at any one time for calendar year 2004 through a credit facility ("Affiliate Facility").

On December 24, 2003, the Commission issued an Order Granting Authority that, among other things, authorizes Atmos to lend to Atmos Energy Holdings, Inc. ("AEH), short-term funds through the Affiliate Facility up to an aggregate amount not to exceed \$100,000,000 during calendar year 2004, for the purposes set forth in the application, provided the Affiliate Facility is superior to any increases in a separate Atmos Energy Marketing, LLC \$210,000,000 stand-alone letter of credit facility ("AEM Facility") obtained after the date of the Commission's December 24, 2003 Order.

On December 30, 2003, Atmos filed a Motion for Reconsideration ("Motion"). Atmos requests that the Commission modify Ordering Paragraph (2) of the Order Granting Authority and eliminate the following condition:

...providing the Affiliate Facility will be superior to any increase in the AEM Facility obtained after the date of this Order.

In its Motion, Atmos states that the condition added in Ordering Paragraph (2) had the opposite result from that intended by the Commission. Financial institutions willing to provide additional credit through the AEM Facility, raising the maximum amount up to \$250,000,000, were not willing to extend such credit with the new condition.

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We have been recently advised by the Commission Staff ("the Staff") that Atmos is agreeable to a revision of the disputed condition. The condition, as revised, would require the Affiliate Facility to be superior to any increase in the AEM Facility above \$250,000,000.

NOW THE COMMISSION, upon consideration of the application, the Motion, and the advice of the Staff, is of the opinion and finds that a revision to Ordering Paragraph (2) of our December 24, 2003 Order will not be detrimental to the public interest as prescribed below.

Accordingly, IT IS ORDERED THAT:

- 1) The text of Ordering Paragraph (2) of the December 24, 2003 Order Granting Authority is hereby stricken and replaced with the following:

Applicant is hereby authorized to lend to AEH short-term funds up to an aggregate amount of \$100,000,000 between January 1, 2004, and December 31, 2004, under the terms and conditions and for the purposes set forth in the application, provided the Affiliate Facility will be superior to any increase in the AEM Facility in excess of \$250,000,000.

- 2) This matter shall remain open for the continued review, audit, and appropriate directive of the Commission.

**CASE NO. PUE-2003-00544  
MARCH 1, 2004**

JOINT APPLICATION OF  
DELMARVA POWER AND LIGHT COMPANY  
and  
CONECTIV ENERGY SUPPLY, INC.

For approval of certain affiliate transactions under Chapter 4, Title 56 of the Code of Virginia

**ORDER GRANTING APPROVAL**

On December 3, 2003, Delmarva Power and Light Company ("Delmarva") and Conectiv Energy Supply, Inc. (CESI") (collectively referred to as "Applicants"), filed a joint application requesting the State Corporation Commission ("Commission") to approve an amendment to Transaction No. 4 under the provisions of the Purchase and Sale Agreement for Unforced Capacity, Energy and Ancillary Services ("Agreement") between Delmarva and CESI currently in effect. The amendment extends the Agreement from December 31, 2003, as approved by Order entered December 21, 2001, in Case No. PUA-2001-00057, for one year through December 31, 2004.

Under this amendment, after December 31, 2004, either Delmarva or CESI can terminate CESI's obligation to provide power supplies to meet the requirements of Delmarva's Virginia retail customers by giving thirty (30) days written notice to the other party, until May 31, 2006, the termination date of Transaction No. 4.

Delmarva is a Delaware and Virginia corporation that provides electric service to approximately 21,500 retail and one wholesale customer in Accomack and Northampton Counties on Virginia's Eastern Shore. Delmarva is a wholly owned subsidiary of Conectiv, which is incorporated in Delaware. Conectiv is a wholly owned subsidiary of PHI Holdings, Inc., a Delaware corporation and a registered holding company under the federal Public Utility Holding Company Act of 1935.

CESI is a Delaware corporation that is a wholly owned subsidiary of Conectiv Energy Holding Company ("CEH"). CEH is, in turn a wholly owned subsidiary of Conectiv. Conectiv Delmarva Generation, Inc. ("CDG"), is a wholly owned subsidiary of CEH and owns certain power plant units previously owned by Delmarva but transferred to CDG as authorized by Commission Order entered June 29, 2000, in Case No. PUE-2000-00086 and Case No. PUA-2000-00032, as part of its approval of Delmarva's plan for functional separation of generation pursuant to the Virginia Electric Utility Restructuring Act.

The Applicants assert that approval of the application is in the public interest because it provides Delmarva and its Virginia retail customers access to a reliable power source while avoiding the risks of wholesale power supply costs exceeding the power supply component of Delmarva's capped rates, scheduled to expire July 1, 2007.

THE COMMISSION, upon consideration of the application and representations of Delmarva and CESI and having been advised by Staff, is of the opinion and finds that the above-referenced transaction is in the public interest and should be approved.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to § 56-77 of the Code of Virginia, the Applicants are hereby granted approval of the amendment to Transaction No. 4 of the Agreement, as described herein.
- 2) Should any terms and conditions of Transaction No. 4 and the Agreement, as amended, related to Virginia customers, change from those described herein, Commission approval shall be required.
- 3) The approval granted shall have no rate-making implications except as provided for by the Commission in its Order entered June 29, 2000, in Case Nos. PUE000086 and PUA000032.

- 4) The approval granted herein shall not be deemed to include any approval other than the amendment to Transaction No. 4 of the Agreement as approved in ordering paragraph (1) above.
- 5) The approval granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code of Virginia.
- 6) The Commission reserves the right to examine the books and records of any affiliate in connection with the authority granted whether or not the Commission regulates such affiliate.
- 7) Delmarva shall include all transactions, related to Virginia customers, under Transaction No. 4 of the Agreement in its Annual Report of Affiliated Transactions submitted to the Commission's Director of Public Utility Accounting.
- 8) There appearing nothing further to be done in this matter, it is hereby is dismissed.

**CASE NO. PUE-2003-00545  
SEPTEMBER 9, 2004**

JOINT APPLICATION OF  
BROOMIK, LLC  
and  
PARK PLACE WATER WORKS, INC.

For authority to acquire and dispose of utility assets pursuant to the Utility Transfers Act and for the issuance of a Certificate of Public Convenience and Necessity pursuant to §§ 56-265.2 and 56-265.3 of the Code of Virginia

**FINAL ORDER**

On December 5, 2003, Broomik, LLC ("Broomik"), and Park Place Water Works, Inc. ("Park Place" or "Company") (collectively "Applicants"), filed an application with the State Corporation Commission ("Commission") requesting (i) authority to acquire and dispose of utility assets pursuant to the Utility Transfers Act, Chapter 5 (§ 56-88 *et seq.*) of Title 56 of the Code of Virginia and (ii) issuance of a certificate of public convenience and necessity to Park Place pursuant to the Utility Facilities Act, Chapter 10.1 (§ 56-265.1 *et seq.*) of Title 56 of the Code of Virginia ("Virginia Code").

The subject of the application is a water system located in Franklin County, Virginia, which currently serves the Winding Waters and Park Place subdivisions. Broomik owns the water system that serves both subdivisions, and it seeks Commission approval to transfer its utility assets to Park Place, a public service company incorporated in Virginia on February 6, 2002. The application further requests that the Commission grant Park Place a certificate of public convenience and necessity authorizing it to provide water service to the Winding Waters subdivision, the Park Place subdivision, and the Rise Condominium project, all of which are located in the vicinity of Smith Mountain Lake.

On March 3, 2003, Broomik and Park Place amended their application to expand the proposed service area to include the Franklin County Smith Mountain Park, a public park being developed adjacent to the Park Place subdivision. The proposed service area was expanded at the request of the Franklin County Board of Supervisors and was imposed as a precondition to Franklin County approving Park Place's application for a certificate of public convenience and necessity.<sup>1</sup>

On March 31, 2004, the Commission entered an Order for Notice and Comment directing the Applicants to provide public notice of their application, allowing interested persons to file comments or request a hearing on the application, and directing the Commission Staff to investigate the application and file a Report with the Commission containing its finding and recommendations. The Commission Staff filed its Report on July 22, 2004, recommending, among other things, that the application be granted with certain conditions. John and Carol Ridgely filed comments opposing both the Company's proposed \$30 minimum monthly charge and the additional usage fees over the minimum monthly charge as unreasonable and excessive. The Applicants did not file any responses to the Staff Report or comments filed in this case.

The record reveals that the utility assets subject to the proposed transaction currently serve two subdivisions located in Franklin County, Virginia. The water system serving the Winding Waters subdivision was constructed in phases between 1986 and 1989 by Winding Waters Partnership ("Partnership"), a Virginia general partnership. A portion of the water system, consisting of a water tank lot, five well lots and fixtures, and other miscellaneous personal property, was owned by the Winding Waters Property Owners' Association ("POA"). The remaining utility assets, consisting of a new water tank lot, easements, equipment, and other personal property, were jointly owned by the POA and the Partnership. The POA and Partnership later conveyed all their utility assets to Broomik by fee simple deed in 2003. Broomik subsequently constructed some additional water facilities to serve the Winding Waters subdivision, and it now owns and operates the entire water system serving the subdivision.

Broomik is also the developer of the Park Place subdivision, which is a subdivision located immediately adjacent to the Winding Waters subdivision. Broomik constructed the water system serving the Park Place subdivision and recently interconnected the water systems serving both subdivisions. Accordingly, Broomik currently owns all the water facilities currently in place and serving both the Winding Waters and Park Place subdivisions.

The combined water system relies on eight wells with a design capacity of 301 Equivalent Residential Connections, or 120,524 gallons per day. The system includes a raw water storage tank, a 100,000 gallon atmospheric storage tank for treated water, and an iron and manganese removal treatment

<sup>1</sup> Under Virginia Code § 56-265.3 C, a company applying for a certificate of public convenience and necessity to furnish water service must obtain prior approval from political subdivisions that: (i) have created a public service authority; and (ii) where the company was not in existence and furnishing water service prior to the creation of the authority.

system. The system also includes approximately 23,000 feet of water line and mains, and approximately 9,000 feet of water line for the transmission of raw water to the system's raw water storage tank and treatment facilities.

Park Place was incorporated as a Virginia public service corporation on February 6, 2002, for the purpose of operating the water system serving the Winding Waters and Park Place subdivisions. On January 13, 2003, the Virginia Department of Health ("VDH") issued Park Place a waterworks operation permit authorizing the Company to operate the water system serving the two subdivisions. Accordingly, Park Place has all the necessary regulatory approvals from the VDH to operate the combined water system, and the Company is only awaiting formal Commission approval authorizing it to acquire the water system and granting Park Place a certificate of public convenience and necessity authorizing it to provide service in the proposed service territory.

Under that portion of the proposed transaction subject to our approval under the Transfers Act, Broomik requests authority to transfer, and Park Place seeks authority to acquire, the utility assets serving the subdivisions pursuant to the terms and conditions of a license agreement executed by Broomik and Park Place. Under the license agreement, Park Place is given the exclusive right to operate the water system for a term of 25 years in return for the payment of a \$100 fee, paid in advance. According to the application, the proposed transfer of the utility assets by means of a license agreement is preferable to an outright sale of the assets because it will allow Park Place to save considerable time and transactional costs associated with the proposed transfer of the utility assets. The Applicants further represent that Park Place does not have the financial ability to purchase the system and, in any event, the license agreement will allow the Company to provide water service at a lower cost than purchasing the system and recovering all the debt and carrying costs associated with a purchase from the Company's customers.

In its Report, the Staff concluded that the proposed transfer of water system will not have any adverse impact on the provision of adequate water service to the public at just and reasonable rates. The Staff Report noted that the water facilities currently in place and serving the Winding Waters and Park Place subdivisions provide adequate water service and that the system is operated in full compliance with all regulatory requirements. Moreover, the Staff Report indicated that the proposed transfer will be virtually transparent to Broomik's customers because the same management, personnel, and utility facilities will be used to provide water service. The only change that will likely be noticed by customers is that future bills for service will reflect Park Place as the provider of water service rather than Broomik. Accordingly, the Staff Report concludes that there will be very little, if any, change in the level or quality of service if the utility assets are transferred to Park Place.

The Staff Report further found that Park Place's proposed rates are just and reasonable. Based on adjusted test year operations for the twelve-month period ended April 30, 2004, the Staff found the Company's proposed rates are expected to produce total operating revenues of \$74,720, total operating revenue deductions of \$80,459, and a net operating loss of \$5,739. Although the proposed rates will not immediately produce any net operating income, the Staff nevertheless concluded that the rates are just and reasonable. The Staff believes that, through continued customer growth, the Company will become profitable in the near future.

The Staff Report further recommended that the Commission grant Park Place a certificate of public convenience and necessity pursuant to §§ 56-265.2 and 56-265.3 of the Code of Virginia. As stated above, the Staff found Park Place's proposed rates, as well as the proposed miscellaneous fees, charges, and rules and regulations of service are reasonable. The Report also found the water system is in good standing with the VDH's Office of Drinking Water, and further concluded that the transfer of the water system to Park Place will be beneficial to customers because the Commission will be able to assert jurisdiction over the Company's rates and the provision of service in the future. The Staff, therefore, found that it would be in the public interest to grant Park Place a certificate of public convenience and necessity.

Finally, the Staff recommended that the Commission adopt the Staff's accounting adjustments, booking recommendations, and reporting requirements. Specifically, Staff recommended that the Commission order Park Place to:

- (1) Maintain its books and records in accordance with the Uniform System of Accounts for Class C Water Utilities, including using all appropriate account numbers and reflecting account balances on an accrual basis and maintaining detailed records for all revenue, expense, and capital items;
- (2) File a report of action with the Commission, detailing the date the transfer took place and the actual accounting entries reflecting the transfer, no later than thirty (30) days after the transfer takes place;
- (3) Begin booking Metered Water Revenue, both base and overage, to Account 461 (rather than 460), and use this account for all revenue associated with metered customers;
- (4) Reclassify certain repairs and new plant (pipe, meters, etc.) placed into service from Account 636 to Account 101, Utility Plant in Service, and scrutinize all future maintenance costs and record them to the appropriate plant or expense accounts;
- (5) Book depreciation at a composite rate of three percent (3%) in accordance with the Commission's Rules Implementing the Small Water or Sewer Public Utility Act and file a depreciation study with the Commission's Division of Energy Regulation should Park Place decide that a different depreciation rate should be used for ratemaking purposes;
- (6) Cease booking connection fees as revenue on the Company's books and begin booking connection fees received from customers to Account 271, CIAC, with the associated amortization expenses, three percent (3%) per year, booked to Account 403, Depreciation Expense. The costs incurred, materials and labor, by Park Place for connecting new customers should be capitalized; and
- (7) Begin booking payroll taxes to Account 408, Taxes Other Than Income.

The Applicants did not file a response objecting to the findings and recommendations contained in the Staff Report, including the accounting adjustments and booking recommendations proposed by the Staff.

NOW THE COMMISSION, having considered the application, the Staff Report, comments, and applicable law, is of the opinion, and finds, that the application should be granted. We find the public convenience and necessity requires Park Place to acquire the utility assets from Broomik pursuant to terms and conditions of the license agreement between the parties. Based on the record herein, we believe, and find, that the transfer of the utility assets to Park Place will not impair or jeopardize the provision of adequate water service to the public.

We further find it is in the public interest for Park Place to be granted a certificate of public convenience and necessity authorizing it to provide water service to the Winding Waters and Park Place subdivisions, the Rise Condominium project, and the Franklin County Smith Mountain Park. As stated in the Staff Report, the transactional approvals sought herein will be relatively transparent to customers. The same management and employees will operate the water system, and we expect the same level and quality of service will be rendered after the utility assets are transferred to Park Place. We also believe customers will benefit from the proposed transfer because the system will be subject to regulation by the Commission, thus ensuring that the Company's future rates, as well as its level and quality of service, remain at reasonable levels in the future.

We will also accept the Staff's proposed accounting adjustments, booking recommendations, and reporting requirements found in the Staff Report. These recommendations are consistent with the conditions we have imposed on other companies acquiring water utility assets, and we find similar conditions should be imposed on Park Place. The Staff's accounting and booking recommendations will also allow the Commission to monitor the proposed transfer of the water system to Park Place, and will facilitate a prompt and efficient review of the reasonableness of the Company's rates in the future.

Finally, while we understand the concerns voiced by John and Carol Ridgely in opposing the proposed rates, we will not reduce the rates or alter the rate design proposed in the application. As the Staff Report reveals, the proposed rates will generate a net operating loss for the immediate future. Accordingly, we do not believe it would be in the public interest or appropriate to reduce the proposed rates or alter the Company's rate design given the current net operating loss generated by the proposed rates.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to §§ 56-89 and 56-90 of the Code of Virginia, Broomik, LLC, is hereby granted authority to convey to Park Place Water Works, Inc., the utility assets described in the application and currently serving customers in the proposed service territory.
- (2) Park Place Water Works, Inc., is hereby granted authority to acquire from Broomik, LLC, the utility assets described in the application and currently serving customers in the proposed service territory.
- (3) The granting of the above-referenced authority shall have no ratemaking implications.
- (4) Park Place Water Works, Inc., shall file with the Commission a Report of Action no later than thirty (30) days after the transfer, which shall describe in detail the actual date of the transfer and the accounting entries made to reflect the transfer.
- (5) The proposed rates, charges, fees, and rules and regulation of service for Park Place Water Works, Inc., are hereby approved.
- (6) Park Place Water Works, Inc., shall be granted a certificate of public convenience and necessity, Certificate No. W-315, authorizing it to furnish water service to Winding Waters and Park Place subdivisions, the Rise Condominium project, and the Franklin County Smith Mountain Park in Franklin County, Virginia, all as shown on the map attached to the certificate, and at the rates, charges, fees, and rules and regulations of service approved herein.
- (7) The authority granted herein shall not be deemed to include any authorizations other than the transfer of utility assets and the granting of a certificate of public convenience and necessity in Ordering Paragraphs (1), (2), and (6), and the approval of the proposed rates, charges, fees, rules and regulations of service for Park Place Water Works, Inc., in Ordering Paragraph (5).
- (8) Park Place Water Works, Inc., shall correct its books and records to reflect the Staff's booking recommendations as described in the Staff Report.
- (9) This matter is hereby dismissed from the Commission's docket of active cases, and the papers herein passed to the file for ended causes.

**CASE NO. PUE-2003-00546  
JANUARY 27, 2004**

APPLICATION OF  
VIRGINIA ELECTRIC AND POWER COMPANY  
and  
DOMINION TELECOM, INC

For an exemption from the filing and prior approval requirements or, in the alternative, approval of consideration associated with the return of leased fiber pursuant to Chapter 4, Title 56 of the Code of Virginia, and for expedited consideration

**ORDER GRANTING APPROVAL**

On December 5, 2003, Virginia Electric and Power Company ("Dominion Virginia Power") and Dominion Telecom, Inc. ("Dominion Telecom") (collectively, the "Applicants"), filed an application with the State Corporation Commission ("Commission") requesting an exemption from the filing and prior approval requirements or, in the alternative, approval of consideration associated with the return of leased fiber pursuant to Chapter 4, Title 56 of the Code of Virginia ("Code"). The Applicants request the approval on an expedited basis.

Dominion Virginia Power is a Virginia public service corporation engaged in the provision of wholesale and retail electric service in Virginia and North Carolina. Dominion Virginia Power is a wholly owned subsidiary of Dominion Resources, Inc. ("Dominion"), a registered public utility holding company pursuant to the Public Utility Holding Company Act of 1935 (the "1935 Act").

Dominion Telecom is a Virginia public service company certificated to provide intrastate interexchange and local exchange telecommunications services throughout Virginia. Dominion Telecom currently provides intrastate interexchange telecommunications services to wholesale customers located from Northern Virginia to Norfolk. It also provides interstate interexchange telecommunications services in other jurisdictions. Dominion Telecom is an "exempt telecommunications company" for purposes of the 1935 Act. Dominion Telecom is a direct, wholly owned subsidiary of Dominion Fibers Ventures, LLC, and an indirect partially owned subsidiary of Dominion.<sup>1</sup> As a subsidiary of Dominion, Dominion Telecom is an affiliate of Dominion Virginia Power.

By Commission Order dated August 8, 1997, in Case No. PUC-1996-00136, the Commission approved the Fiber Lease Agreement between Dominion Virginia Power and Dominion Telecom for the lease of fiber by Dominion Telecom from Dominion Virginia Power. On September 22, 2003, Dominion announced its intention to sell Dominion Telecom or its assets. Pursuant to the Fiber Lease Agreement, Dominion Virginia Power is compensated for Installed Fiber by a monthly lease payment. For Planned Fiber, Dominion Virginia Power is compensated by an up-front pro rata construction cost and associated expense payment. In addition, Dominion Virginia Power and Dominion Telecom can terminate Lease Addenda upon mutual agreement.

The Lease Addenda can cancel certain Addenda entirely or reduce the Planned or Installed Fiber lease counts in the original Lease Addenda. A Lease Addendum is issued each time there is a change in leased fiber.

As stated in the application, the Applicants propose that Dominion Telecom return leased fiber to Dominion Virginia Power for a net payment by Dominion Telecom to Dominion Virginia Power of \$959,356. The Applicants represent that this payment is the result of a cost vs. market analysis performed and represents the lower of Dominion Telecom's cost (i.e., book value) or the market price. The return of leased fiber to Dominion Virginia Power will allow it to regain control over a significant portion of its leased network for its current and future needs.

THE COMMISSION, upon consideration of the application and representations of the Applicants and having been advised by its Staff, is of the opinion and finds that the requested exemption from the filing and prior approval requirements of Chapter 4 of Title 56 of the Code is not in the public interest. However, we find that the above-described consideration for the return of leased fiber from Dominion Telecom to Dominion Virginia Power is in the public interest and should, therefore, be approved.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to § 56-77 of the Code, the requested exemption is hereby denied.
- (2) Pursuant to § 56-77 of the Code, the Applicants are hereby granted approval of consideration associated with the return of leased fiber from Dominion Telecom to Dominion Virginia Power at the lower of cost or market as described herein.
- (3) The approval granted herein shall not be deemed to include any approvals other than the above-described consideration associated with the return of leased fiber from Dominion Telecom to Dominion Virginia Power as described herein.
- (4) The approval granted herein shall have no rate making implications.
- (5) The approval granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code.
- (6) 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.
- (7) Dominion Virginia Power shall include the transactions covered by the approval granted herein in its Annual Report of Affiliate Transactions submitted to the Director of Public Utility Accounting of the Commission.
- (8) There appearing nothing further to be done in this matter, it hereby is dismissed.

<sup>1</sup> In Case No. PUE-2003-00159, by Order dated December 17, 2003, the Commission granted Dominion Telecom authority to transfer full indirect ownership of Dominion Telecom to Dominion.

**CASE NO. PUE-2003-00547  
JANUARY 20, 2004**

APPLICATION OF  
VIRGINIA ELECTRIC AND POWER COMPANY  
and  
DOMINION TELECOM, INC

For an exemption from the filing and prior approval requirements or, in the alternative, approval of transfer of interest in fiber under Chapter 4, Title 56 of the Code of Virginia, and for expedited consideration

**ORDER GRANTING APPROVAL**

On December 5, 2003, Virginia Electric and Power Company ("Dominion Virginia Power") and Dominion Telecom, Inc. ("Dominion Telecom") (collectively, the "Applicants"), filed an application with the State Corporation Commission ("Commission") requesting an exemption from the filing and prior approval requirements or, in the alternative, approval of a transfer of fiber from Dominion Telecom to Dominion Virginia Power pursuant to a Dark



Fiber IRU Agreement ("Agreement")<sup>1</sup> pursuant to Chapter 4 of Title 56 of the Code of Virginia ("Code"). The Applicants request the approval on an expedited basis.

Dominion Virginia Power is a Virginia public service corporation engaged in the provision of wholesale and retail electric service in Virginia and North Carolina. Dominion Virginia Power is a wholly owned subsidiary of Dominion Resources, Inc. ("Dominion"), a registered public utility holding company pursuant to the Public Utility Holding Company Act of 1935 (the "1935 Act").

Dominion Telecom is a Virginia public service company certificated to provide intrastate interexchange and local exchange telecommunications services throughout Virginia. Dominion Telecom currently provides intrastate interexchange telecommunications services to wholesale customers located from Northern Virginia to Norfolk. It also provides interstate interexchange telecommunications services in other jurisdictions. Dominion Telecom is an "exempt telecommunications company" for purposes of the 1935 Act. Dominion Telecom is a direct, wholly owned subsidiary of Dominion Fibers Ventures, LLC, and an indirect partially owned subsidiary of Dominion.<sup>2</sup> As a subsidiary of Dominion, Dominion Telecom is an affiliate of Dominion Virginia Power.

Dominion Telecom has constructed and acquired a fiber optic communication system (the "Network") located along its Alexandria Point of Presence ("POP") to its Glebe POP and Hampton Handhole to Willoughby Handhole (individually, the "Segment"). Dominion Virginia Power currently uses two of the fibers on each Segment, but no formal delivery of these fibers from Dominion Telecom to Dominion Virginia Power has occurred. Dominion Virginia Power seeks an additional ten spare fiber strands on each Segment.

Pursuant to the Agreement, once determination has been made that the fibers in the Segment meet the fiber specifications agreed upon by the Applicants, Dominion Telecom will send a notice to Dominion Virginia Power that the Segment is complete. The Applicants will determine a date for acceptance of the fibers.

Once the acceptance date for a Segment has occurred and Dominion Virginia Power has paid Dominion Telecom the contract price for such Segment, the transaction will close. On the closing date, Dominion Telecom grants Dominion Virginia Power the IRU for the twelve (12) strands of fibers and the non-exclusive right to use the tangible and intangible property in the Network needed for the use of the fibers, including the associated conduit.

Dominion Virginia Power will pay Dominion Telecom \$82.11 per fiber mile for twelve (12) fibers in the Alexandria POP to the Glebe POP and \$65.16 per fiber mile for twelve (12) fibers from Hampton Handhole to the Willoughby Handhole. The contract price for the two Segments is \$4,585 and is based on cost (i.e., book value). The Applicants represent that a market appraisal performed on the fibers resulted in a market value of approximately \$46,000. Therefore, the pricing based on cost is lower than the market price.

As part of the Agreement, Dominion Virginia Power will pay Dominion Telecom charges for routine maintenance. The charge is initially \$19 per route mile per month or \$228 per route mile per year. The rate per route mile will be increased annually on each anniversary of the effective date of the Agreement by the increase, if any, in the U.S. Producer Price Index for all Finished Goods published by the United States Bureau of Labor Statistics. If such index is not available, such other index selected by Dominion Telecom in its reasonable judgment that most closely reports the same statistic will be used.

In addition to charges for routine maintenance, Dominion Virginia Power will be required to pay Dominion Telecom its pro rata share of Dominion Telecom's costs of performing non-routine maintenance where the aggregate of such costs for a single event exceed \$5,000. Any non-routine maintenance required because of Dominion Virginia Power's negligence or willful misconduct will be Dominion Virginia Power's sole responsibility.

The Agreement will be in effect from the date established in the first paragraph in the Agreement, such date to be determined, and will continue until the term of Dominion Virginia Power's IRU with respect to a Segment has expired or terminated. The term of Dominion Virginia Power's IRU will begin on the date of Dominion Virginia Power's acceptance of the fibers for such Segment and end on the twentieth (20) anniversary of such date for the last Segment of the fibers to be accepted.

As represented by the Applicants, during the term of the Agreement, Dominion Virginia Power will not have any legal title, ownership, or legal right to any real or personal property, including the fibers in the Network or the Network itself. Upon the expiration or earlier termination of the term, title to the fibers will transfer to Dominion Virginia Power, and Dominion Virginia Power will have no further right to receive services from Dominion Telecom under the Agreement.

Pursuant to the Agreement, the grant of the IRU to Dominion Virginia Power, irrespective of the time when legal title passes to Dominion Virginia Power, will be treated for accounting and federal, state, and local tax purposes as the sale by Dominion Telecom to Dominion Virginia Power of the fiber and the undivided pro rata interest in the associated conduit.

THE COMMISSION, upon consideration of the application and representations of the Applicants and having been advised by its Staff, is of the opinion and finds that the requested exemption from the filing and prior approval requirements of Chapter 4 of Title 56 of the Code is not in the public interest. However, we find that the above-described transfer of fiber from Dominion Telecom to Dominion Virginia Power pursuant to the Agreement is in the public interest and should, therefore, be approved.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to § 56-77 of the Code, the requested exemption is hereby denied.

<sup>1</sup> "IRU" or "indefeasible right of use" means an exclusive, indefeasible right to use the specified property as specifically provided in the Agreement.

<sup>2</sup> In Case No. PUE-2003-00159, by Order dated December 17, 2003, the Commission granted Dominion Telecom authority to transfer full indirect ownership of Dominion Telecom to Dominion.

- (2) Pursuant to § 56-77 of the Code, the Applicants are hereby granted approval of the transfer of fiber and the Dark Fiber IRU Agreement as described herein.
- (3) The approval granted herein shall not be deemed to include any approvals other than the above-described transfer of fiber from Dominion Telecom to Dominion Virginia Power and approval of the Dark Fiber IRU Agreement as described herein.
- (4) The approval granted herein shall have no rate making implications.
- (5) The approval granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code.
- (6) 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.
- (7) Dominion Virginia Power shall include the transactions covered by the Dark Fiber IRU Agreement in its Annual Report of Affiliate Transactions submitted to the Director of Public Utility Accounting of the Commission.
- (8) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2003-00568  
FEBRUARY 25, 2004**

APPLICATION OF  
ECONNERGY ENERGY COMPANY, INC.

For a license to conduct business as a natural gas competitive service provider

**ORDER GRANTING LICENSE**

On December 10, 2003, ECONergy Energy Company, Inc. ("ECONergy" or "Company"), completed an application for a license to conduct business as a natural gas competitive service provider ("CSP") pursuant to Commission's Rules Governing Retail Access to Competitive Energy Services, 20 VAC 5-312-10 *et seq.* ("Retail Access Rules"). ECONergy requests a license to serve residential and commercial customers throughout the Commonwealth of Virginia as the Commonwealth opens to retail access and customer choice.

On December 23, 2003, the Commission issued an Order for Notice and Comment establishing the case, requiring that notice of the application be given to natural gas utilities and other interested persons, providing for the receipt of comments from the public, and requiring the Commission's Staff to analyze the reasonableness of ECONergy's application and present its findings in a Staff Report. On December 30, 2003, the Commission issued a Correcting Order to reflect that the Company was applying for a license to conduct business as a natural gas competitive service provider, rather than a natural gas aggregator, and revised the procedural schedule. The Correcting Order also extended the filing date for the Staff Report to January 19, 2004.

The Company filed proof of publication of its notice on January 7, 2004. No comments from the public on ECONergy's application were received.

The Staff filed its Report on January 15, 2004, concerning ECONergy's fitness to conduct business as a natural gas CSP. In its Report, the Staff summarized ECONergy's proposal and evaluated its financial condition and technical fitness. The Staff noted that ECONergy is still striving for profitability and access to conventional capital markets. The Staff further noted that ECONergy proposes to provide additional financial security, in the amount of \$10,000, to demonstrate its financial responsibility as a CSP. The Staff recommended that this additional financial security be accepted by the Commission as proof of ECONergy's financial fitness. As such, the Staff concluded that ECONergy satisfies the requirements for licensure upon receipt of such additional evidence demonstrating its financial fitness. The Staff therefore recommended that ECONergy be granted a license to conduct business as a natural gas competitive service provider to residential and commercial customers throughout the Commonwealth of Virginia, after it files additional financial security with the Commission, in the amount of \$10,000, made payable to the Commonwealth of Virginia. ECONergy filed a response to the Staff Report supporting the Staff's recommendations.

On January 23, 2004, the Commission entered an order deferring any further action on this application until such time as ECONergy filed an acceptable form of security to demonstrate its financial fitness to provide service as a CSP.

On February 24, 2004, ECONergy filed with the Clerk of the Commission a \$10,000 letter of credit payable to the Commonwealth of Virginia to demonstrate its financial fitness. The letter of credit was issued on February 19, 2004, and expires on February 18, 2005.

NOW UPON CONSIDERATION of the application, the Staff Report, and ECONergy's letter of credit, the Commission finds that ECONergy application to provide competitive natural gas service should be granted subject to the conditions set forth below.

Accordingly, IT IS ORDERED THAT:

- (1) ECONergy Energy Company, Inc., is hereby granted License No. G-19 to provide competitive natural gas supply service to residential and commercial customers throughout the Commonwealth of Virginia. 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) The issuance of the license granted herein is subject to the maintenance of a letter of credit payable to the Commonwealth of Virginia in the amount of \$10,000.

(4) Failure of ECONergy to maintain a valid \$10,000 letter of credit on file with the Commission, or its failure to comply with the Retail Access Rules, the provisions of this Order, other State Corporation Commission orders and rules, or other applicable state or federal laws may result in an enforcement action by the Commission that includes, without limitation, the revocation, suspension, or modification of the license granted herein, the refusal to renew such license, the imposition of appropriate fines and penalties, or such other additional actions as may be necessary to protect the public interest.

(5) This case shall remain open for consideration of any subsequent amendments or modifications to this license.

**CASE NO. PUE-2003-00568  
SEPTEMBER 1, 2004**

APPLICATION OF  
ECONERGY ENERGY COMPANY, INC.

For a permanent license to conduct business as an electric competitive service provider and aggregator for natural gas and electricity

**ORDER GRANTING LICENSES**

On July 19, 2004, ECONergy Energy Company, Inc. ("ECONergy" or "Company"), filed an application with the State Corporation Commission ("Commission") for a license to conduct business as an aggregator of natural gas and electricity and as a competitive service provider ("CSP") of electric supply service<sup>1</sup>. The Company intends to serve residential and commercial customers throughout the Commonwealth of Virginia. The Company attested that it would abide by all applicable regulations of the Commission as required by 20 VAC 5-3 12-40 B of the Commission's Rules Governing Retail Access to Competitive Energy Services, 20 VAC 5-312-10 *et seq.*, ("Retail Access Rules").

On July 23, 2004, the Commission issued an Order for Notice and Comment docketing the application and requiring that notice of the Order be served on appropriate persons. The Order also required the Commission's Staff to analyze the reasonableness of the Company's application and present its findings in a Staff Report. No comments from the public on ECONergy's application were received.

The Staff filed its Report on August 18, 2004, concerning ECONergy's technical and financial fitness. In its Report, the Staff found that ECONergy appears to have the technical fitness to conduct business as an electric CSP and as an aggregator of natural gas and electric service. Staff noted that ECONergy has provided a \$10,000 letter of credit as a demonstration of financial responsibility<sup>2</sup>. Staff concluded ECONergy had demonstrated both technical and financial fitness sufficient to be licensed. ECONergy filed a response to the Staff Report supporting the Staff's recommendations.

NOW UPON CONSIDERATION of the application, the Staff Report, and ECONergy's letter of credit, the Commission finds that ECONergy's application to provide competitive electric service and as an aggregator of electric and natural gas service should be granted subject to the conditions set forth below.

Accordingly, IT IS ORDERED THAT:

(1) ECONergy Energy Company, Inc., is hereby granted License No. E-13 to provide competitive electric supply service to residential and commercial customers throughout the Commonwealth of Virginia. 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) ECONergy Energy Company, Inc., is hereby granted License No. A-20 to provide electric and natural gas aggregation services to residential and commercial customers throughout the Commonwealth of Virginia. This license to act as an aggregator is granted subject to the provisions of the Retail Access Rules, this Order, and other applicable statutes.

(3) This license is not valid authority for the provision of any product or service not identified within the license itself.

(4) The issuance of the licenses granted herein is subject to the maintenance of a letter of credit payable to the Commonwealth of Virginia in the amount of \$10,000.

(5) Failure of ECONergy to maintain a valid \$10,000 letter of credit or performance bond on file with the Commission, or its failure to comply with the Retail Access Rules, the provisions of this Order, other State Corporation Commission orders and rules, or other applicable state or federal laws may result in an enforcement action by the Commission that includes, without limitation, the revocation, suspension, or modification of the license granted herein, the refusal to renew such license, the imposition of appropriate fines and penalties, or such other additional actions as may be necessary to protect the public interest.

(6) This case shall remain open for consideration of any subsequent amendments or modifications to this license.

<sup>1</sup> On December 10, 2003, ECONergy filed an application with the Commission for a license to conduct business as a natural gas CSP. By Order dated February 25, 2004, the Commission granted ECONergy License No. G-19 to provide competitive natural gas supply service to residential and commercial customers throughout the Commonwealth of Virginia.

<sup>2</sup> On February 24, 2004, ECONergy filed an irrevocable letter of credit in the amount of \$10,000, payable to the Commonwealth of Virginia, as evidence of financial responsibility, with an expiration date of February 18, 2005.

**CASE NO. PUE-2003-00595  
AUGUST 17, 2004**

APPLICATION OF  
BLUEFIELD VALLEY WATER WORKS COMPANY

For an increase in rates, fees, and charges pursuant to the Small Water or Sewer Public Utility Act

**DISMISSAL ORDER**

By notice dated October 10, 2003, Bluefield Valley Water Works Company ("Bluefield" or "Company") notified its customers and the State Corporation Commission ("Commission") of its intent to increase its rates for water service pursuant to the provisions of the Small Water or Sewer Public Utility Act, §§56-265.13:1 *et seq.* of the Code of Virginia. The Company placed its proposed rates into effect on December 5, 2003.

On December 8, 2003, the Commission's Division of Energy Regulation ("Division") received a letter from the Town of Bluefield, Virginia, objecting to the Company's rate increase. On December 10, 2003, the Division received a petition signed by 39 of the Company's customers opposing the rate increase.

As a result of the objections to the Company's rate increase, the Commission entered a Preliminary Order on December 16, 2003, which, among other things, declared the Company's rates to be interim rates, subject to refund, for service rendered on and after December 16, 2003. On January 7, 2004, the Commission entered an Order for Notice and Hearing that appointed a Hearing Examiner to conduct all further proceedings in the matter, scheduled a public hearing on May 17, 2004, to receive evidence on the Company's application, and established a procedural schedule for the filing of pleadings, prefiled testimony and exhibits.

By Ruling dated May 13, 2004, the Hearing Examiner extended the date for the filing of the Company's rebuttal testimony to May 21, 2004, and ruled that the May 17, 2004, hearing would be convened for the sole purpose of receiving testimony from public witnesses. When the hearing was convened on May 17, 2004, Renata M. Manzo appeared as counsel for the Company; Stephen E. Arey appeared as counsel for the Town of Bluefield; and Glenn P. Richardson appeared as counsel for the Commission's Staff.

Mr. Arey made a statement at the hearing supporting a full review of the proposed rate increase by the Commission before allowing the Company to increase its rates. No public witnesses appeared or made statements at the May 17, 2004, hearing. Counsel for the Commission's Staff further advised the Hearing Examiner that the Company, its customers, and the Commission Staff were attempting to settle all outstanding issues in this case.

The settlement negotiations between the Company, its customers, and the Staff proved successful. Under the settlement proposal, the Staff agreed to reallocate a portion of the Company's rate base from the Town of Bluefield to the Company's jurisdictional customers. The Staff agreed to this proposal because the Town of Bluefield will cease purchasing water from the Company no later than October, 2004. In addition, the Bland County Service Authority agreed to purchase water from the Company at the wholesale rates charged the Company by West Virginia American Water Company. These adjustments to the Company's cost of service caused the Staff to withdraw the small rate decrease recommended in its prefiled testimony, and to conclude that the Company's original rates, prior to the filing of the Company's current application, were just and reasonable.

As a result of the reallocation of the Company's rate base to reflect the loss of the Town of Bluefield as a customer and the Company's successful negotiations with its other non-jurisdictional customer, the Staff and Company have agreed that no increase or decrease in the Company's rates are necessary at the present time. Accordingly, the Company filed a Motion for Leave to Withdraw Application. If the motion is granted, the Company states that it will promptly begin processing refunds of the amounts collected from its customers in excess of the rates in effect at the time it filed its application, and shall complete the refunds no later than sixty (60) days after its motion is granted and its application withdrawn.

On July 16, 2004, the Hearing Examiner entered a Report finding that the Company's Motion for Leave to Withdraw Application should be granted. The Examiner further recommended that the Commission enter an order adopting the findings in his Report; granting the Company leave to withdraw its application; directing the Company to refund to its customers the amounts collected in excess of the rates in effect at the time the Company filed its application; and dismissing this matter from the Commission's docket of active cases and passing the papers herein to the file for ended causes. No comments or exceptions were filed to the Hearing Examiner's Report.

NOW THE COMMISSION, having considered the record and the Hearing Examiner's Report, is of the opinion, and finds, that the findings and recommendations of the Hearing Examiner are reasonable and should be adopted.

Accordingly, IT IS ORDERED THAT:

- (1) The findings and recommendations of the Hearing Examiner are adopted.
- (2) The Company's Motion for Leave to Withdraw Application be, and the same is hereby, GRANTED.
- (3) The Company shall refund, with interest, all amounts collected from its customers in excess of the rates in effect at the time the Company filed its application, and shall complete the refunds no later than sixty (60) days from the date of this Order.
- (4) Interest upon the ordered refunds shall be computed from the date payments of monthly bills were due to the date refunds are 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 months of the preceding calendar quarter.
- (5) There being nothing further to come before the Commission in this proceeding, this case shall be dismissed from the docket of active cases.

**CASE NO. PUE-2003-00596  
FEBRUARY 19, 2004**

APPLICATION OF  
VIVEX, INC.

For a permanent license to conduct business as an electric aggregator

**ORDER GRANTING LICENSE**

On December 12, 2003, Vivex, Inc., ("Vivex" or "the Company"), filed an application with the State Corporation Commission ("Commission") for a license to provide electric aggregation services pursuant to the Commission's Rules Governing Retail Access to Competitive Energy Services ("Retail Access Rules"). The Company seeks authority to serve customers in the service territory of Virginia Electric and Power Company ("Virginia Power"). The Company attested that it would abide by all applicable regulations of the Commission as required by 20 VAC 5-3 12-40 B.

On January 8, 2004, the Commission issued an Order for Notice and Comment establishing the case, requiring that notice of the application be served upon appropriate persons, providing for the receipt of comments from the public, and requiring the Commission's Staff to analyze the reasonableness of Vivex's application and present its findings in a Staff Report. The Company filed proof of publication of its notice on February 2, 2004. No comments from the public on Vivex's application were received.

The Staff filed its Report on February 4, 2004, concerning Vivex's fitness to conduct business as an electric aggregator. In its Report, the Staff summarized Vivex's proposal and evaluated its financial condition and technical fitness. The Staff recommended that Vivex be granted a license to conduct business as an electric aggregator in the service territory of Virginia Power.

No comments were filed by Vivex in response to the Staff Report.

NOW UPON CONSIDERATION of the application and the Staff Report, the Commission finds that Vivex's application to provide electric aggregation services should be granted, subject to the conditions set forth below.

Accordingly, IT IS ORDERED THAT:

- (1) Vivex, Inc. is hereby granted license No. A-14 to provide competitive electric aggregation services to customers in the service territory of Virginia Power. This license to act as an aggregator 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-2003-00597  
MARCH 11, 2004**

APPLICATION OF  
KENTUCKY UTILITIES COMPANY d/b/a OLD DOMINION POWER COMPANY

For approval of the purchase of coal from a non-regulated affiliate, Western Kentucky Energy Corp., pursuant to Chapter 4 of Title 56 of the Code of Virginia

**ORDER GRANTING APPROVAL**

On December 16, 2003, Kentucky Utilities Company d/b/a Old Dominion Power Company ("KU/ODP") filed an application with the State Corporation Commission (the "Commission") requesting approval of the purchase of coal from a non-regulated affiliate, Western Kentucky Energy Corp. ("WKE), pursuant to Chapter 4 of Title 56 of the Code of Virginia (the "Code").

KU/ODP is a wholly owned subsidiary of LG&E Energy Corporation ("LG&E EC"). LG&E EC merged with the British utility Powergen plc ("Powergen") in December 2000. The German utility E.ON AG acquired Powergen in late 2001

KU/ODP provides retail electric service to approximately 471,000 customers in 77 counties and wholesale service to twelve (12) municipalities in Kentucky. In Virginia, KU/ODP provides retail service to approximately 29,500 customers in five counties KU/ODP also provides retail electric service to five customers in Tennessee and one municipal customer in Pennsylvania.

Between July and October 2001, KU/ODP purchased 101,920 tons of coal from its affiliate, WKE, at WKE's cost, for KU/ODP's Ghent Units 2, 3, and 4. These units are not equipped with flue-gas desulfurization equipment and to meet sulfur dioxide emission limitations, KU/ODP was required to purchase low sulfur "Compliance Coal" for these units. While low sulfur Compliance Coal from the Powder River Basin in Wyoming ("Western Compliance Coal") is readily available, that coal must be blended with coal from the Eastern United States ("Eastern Compliance Coal") to ensure adequate burn and avoid damage to equipment.

With inventory levels of Compliance Coal becoming inadequate at Ghent Units 2, 3, and 4, in June 2001, KU/ODP issued solicitations for "compliance steam coal." KU/ODP rejected all bids for Eastern Compliance Coal in response to its solicitations because either the offered coal did not meet KU/ODP's quality specifications, or the offer was from brokers with no production resources to guarantee performance. None of KU/ODP's Eastern Coal Compliance suppliers responded to the solicitation, therefore, confirming KU/ODP's analysis of the supply scarcity.

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Simultaneous with these events, WKE purchased approximately 150,000 tons of Polish Compliance Coal of comparable quality to Eastern Compliance Coal. KU/ODP, therefore, acquired from WKE 101,920 tons of this coal at WKE's cost.

NOW THE COMMISSION, upon consideration of the application and representations of KU/ODP and having been advised by its Staff, is of the opinion and finds that the purchase of coal by KU/ODP from its affiliate, WKE, from July to October 2001 was in the public interest and should, therefore, be approved. However, the purchase should have been priced at the lower of WKE's cost or the market price. In this particular instance, the market price based on bids obtained by KU/ODP for the same or similar coal, on average, was lower than WKE's cost. This pricing is consistent with our I findings in our January 13, 2004 Order in Case No. PUE-2003-00116. Therefore, the price paid by KU/ODP should have been at the market price. Furthermore, we are concerned that KU/ODP did not file the appropriate application to request our prior approval before acquiring coal from its affiliate. KU/ODP should take the necessary steps to ensure that future affiliate transactions are approved pursuant to Chapter 4 of Title 56 of the Code prior to entering into such transactions.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to § 56-77 of the Code of Virginia, KU/ODP is hereby granted approval for the purchase of 101,920 tons of coal from its affiliate, Western Kentucky Energy Corp., between July and October 2001, at the lower of cost or market, which in the case was market, as described herein.

(2) The approval granted herein shall have no ratemaking implications.

(3) The approval granted herein shall not be deemed to include any approvals other than the specific purchase of coal from KU/ODP's affiliate referred to in ordering paragraph (1) above.

(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.

(5) 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.

(6) KU/ODP shall include the transaction approved herein in its Annual Report of Affiliate Transactions submitted to the Commission's Director of Public Utility Accounting.

(7) 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 Annual Report of Affiliate Transactions in such filings.

(8) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2003-00600  
DECEMBER 20, 2004**

APPLICATION OF  
VIRGINIA GAS STORAGE COMPANY

For an Annual Informational Filing

**ORDER ADOPTING RECOMMENDATIONS  
AND DISMISSING PROCEEDING**

On December 16, 2003, Virginia Gas Storage Company ("VGSC" or the "Company"), by counsel, filed a Motion with the State Corporation Commission ("Commission") requesting an extension of time in which to file its 2003 Annual Informational Filing ("AIF") for the twelve months ending September 30, 2003 ("test year"). VGSC also requested a waiver from the filing requirements of Rule 20 VAC 5-200-30 A9 of the Rules governing utility rate increase applications and annual informational filings ("Rate Case Rules") to the extent necessary to authorize VGSC to omit Schedules 9 through 14 required by the Rate Case Rules from its AIF.

In its December 24, 2003, Order Granting Motion, the Commission granted VGSC's December 16, 2003, Motion and extended the time in which VGSC could file its AIF to April 28, 2004. In the same Order, the Commission granted VGSC's request to omit Schedules 9 through 14 from its AIF.

On April 8, 2004, VGSC, by counsel, filed a Motion ("April 8, 2004, Motion") requesting a further extension of time in which to file its 2003 AIF with the Commission. Specifically, VGSC requested that it be authorized to file its AIF for test period ending September 30, 2003, within twenty-one (21) days of the date that audited financial information for its senior parent company, NUI Corporation ("NUI") is finalized and becomes available to the public. VGSC represented that it would notify the Commission by letter when the audited financial information for NUI has been finalized and made available to the public.

In its April 12, 2004, Order Granting Further Extension of Time, the Commission granted VGSC's April 8, 2004, Motion, directed VGSC to file its 2003 AIF no later than twenty-one (21) days from the date that NUI's audited year-end financial information was finalized and made available to the public, directed VGSC to notify the Commission forthwith by a letter to be filed with the Clerk of the Commission when the audited year-end financial information of NUI was finalized and made available to the public, and continued the case generally.

After providing notice by letter dated May 14, 2004, that NUI's audited financial information was made available to the public, VGSC filed its AIF for the test year ending September 30, 2003, on June 2, 2004.

On November 15, 2004, the Staff filed its Report on the captioned application. This Report included a financial and accounting analysis. In its financial analysis, Staff noted that it had employed an 11.5% return on equity for illustrative purposes. Staff explained that in VGSC's application for a certificate of public convenience and necessity as a storage facility, the Company was not a going concern. Because actual data was unavailable, the Company's application for a certificate of public convenience and necessity was based on rates derived from estimates of revenues and costs. The Company received authority from the Commission to provide gas storage service on the basis of the rates filed in its certificate application rather than based on a specific return on equity range.

Staff supported the use of NUI's consolidated capital structure for ratemaking purposes because NUI has been the ultimate source of any market capital available to VGSC since NUI acquired Virginia Gas Company ("VGC"), VGSC's immediate parent. NUI acquired VGC and VGC's ownership interest in VGSC and Virginia Gas Distribution Company ("VGDC") on March 28, 2000. The Staff also represented that on July 15, 2004, AGL Resources, Inc. ("AGLR") and NUI announced that they had entered into a merger agreement whereby AGLR would acquire NUI. This merger was approved by the Commission in Case No. PUE-2004-00097 on October 29, 2004. Additional regulatory approvals were necessary before the merger could be consummated.<sup>1</sup>

The Staff Report stated that VGSC's September 30, 2003, capital structure included total capitalization of \$13,471,833, which consisted of 80.17% common equity and 19.83% long-term debt. Staff noted that for ratemaking purposes, it preferred to use the proportions of capitalization reflected in the NUI parent company capital structure to calculate VGSC's jurisdictional per books return on equity. According to Staff, adjusting VGSC's equity capital to match the lower proportion of equity in the consolidated NUI capital structure explained why VGSC's jurisdictional per books return on equity was higher than VGSC's total company per books return on equity. Staff advised that it would evaluate the use of a consolidated AGLR capital structure in VGSC's subsequent AIFs and rate proceedings.

In its accounting analysis, the Staff noted that VGSC had no regulatory assets subject to an earnings test on its books and did not propose to defer any new costs as regulatory assets. Staff also reported that the Company lost a jurisdictional customer, Unities Cities Gas Company ("United Cities") and a non-jurisdictional customer, Knoxville Utilities Board ("Knoxville"), as storage customers. According to Staff, the loss of these customers impacted the earnings and returns of VGSC. Staff estimated the reduction to test year compressor fuel expense due to the loss of these customers by calculating the proportion of United Cities' and Knoxville's test year injections and withdrawals to total test year injections and withdrawals. Staff applied that ratio to test year compressor fuel expense to derive an estimated expense decrease of \$26,815 on a system basis and \$11,990 on a jurisdictional basis. Staff cautioned that there could be other impacts on expense, and advised that it could not quantify these impacts at this time.

Staff further commented that although VGC had received approval in Case No. PUE-2003-00129 to allocate corporate costs incurred by NUI to VGC and, in turn, to VGC's regulated subsidiaries, VGSC chose not to include any costs from NUI in its ratemaking cost of service for this AIF. Staff observed that the merger with AGLR could affect cost allocations to VGSC prospectively.

In its accounting analysis, Staff made limited revisions to VGSC's ratemaking adjustments. These revisions included the use of a 2.55% composite depreciation rate from the 2002 depreciation study. This composite rate was based on depreciable expense divided by depreciable plant in service.

Staff also removed meals and entertainment expense from its calculation of income tax expense, and applied the effective property tax rate to net rather than gross plant in calculating a going-level of property tax expense. After Staff's adjustments, VGSC earned a 2.23% rate of return on rate base and -3.12% rate of return on common equity for the twelve months ending September 30, 2003. Staff concluded that various measures of VGSC's operating performance reflected a decline from the preceding twelve month period. Staff advised that it would need to re-evaluate the appropriate ratemaking capital structure for VGSC in light of AGLR's acquisition of NUI.

In a letter filed on December 2, 2004, VGSC, by counsel, advised that it did not intend to file comments responsive to the Staff Report.

NOW, UPON consideration of the Company's application, the November 15, 2004, Staff Report, and the applicable statutes, the Commission is of the opinion and finds that Staff's refinements to VGSC's cost of service and recommendations set out in the November 15, 2004, Staff Report should be adopted, and that the captioned application should be dismissed from the Commission's docket of active proceedings.

Accordingly, IT IS ORDERED THAT:

- (1) Consistent with the findings made herein, the recommendations set out in the Staff's November 15, 2004, Report are hereby adopted.
- (2) That there being nothing further to be done in this proceeding, this application 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.

<sup>1</sup> Upon receipt of the necessary approvals, the merger between NUI and AGLR was consummated on November 30, 2004.

**CASE NO. PUE-2003-00603  
FEBRUARY 23, 2004**

APPLICATION OF  
WASHINGTON GAS LIGHT COMPANY

For an expedited increase in rates and charges and revisions to the tariffs and terms and conditions of service for natural gas service

**PRELIMINARY ORDER**

On January 27, 2004, Washington Gas Light Company ("WGL" or the "Company") filed a rate application, supporting testimony, and exhibits for an expedited increase in its rates for natural gas service with the State Corporation Commission ("Commission").

The Company's proposed rates, charges, and fees are designed to produce additional gross annual operating revenue of \$19,552,297. WGL relies upon the financial data it has filed with its application to demonstrate what it alleges to be a deficiency in revenues. Under Rule 20 VAC 5-200-30 B of the Commission's Rules Governing Utility Rate Increase Applications and Annual Informational Filings, WGL has requested that the rates, charges, fees, and terms and conditions of service identified in Schedule 31A of its expedited rate application go into effect on an interim basis, subject to refund pending investigation, and after such investigation and hearing, that the Commission approve the proposed rates on a permanent basis.

The Company identified certain tariff revisions in Schedule 31C of its application that it proposed become effective only when approved by the Commission. The tariff revisions found in Schedule 31C of the application include the elimination of interruptible sales service under Rate Schedule Nos. 4 and 6, the Risk Sharing Mechanism under General Service Provision No. 21, and all other tariff revisions related to the Risk Sharing Mechanism, and the implementation of daily balancing for interruptible delivery service suppliers under Proposed Rate Schedule No. 11 and related changes to Rate Schedule No. 7.

On February 17, 2004, the Staff filed its Interim Report with the Commission. In its Report, the Staff noted that the accounting computations found in the application appeared accurate and consistent with those approved in the Company's previous case. Staff advised that recent market conditions may support a lower cost of equity. Staff also noted that it intended to conduct an analysis of current market information to review the appropriate cost of equity for the Company. Staff commented that by the time it conducts its analysis, changes in market conditions may not support a lower cost of equity. Staff indicated that the Company had revised its rate design and terms and conditions of service. The Staff reserved the right to make alternative recommendations regarding these or any other issues in the case, and advised that with the foregoing qualifications, it appeared from the application and supporting schedules that the Commission could find that there is a reasonable probability that the requested increase would be justified upon full investigation and hearing.

NOW, HAVING CONSIDERED the application and having been advised by its Staff, the Commission finds that, based on the application, supporting testimony, and exhibits, there is a reasonable probability that the requested increase in rates will be justified upon full investigation and hearing, as required by § 56-240 of the Code of Virginia; that WGL should be allowed to implement the proposed rates, charges, fees and terms and conditions of service set out in Schedule 31A of its rate application on an interim basis, subject to refund with interest, effective for service rendered on and after February 26, 2004; that, as represented by the Company, the revised rate schedules, tariffs, charges, and terms and conditions set out in Schedule 31C of the application will become effective only if approved by the Commission; and that this application should be docketed.

Accordingly, IT IS ORDERED THAT:

- (1) This application shall be docketed and assigned Case No. PUE-2003-00603.
- (2) An interim increase in rates, charges, tariffs, and the revised terms and conditions of service identified in Schedule 31A of the Company's application shall become effective on an interim basis, pursuant to § 56-240 of the Code of Virginia, for service rendered on and after February 26, 2004, and such interim increase in rates, charges, proposed tariffs, and revised terms and conditions of service shall remain subject to refund with interest until such time as the Commission has made its final determination in this case.
- (3) In accordance with the representations of the Company, the proposed rate schedules, charges, tariffs, and revised terms and conditions set out in Schedule 31C of the Company's application shall become effective only upon final approval by the Commission.
- (4) This matter is hereby continued until further order of the Commission.

**CASE NO. PUE-2003-00603  
SEPTEMBER 27, 2004**

APPLICATION OF  
WASHINGTON GAS LIGHT COMPANY

For an expedited increase in rates and charges and revisions to the tariffs and terms and conditions of service for natural gas service

**FINAL ORDER**

On January 27, 2004, Washington Gas Light Company ("WGL" or the "Company") filed an application, supporting testimony, and exhibits with the State Corporation Commission ("Commission") for an expedited increase in rates. The Company filed financial and operating data for the twelve months ending June 30, 2003, in support of its rate application. WGL requested authority to increase its annual operating revenues by \$19,552,297, an increase the Company represented was approximately 4.7% in total going-level revenues. It also requested that the Commission permit the rates, charges, fees, and terms



and conditions of service identified in Schedule 31A of its application to take effect on an interim basis, subject to refund pending investigation, and after such investigation and hearing, that the Commission approve the proposed rates on a permanent basis.

The Company identified certain tariff revisions in Schedule 31C of its application that it proposed to become effective only when approved by the Commission. These tariff revisions include the elimination of interruptible sales service under Rate Schedule Nos. 4 and 6, elimination of the Risk Sharing Mechanism under General Service Provision No. 21 and all other tariff revisions related to the Risk Sharing Mechanism, and the implementation of daily balancing for interruptible delivery service suppliers under proposed Rate Schedule No. 11 and related changes to Rate Schedule No. 7.

In its February 23, 2004, Preliminary Order, the Commission docketed the captioned case and permitted the proposed rates, charges, fees, and terms and conditions of service set out in Schedule 31A of WGL's expedited rate application to take effect on an interim basis, subject to refund with interest, effective for service rendered on and after February 26, 2004. The Commission determined in the same Order, that the schedules, tariffs, charges, and terms and conditions of service in Schedule 31C should become effective only if finally approved by the Commission.

On February 25, 2004, WGL, by counsel, filed its rates, charges, tariffs, and revised terms and conditions that it proposed to make effective on an interim basis for service rendered on and after February 26, 2004, together with an executed bond dated February 19, 2004, to secure any refund that might be ordered by the Commission.

On February 27, 2004, the Commission entered its Order Filing Bond.

On March 12, 2004, the Commission entered its Order for Notice and Hearing. This Order assigned a Hearing Examiner to the matter, established a procedural schedule for the filing of testimony by the Company, Staff, and respondents and provided for the receipt of written comments by public witnesses.

On March 23, 2004, the Apartment and Office Building Association of Metropolitan Washington ("AOBA"), by counsel, filed a Motion to Change Hearing Date. Counsel for AOBA represented that the Company, the Division of Consumer Counsel, Office of the Attorney General (the "AG") and the Staff did not object to the rescheduling of the hearing.

On March 24, 2004, the Hearing Examiner issued a Ruling rescheduling the hearing on the captioned application from September 15, 2004, to September 20, 2004, and prescribing a new public notice to be published by the Company within its service territory.

On August 6, 2004, acting in response to a request by Stand Energy Corporation ("Stand") for an extension of time to file its testimony, the Hearing Examiner granted Stand's Motion and directed that the date on which testimony related to Rate Schedule No. 11 for participants other than Staff was to be filed was extended to August 13, 2004.

On the same day, the Hearing Examiner granted a request by the Company to file revised tariff pages related to Rate Schedule No. 11. The Hearing Examiner noted that the purpose of the proposed changes was to incorporate revisions to the proposed tariff that were negotiated with gas suppliers through a roundtable process conducted in Maryland. As a result of the Hearing Examiner's August 6, 2004, Ruling, revised tariff page Nos. 57E, 57G, and 57H were accepted for filing.

Further, on August 6, 2004, the Hearing Examiner entered a protective ruling in order to facilitate the handling of confidential information and to permit the development of all of the issues in the proceeding, some of which, according to the Hearing Examiner, could involve confidential information.

On August 30, 2004, WGL, by counsel, filed with the Clerk of the Commission a Motion for a partial suspension of the procedural schedule in the captioned matter. Specifically, the Company requested that the date for filing its rebuttal testimony be suspended pending the outcome of the parties' settlement negotiations.

On August 30, 2004, the Hearing Examiner granted the Company's Motion and suspended the date by which the Company had to file its rebuttal testimony until further ruling of the Hearing Examiner.

On September 15, 2004, the Company filed a Motion to Excuse Witnesses from Attendance at the public hearing scheduled for the matter. In support of its Motion, WGL represented that a Stipulation resolving all issues in this proceeding and supported by six of the participants of the proceeding was filed with the Clerk of the Commission on September 15, 2004. The Company noted that under the terms of the Stipulation, the prefiled testimony filed by the case participants would be made part of the record without cross-examination.

On September 15, 2004, the Hearing Examiner granted the Company's Motion and directed that any participant desiring to cross-examine a witness who prefiled testimony: (i) identify on or before 4:00 p.m., September 16, 2004, all witnesses whom they intended to cross-examine at the public hearing scheduled for September 20, 2004; (ii) identify the subject matter of the intended cross-examination; (iii) estimate the length of such cross-examination; and (iv) notify all counsel and the Hearing Examiner of the forgoing by e-mail. No participant indicated an intent to call any witnesses.

On the appointed day, the matter came for hearing before Michael D. Thomas, Hearing Examiner. Counsel appearing included Donald R. Hayes, Esquire, counsel for the Company; Frann G. Francis, Esquire, counsel for AOBA; D. Mathias Roussy, Jr., Esquire, counsel for the AG; Renata M. Manzo, Esquire, counsel for Stand Energy Corporation ("Stand"); Louis R. Monacell, Esquire, counsel for Amerada Hess Corporation ("Hess"); and Sherry H. Bridewell, Esquire, and Glenn P. Richardson, Esquire, counsel for the Commission Staff. The Company's proof of notice was received into the record as Exhibit A. The prefiled direct testimonies of all witnesses were received into evidence without cross-examination and without the witnesses taking the stand. No public witnesses appeared at the hearing.

The Hearing Examiner received the September 15, 2004, Stipulation into evidence as Exhibit 14 and advised the case participants that he was inclined to recommend adoption of the terms of the Stipulation in his Report. Based on that representation, counsel for the participants waived their right to file comments to the Hearing Examiner's Report.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

On September 23, 2004, the Hearing Examiner issued his Report in the proceeding. The Hearing Examiner recommended that the Commission accept the terms of the Stipulation and continue the proceeding to receive the documents required by the Stipulation to be filed therein. The Examiner noted that the case participants waived the right to file comments to his Report.

NOW THE COMMISSION, having considered the record in the captioned matter, the September 23, 2004, Hearing Examiner's Report, and the applicable statutes, is of the opinion and finds that the findings and recommendations of the September 23, 2004, Hearing Examiner's Report should be adopted, and the terms of the September 15, 2004, Stipulation are reasonable. We agree with the Hearing Examiner that the Stipulation reflects an equitable balance and resolution of the issues in this case. Accordingly, we will incorporate the terms of this Stipulation into the Order by its attachment hereto as Attachment A.

In accepting the terms of the Stipulation, we note that Paragraph 12 requires the Company to submit an earnings test for the twelve months ended December 31, 2003, within 90 days of the issuance of a Final Order in this proceeding. This earnings test would replace the earnings test for the twelve months ended June 30, 2003, filed by WGL with its application. We wish to review and consider the results of this earnings test. Therefore, we will continue the proceeding to receive this document, and will direct our Staff to file a Report concerning the earnings test for the twelve months ended December 31, 2003, no later than ninety days after the earnings test for the twelve months period ending December 31, 2003, is filed with the Commission.

Accordingly, IT IS ORDERED THAT:

(1) The findings and recommendations of the September 23, 2004, Hearing Examiner's Report are hereby adopted, and the terms of the September 15, 2004, Stipulation are hereby incorporated herein by attachment hereto.

(2) The Company shall promptly file revised tariffs and terms and conditions of service with the Division of Energy Regulation that are consistent with the terms of the September 15, 2004, Stipulation.

(3) Revised tariffs, fees, charges and rates consistent with the provisions of the Stipulation shall be implemented for billings commencing with the October 2004 monthly billing cycle.

(4) In accordance with the provisions of Paragraph 13 of the Stipulation, WGL shall recalculate, using the rates, fees, charges and tariffs prescribed in Ordering Paragraph (3) above, each bill it rendered that used, in whole or in part, the rates, charges, fees, and tariffs that took effect under bond and subject to refund for service rendered on and after February 26, 2004. When application of the new rate results in a reduced bill, WGL shall refund the difference with interest as set out below within 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 months of the preceding calendar quarter.

(6) The refunds ordered in Ordering Paragraph (4) above may be credited to current customer's account (each refund category shall be shown separately on each customer's bill). 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. 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 issued 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 made promptly upon request of the customer. All unclaimed refunds shall be subject to § 55-210.6:2 of the Code of Virginia.

(7) WGL shall bear all costs incurred in effecting the refund ordered herein.

(8) Consistent with Paragraph 9 of the September 15, 2004, Stipulation, WGL shall provide a one-time credit to all Virginia ratepayers of \$3.2 million. This credit shall be implemented through a credit factor based on the latest available throughput on behalf of the Company's Virginia customers and shall appear as a one-time credit on customer bills in the monthly billing cycle following the refund of interim rates provided in Paragraph 13 of the Stipulation.

(9) On or before February 28, 2005, WGL shall deliver to the Commission's Divisions of Public Utility Accounting and Energy Regulation a report showing that all refunds and the one-time credit have been made in accordance with the provisions of this Order and detailing the costs of the refund and the accounts charged.

(10) In accordance with its representations made in Paragraph 11 of the Stipulation, WGL shall not file an application to increase its base rates such that proposed increased rates would become effective, on an interim basis, before January 1, 2006.

(11) In accordance with its representations made in Paragraph 20 of the Stipulation, WGL shall consider implementation of a Gas Administration Charge as part of its next rate case.

(12) In accordance with its representations in Paragraph 21 of the Stipulation, WGL shall work with Staff, AOBA, and other interested parties to evaluate the need for a separate rate Schedule for large volume commercial and industrial customers.

(13) In accordance with Paragraph 12 of the Stipulation, WGL shall file with the Commission an earnings test for the twelve months ended December 31, 2003, within ninety (90) days of the entry of this Order. Until such time as changed by the filing of a future rate case, WGL shall file its Annual Informational Filings ("AIFs") including any earnings tests, on a calendar year basis commencing with its AIF for the twelve months ended December 31, 2004.

(14) The Staff is authorized to file its response, if any, which may take the form of a Report to the calendar year 2003 earnings test referred to in Ordering Paragraph (13) above no later than ninety days (90) after that earnings test is filed in this case with the Commission.

(15) This proceeding shall be continued, pending further Order of the Commission.

NOTE: A copy of the 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-2003-00604  
MAY 28, 2004**

APPLICATION OF  
DELMARVA POWER & LIGHT COMPANY D/B/A CONECTIV POWER DELIVERY

To revise Cogeneration and Small Power Production Rates under Service Classification "X"

**ORDER ESTABLISHING COGENERATION TARIFF**

On December 24, 2003, Delmarva Power & Light Company d/b/a Conectiv Power Delivery ("Delmarva" or the "Company"), filed an Application, including written testimony and exhibits, with the State Corporation Commission ("Commission") for approval to revise the Company's Cogeneration and Small Power Production Rates under Service Classification "X." The Company requests that the rates, terms, and conditions proposed become effective upon Commission approval of the Application.

On February 3, 2004, the Commission issued an Order Establishing Cogeneration Proceeding which docketed the application and established a procedural schedule providing an opportunity for interested parties to comment or to request a hearing, directing the Staff to investigate and file a report, and permitting the Company to file any reply.

No comments or requests for hearing on the Application were filed.

The Staff investigated the Application and filed its Staff Report on March 19, 2004. The Staff finds Delmarva's proposed methodology to determine avoided energy and capacity costs based on the PJM hourly locational marginal prices ("LMP") and capacity market to be appropriate. However, the Staff notes that this methodology could prove cumbersome on small qualifying facilities ("QFs"). The Staff suggests that Delmarva allow its Service Classification "X" customers the option of receiving the monthly average LMP which would remove the necessity of monitoring hourly LMPs. In addition, the Staff recommends that the Company's proposed customer monthly and meter charges for time-differentiated meters be accepted.

The Staff Report noted that, should the Company offer the option of using the monthly average LMP, the Company must file supplemental customer and metering rates for customers with a non-time-differential meter. On March 26, 2004, Delmarva filed a response indicating the Company's agreement with this recommendation. The Company submitted revised tariff sheets to implement the proposal.

On May 6, 2004, the Hearing Examiner filed his report. The Hearing Examiner found that: (1) the Company's proposed avoided energy and capacity cost methodologies are reasonable and should be adopted; (2) the recommendation to permit QFs the option of having their avoided costs payments based on average monthly price is reasonable and should be adopted; (3) the Company's proposed customer monthly charge and meter charges for time-differentiated meters are reasonable and should be accepted; and (4) the Company's proposed supplemental customer and metering rates for customers that have a non-time-differentiated meter are reasonable and should be adopted. The Hearing Examiner recommends that the Commission enter an order adopting the findings herein, approve Delmarva's proposed Service Classification "X" rates, and dismiss the case from the Commission's docket of active cases.

On May 18, 2004, Delmarva filed a response supporting the Hearing Examiner's recommendations to the Commission and urging the Commission to adopt the Hearing Examiner's Report.

NOW THE COMMISSION, upon consideration of the matter, is of the opinion and finds that the findings and recommendations contained in the Hearing Examiner's Report should be adopted.

Accordingly, IT IS ORDERED THAT:

- (1) The findings and recommendations contained in the Hearing Examiner's report are hereby adopted.
- (2) The Company's proposed avoided energy and capacity cost methodologies, proposed monthly charge and meter charges for time-differentiated meters, and proposed supplemental customer and metering rates for customers that have a non-time-differentiated meter are approved effective as of the date of this Order.
- (3) The Company shall permit QFs the option of having their avoided costs payments based on average monthly price.
- (4) There being nothing further to be done herein, this matter should be dismissed from the Commission docket of active cases, and the papers filed herein placed in the Commission's file for ended causes.

**CASE NO. PUE-2004-00001  
JANUARY 15, 2004**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte: In the matter concerning whether there is a sufficient degree of competition such that the elimination of default service will not be contrary to the public interest

**ORDER ESTABLISHING INVESTIGATION**

Section 56-585 E of the Virginia Electric Utility Restructuring Act ("Restructuring Act"), Chapter 23 (§ 56-576 et seq.) of Title 56 of the Code of Virginia, directs the State Corporation Commission ("Commission") to determine, on or before July 1, 2004, and annually thereafter, after notice and opportunity for hearing, whether there is a sufficient degree of competition such that the elimination of default service for particular customers, particular classes of customers or particular geographic areas of the Commonwealth will not be contrary to the public interest. This section further directs the Commission to report its findings and recommendations concerning modification or termination of default service to the General Assembly and to the Commission on Electric Utility Restructuring, no later than December 1, 2004, and annually thereafter.

NOW THE COMMISSION, having considered § 56-585 E of the Restructuring Act, is of the opinion that this matter should be docketed, notice of this investigation should be given to the public, interested parties should have an opportunity to comment and/or request a hearing in this matter, and the Commission Staff should file a report presenting its findings and recommendations to the Commission.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed and assigned Case No. PUE-2004-00001.
- (2) On or before January 30, 2004, the Commission's Division of Information Resources shall publish the following notice as classified advertising in newspapers of general circulation throughout the Commonwealth of Virginia.

NOTICE TO THE PUBLIC OF A PROCEEDING PURSUANT  
TO § 56-585 E OF THE VIRGINIA ELECTRIC UTILITY  
RESTRUCTURING ACT TO DETERMINE IF THERE  
IS A SUFFICIENT DEGREE OF COMPETITION SUCH  
THAT THE ELIMINATION OF DEFAULT SERVICE WILL  
NOT BE CONTRARY TO THE PUBLIC INTEREST  
CASE NO. PUE-2004-00001

Section 56-585 E of the Virginia Electric Utility Restructuring Act ("Restructuring Act"), Chapter 23 (§ 56-576 et seq.) of Title 56 of the Code of Virginia, directs the State Corporation Commission ("Commission") to determine, on or before July 1, 2004, and annually thereafter, after notice and opportunity for hearing, whether there is a sufficient degree of competition such that the elimination of default service for particular customers, particular classes of customers or particular geographic areas of the Commonwealth will not be contrary to the public interest. This section further directs the Commission to report its findings and recommendations concerning modification or termination of default service to the General Assembly and to the Commission on Electric Utility Restructuring, no later than December 1, 2004, and annually thereafter.

Interested persons who want to participate fully in this proceeding as a respondent must file a notice of participation on or before February 13, 2004, with the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Any person who expects to participate as a respondent should promptly obtain a copy of the Order Establishing Investigation for complete details of the procedural schedule and instructions on participation in this case.

On or before February 27, 2004, any interested person wishing to comment and/or request a hearing in this matter shall file an original and fifteen (15) copies of such written comments or request for hearing with the Clerk of the Commission at the address set forth above, and shall refer to Case No. PUE-2004-00001. Those persons who file comments and do not otherwise file a notice to become a respondent may participate in any scheduled hearing by giving oral testimony as a public witness. All requests for hearing shall state why a hearing is necessary and why such issues cannot be adequately addressed in written comments. If no sufficient request for hearing is received, a formal hearing with oral testimony may not be held, and the Commission may make its decision based upon the papers filed in this proceeding.

Interested persons desiring to submit comments electronically may do so by following the instructions available at the Commission's website: <http://www.state.va.us/scc/caseinfo/notice.htm>.

Interested persons are encouraged to become parties of record by filing a notice of participation. The Commission does not anticipate that further public notices in this matter will be published. Further scheduling and other procedural orders will only be served on parties of record.

VIRGINIA STATE CORPORATION COMMISSION

(3) On or before February 13, 2004, any interested person wishing to participate as a respondent in this proceeding shall file an original and fifteen (15) copies of a notice of participation with the Clerk of the Commission, c/o Document Control Center, P. O. Box 2118, Richmond, Virginia 23218-2118. Pursuant to Rule 5 VAC 5-20-80 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. Interested parties shall refer in all of their filed papers to Case No. PUE-2004-00001.

(4) On or before February 27, 2004, any interested person wishing to comment or request a hearing in this matter shall file an original and fifteen (15) copies of such written comments and/or request for hearing with the Clerk of the Commission at the address set forth above, and shall refer to Case No. PUE-2004-00001. Any request for hearing shall detail reasons why such issues cannot be adequately addressed in written comments. If no sufficient request for hearing is received, a formal hearing with oral testimony may not be held, and the Commission may make its decision based upon the papers filed in this proceeding.

(5) Interested persons desiring to submit comments electronically may do so by following the instructions available at the Commission's website: <http://www.state.va.us/scc/caseinfo.notice.htm>.

(6) On or before March 12, 2004, the Commission Staff shall investigate this matter and file with the Clerk of the Commission an original and fifteen (15) copies of a report detailing its findings and recommendations, and responding to any comments filed by interested parties in this matter.

**CASE NO. PUE-2004-00001  
APRIL 23, 2004**

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

Ex Parte: In the matter concerning whether there is a sufficient degree of competition such that the elimination of default service will not be contrary to the public interest

**FINAL ORDER**

Section 56-585 E of the Virginia Electric Utility Restructuring Act ("Restructuring Act"), Chapter 23 (§ 56-576 *et seq.*) of Title 56 of the Code of Virginia, directs the State Corporation Commission ("Commission") to determine, on or before July 1, 2004, and annually thereafter, after notice and opportunity for hearing, whether there is a sufficient degree of competition such that the elimination of default service for particular customers, particular classes of customers or particular geographic areas of the Commonwealth will not be contrary to the public interest. This section further directs the Commission to report its findings and recommendations concerning modification or termination of default service to the General Assembly and to the Commission on Electric Utility Restructuring ("CEUR"), no later than December 1, 2004, and annually thereafter.

On January 15, 2004, the Commission issued an Order Establishing Investigation in the captioned matter providing that notice of the investigation be given, that interested parties have an opportunity to comment and/or request a hearing, and that the Staff investigate the matter and file a report presenting its findings and recommendations and responding to any comments filed by the interested parties.

The following nine parties filed comments addressing whether there is a sufficient degree of competition and whether default service should be modified or terminated: Apartment and Office Building Association of Metropolitan Washington; Appalachian Power Company d/b/a American Electric Power; Delmarva Power & Light Company; Division of Consumer Counsel, Office of the Attorney General; National Energy Marketers Association ("NEM"); The Potomac Edison Company d/b/a Allegheny Power; Urchie B. Ellis; Virginia Electric and Power Company ("Dominion Virginia Power"); and the Virginia Electric Cooperatives.<sup>1</sup> Excerpts from the comments were included in the Staff Report filed on March 12, 2004.

The Staff Report indicates that none of the parties assert that a sufficient level of competition exists such that the elimination of default service will not be contrary to the public interest and that, with the exception of the NEM, all of the parties advise against the elimination of or changes to default service at the current time. The NEM comments are directed largely toward the elimination of NEM-identified competitive barriers and assert that the market will function well once these barriers are eliminated. The Staff Report states that with respect to default service, the essence of the NEM recommendation is that the Commission should encourage utilities to exit the merchant-related supply functions at the earliest possible date and rely on the competitive market to provide such functions at market prices.

The Staff Report contains seven findings, many of which are included in the comments filed. The Staff notes that less than one-tenth of one percent of eligible customers have chosen a competitive supplier. All of these customers are in Dominion Virginia Power's service territory and the majority of them are residential customers that have chosen a premium supply service at a price in excess of the incumbent's capped rates, while the remaining customers hold small non-residential accounts. There are eight licensed competitive service suppliers, but only three are registered with incumbent utilities, and the Staff is unaware of any current competitive offers that are being actively marketed. Dominion Virginia Power was granted a delay in the start of its retail access pilot programs based largely on market conditions that were not conducive to competitive activity. The 2004 General Assembly passed legislation that, among other things, extended the capped rates of incumbent utilities until December 31, 2010, due in part to concerns with failure of competition to develop. Finally, the Commission has directed that all incumbent utilities must provide default service to all customers requiring such service under the rates, terms, and conditions of capped rate electric supply service. There have been no subsequent developments which would alter this decision.

<sup>1</sup> Collectively on behalf of A & N Electric Cooperative, BARC Electric Cooperative, Central Virginia Electric Cooperative, Community Electric Cooperative, Craig-Botetourt Electric Cooperative, Mecklenburg Electric Cooperative, Northern Neck Electric Cooperative, Northern Virginia Electric Cooperative, Prince George Electric Cooperative, Rappahannock Electric Cooperative, Shenandoah Valley Electric Cooperative, Southside Electric Cooperative, Old Dominion Electric Cooperative, and the Virginia, Maryland & Delaware Association of Electric Cooperatives.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Staff Report therefore recommends that the Commission find and report to the General Assembly and the CEUR in the Commission's 2004 annual report on the status of competition in Virginia that there is not a sufficient degree of competition such that the elimination of default service for particular customers, particular classes of customers or particular geographic areas of the Commonwealth will not be contrary to the public interest. The Staff states default service should not be eliminated or otherwise modified at the current time.

NOW THE COMMISSION, upon consideration of the comments filed by interested parties and the Staff Report, is of the opinion and finds that there is not a sufficient degree of competition such that the elimination of default service for particular customers, particular classes of customers or particular geographic areas of the Commonwealth will not be contrary to the public interest. We find that default service should not be eliminated or otherwise modified at the current time. We will direct that these findings be reported to the General Assembly and the CEUR in the Commission's 2004 annual report on the status of competition in Virginia.

Accordingly, IT IS ORDERED THAT:

(1) It shall be reported to the General Assembly and the CEUR in the Commission's 2004 annual report on the status of competition in Virginia that there is not a sufficient degree of competition such that the elimination of default service for particular customers, particular classes of customers or particular geographic areas of the Commonwealth will not be contrary to the public interest and that default service should not be eliminated or otherwise modified at the current time.

(2) There being nothing further to come before the Commission in this proceeding, this case shall be removed from the docket and the papers transferred to the file for ended causes.

**CASE NO. PUE-2004-00002  
FEBRUARY 11, 2004**

APPLICATION OF  
CENTRAL VIRGINIA ELECTRIC COOPERATIVE

For authority to incur long-term debt

**ORDER GRANTING AUTHORITY**

On January 22, 2004, Central Virginia Electric Cooperative ("Applicant" or the "Cooperative") filed an application with the Virginia State Corporation Commission ("Commission") under Chapter 3 of Title 56 of the Code of Virginia for authority to incur long-term debt with the Rural Utilities Service ("RUS"). Applicant paid the requisite fee of \$250.

In its application, the Cooperative requests authority to borrow \$17,500,000 in the form of a RUS Guaranteed Federal Financing Bank Construction Loan. The proceeds will be used to fund a portion of the Applicant's three-year construction work plan. The plan specifically includes capital expenditures for automated meter reading equipment, as well as distribution and transmission plant construction within the Cooperative's service territory.

The loan will have a 35-year maturity. Applicant represents that the interest rate on the loan is based on the Treasury rate, which is established daily by the United States Treasury, plus one-eighth percent. Applicant intends to select the interest rate term for each advance of funds. Such interest rate terms can range from one year to 35 years.

THE COMMISSION, upon consideration of the application and the advice of 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 \$17,500,000 from the RUS under the terms and conditions and for the purposes set forth in the application.

2) Within thirty (30) days of the date of each advance of funds from RUS, Applicant 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 selected, and the interest rate term.

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-2004-00003  
FEBRUARY 11, 2004**

APPLICATION OF  
APPALACHIAN POWER COMPANY

For approval under Chapter 3 of Title 56 of the Code of Virginia to enter into interest rate management agreements

**ORDER GRANTING AUTHORITY**

On January 22, 2004, Appalachian Power Company d/b/a/ American Electric Power ("APCo" or "Applicant") filed an application with the State Corporation Commission ("Commission") for authority under Chapter 3 (§ 56-55 et seq.) of Title 56 of the Code of Virginia to enter into interest rate management agreements. Applicant paid the requisite fee of \$250.

In its application, APCo requests authority to enter into interest rate management agreements ("Agreements"). Such Agreements will be entered into under the International Swap Dealers Association Master Agreement ("ISDA") and would allow Applicant to execute financial transactions to reduce its effective interest cost and manage interest costs on financings. The request would limit the aggregate notional amount of these Agreements to no more than 25% of Applicant's total indebtedness, from the date of Commission approval through December 31, 2004.

Applicant indicates that the requested authority will provide APCo's management sufficient alternatives and flexibility to reduce its effective interest cost and to manage interest cost on financings. The authority will allow APCo to use products found in today's capital markets, consisting of, but not limited to, "interest rate swaps," "caps," "collars," "floors," "options," or hedging products such as "forwards" or "futures," or similar products, the purpose of which is to manage and minimize interest costs. APCo expects to enter into Agreements with counterparties that are highly rated financial institutions. Each transaction will correspond to a specific underlying security, for a specific time period, and to a stated principal amount. The aggregate notional amount of all Agreements will not exceed 25% of Applicant's total existing debt obligations.

APCo also stated that its application is consistent with the authority granted in Case No. PUF-1997-00019.<sup>1</sup> We have also considered broad derivative approval in Case No. PUF-2000-00017.<sup>2</sup> In those cases we authorized similar transactions with several conditions including: 1) that no counterparties to the Agreement shall have credit ratings of less than investment grade; and 2) that the Commission may revoke and/or modify the authority granted at any point in the future if it believes such revocation and/or modification is in the public interest.

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. However, we will require that APCo enter into Agreements with counterparties having credit ratings of at least investment grade. We also reserve the ability to revoke and/or modify the authority granted herein at any point in the future if such revocation and/or modification is in the public interest.

Accordingly, IT IS ORDERED THAT:

(1) Applicant is hereby authorized to enter into Agreements with a maximum aggregate notional amount not to exceed 25% of Applicant's total existing debt obligations, from time to time, from the date of this Order through December 31, 2004, under the terms and conditions and for the purposes set forth in the application, as modified below.

(2) Applicant shall not enter into any Agreement transactions involving counterparties having credit ratings of less than investment grade.

(3) Applicant shall submit a preliminary Report of Action within ten (10) days after any transactions executed under the authority granted in Ordering Paragraph (1) and include the date of the transaction, a general description of the type of transaction executed, the notional amount of the security underlying the transaction, the specific series of debt underlying the transaction, the period covered by the transaction, the initial interest rate (or rate index) of the transaction, and the yield to maturity on a U. S. Treasury swap security of comparable maturity, and the yield to maturity on a U. S. Treasury security of comparable maturity.

(4) Applicant shall file a final Report of Action on or before February 28, 2005, and include all information required in Ordering Paragraph (3) and a detailed account of all the actual expenses and fees paid to date for the transactions with an explanation of any variances from the estimated expenses contained in the pricing parameters described in the application.

(5) Approval of the application shall have no implications for ratemaking purposes.

(6) Should Applicant request additional time to exercise the authority granted herein beyond December 31, 2004, such request for any extension of time shall be filed no later than November 5, 2004.

(7) The Commission may revoke and/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.

(8) This matter shall be continued, subject to the continuing review, audit, and appropriate directive of the Commission.

<sup>1</sup> In the matter of Virginia Electric and Power Company Interest Rate Swap Agreements, Case No. PUF-1997-00019, Orders dated November 24, 1997 and March 12, 1999.

<sup>2</sup> Application of Kentucky Utilities d/b/a Old Dominion Power, For authority to use and assume obligations associated with financial derivative instruments, Case No. PUF-2000-00017, Orders dated June 23, 2000 and December 17, 2002.

**CASE NO. PUE-2004-00004**  
**MAY 26, 2004**

APPLICATION OF  
 VIRGINIA ELECTRIC AND POWER COMPANY

To revise its cogeneration tariff pursuant to PURPA Section 210

**FINAL ORDER**

On February 17, 2004, Virginia Electric and Power Company ("Virginia Power" or the "Company"), filed an application with the State Corporation Commission ("Commission") for approval to modify its cogeneration and small power production payments under the Company's Schedule 19 for 2004 and 2005.

The application included a revised Schedule 19 tariff with rates for 2004,<sup>1</sup> schedules reflecting the calculation of the energy and capacity rates, and supporting data, as well as the data required to determine the energy rates under the Differential Revenue Requirement ("DRR") method for the three qualifying facilities ("QFs") with contracts still tied to the DRR methodology. Virginia Power indicates that as soon as the proposed 2004 tariff is approved, the Company will adjust the rates currently paid to QFs subject to Schedule 19 retroactive to January 1, 2004.<sup>2</sup> Virginia Power plans to update the Schedule 19 tariff for 2005 prices following the conclusion of this year's wires charges determination.

On February 25, 2004, the Commission issued an Order Establishing Cogeneration Proceeding which docketed the application and established a procedural schedule providing an opportunity for interested parties to comment or to request a hearing, directing the Staff to investigate and file a report, and permitting the Company to file any reply.

No comments or requests for hearing on the application were filed.

On April 16, 2004, the Staff filed its report which found that both the market-based pricing methodology and the DRR methodology are appropriate to develop Schedule 19 avoided cost payments. The Staff confirmed the avoided cost payments calculated by Virginia Power. In addition, the Staff found the Company's avoided costs forecasted using the DRR methodology to be consistent with recent power market trends.

On April 23, 2004, Virginia Power filed a letter advising the Commission that it had no objection to the Staff report and did not intend to file any response or testimony.

The Hearing Examiner filed her report on May 12, 2004. The Hearing Examiner found that based on the record in this proceeding: (1) it is reasonable to use the market-based pricing and the DRR methodologies to calculate Schedule 19 rates for 2004 and 2005; (2) the rates adjusted for line losses as proposed by the Company are reasonable; (3) the Company's proposed avoided energy and capacity cost rates should be approved effective January 1, 2004; and (4) the Company should adjust payments already made in 2004 to reflect the rates approved retroactive to January 1, 2004. The Hearing Examiner recommends that the Commission enter an order adopting the findings herein, approve Virginia Power's proposed Schedule 19 rates, and dismiss the case from the Commission's docket of active cases.

NOW THE COMMISSION, upon consideration of the matter, is of the opinion and finds that the findings and recommendations contained in the Hearing Examiner's Report should be adopted.

Accordingly, IT IS ORDERED THAT:

- (1) The findings and recommendations contained in the Hearing Examiner's report are hereby adopted.
- (2) The Company's proposed 2004 Schedule 19 rates and methodologies are approved effective January 1, 2004, and the Company shall take the necessary steps to adjust the rates paid thus far in 2004 retroactively to this effective date.
- (3) The Company shall update the Schedule 19 tariff for 2005 prices following the conclusion of this year's wires charges proceeding.
- (4) There being nothing further to be done herein, this matter should be dismissed from the Commission docket of active cases, and the papers filed herein placed in the Commission's file for ended causes.

<sup>1</sup> The Company's proposed 2004 rates were determined by the market based pricing methodology used to establish the 2002 and 2003 Schedule 19 rates in Application of Virginia Electric & Power Company, To revise its cogeneration tariff pursuant to PURPA Section 210, Case No. PUE-2001-00664, 2002 S.C.C. Ann. Rep. 501.

<sup>2</sup> The Company is currently using 2003 rates.



**CASE NO. PUE-2004-00005  
MARCH 15, 2004**

APPLICATION OF  
THE JOLINE K. GLEATON FAMILY TRUST,  
THE MARION A. GLEATON FAMILY TRUST,  
AND GLEATON'S MOBILE HOMES, L.L.C.  
and  
BRADLEY P. DRESSLER

For authority to transfer utility assets under Chapter 5, Title 56 of the Code of Virginia

**ORDER DISMISSING APPLICATION**

On February 12, 2004, The Joline K. Gleaton Family Trust, The Marion A. Gleaton Family Trust, and Gleaton's Mobile Homes, L.L.C. (collectively "Sellers"), and Bradley P. Dressler ("Buyer"), completed an application with the State Corporation Commission ("Commission") requesting authority to transfer utility assets pursuant to the Utility Transfers Act, Chapter 5 (§ 56-88 *et seq.*) of Title 56 of the Code of Virginia ("Code"). The application was filed after a Contract For Purchase and Sale ("Purchase Agreement") was executed wherein the Sellers agreed to sell, and the Buyer agreed to buy, Gleaton's Mobile Home Park, a mobile home park located at 13145 Minnieville Road, Woodbridge, Virginia.

The property subject to sale under the Purchase Agreement includes four (4) parcels of real estate located in Prince William County, Virginia, certain easements and improvements, and water and sewerage systems providing service to tenants of the mobile home park. The water system consists of three wells, a 5,000 gallon pressure tank, a distribution system, and a greensand filtration system authorized by the Virginia Department of Health to serve 133 connections. The sewerage system is a gravity fed underground collection system with treatment facilities certified as a Class III treatment facility by the Virginia Department of Environmental Quality, and authorized to discharge 19,800 gallons of treated effluent per day. The mobile home park does not bill separately or levy any specific charges for water and sewerage services. Tenants are only responsible for paying a rental charge, and all water and sewerage services are provided as incidental services to the rental of mobile home lots.

On March 1, 2004, the Commission's Office of General Counsel ("OGC" or "Staff") filed a Motion to Dismiss the application. In support of its motion, Staff argued that the application should be dismissed on the grounds that the proposed transfer of the water and sewerage systems does not require approval under the Utility Transfers Act. The Staff noted there are no actual "sales" of water and sewerage services between a public utility and customers, and all services are provided as incidental services to the mobile home park's primary business of renting mobile home lots. Staff further noted that there are numerous businesses that could arguably fall within the purview of the Commission's jurisdiction if the application was held subject to the Utility Transfers Act. Hotels, shopping centers, camp grounds, marinas, hospitals, and a host of other businesses with central systems that provide water or sewerage service on-site and recover their total costs through rental charges, sales prices, or some other form of compensation would all be subject to the Utility Transfers Act. The Staff argued that the legislature never intended such a broad based application of the Utility Transfers Act and, therefore, recommended that the application be dismissed.

NOW THE COMMISSION, having considered the Motion to Dismiss, is of the opinion, and finds, that the motion should be granted and the application dismissed. Our jurisdiction under the Utility Transfers Act is limited to those transactions where a "public utility" transfers "utility assets" to another company. Here, the mobile home park is not a "public utility" selling water and sewerage services to the public as that business relationship is commonly understood. While the mobile home park's water and sewerage facilities are comparable to the facilities operated by many public utilities in the Commonwealth, the fundamental nature of the mobile home park's business operation is entirely different from the traditional business model of a public utility. The mobile home park does not sell water and sewerage services to its tenants or to the general public. The provision of water and sewerage services is merely incidental to the mobile home park's primary business of renting mobile home lots. Under these circumstances, we find there is no mercantile relationship between a "public utility" and "customers," which has traditionally triggered the Commission's regulatory oversight under the Utility Transfers Act.

There are countless private businesses operating in the Commonwealth that would be subject to our prior approval should we hold the instant application subject to the Utility Transfers Act. As Staff noted in its motion, there are hotels, shopping centers, camp grounds, marinas, hospitals, and a host of other private businesses with central water and sewerage systems that provide water and sewerage services on-site and recover their total costs through rental charges, sales prices, or some other form of compensation. We do not believe the legislature intended the Commission to regulate private businesses providing on-site water and sewerage services free of charge, and where the provision of such services is merely incidental to another primary business. We therefore hold that, under the facts of this case, Commission approval of this application is not required under the Utility Transfers Act.

Accordingly, IT IS ORDERED THAT:

- (1) The Staff's March 1, 2004, Motion to Dismiss is hereby granted.
- (2) The application is dismissed, and the papers herein shall be lodged in the Commission's file for ended causes.

**CASE NO. PUE-2004-00007  
MARCH 4, 2004**

APPLICATION OF  
DELMARVA POWER & LIGHT COMPANY

For authority to borrow up to \$275 million in short-term debt and for continued participation in the Pepco Holdings System Money Pool

**ORDER GRANTING AUTHORITY**

On February 9, 2004, Delmarva Power & Light Company ("Delmarva", or "Applicant") filed an application with the State Corporation Commission ("Commission") under Chapters 3 and 4 of Title 56 of the Code of Virginia requesting authority to incur short-term debt up to \$275,000,000 and for continued participation in the Pepco Holdings System Money Pool ("Money Pool"). The amount of short-term debt proposed in this application is in excess of twelve percent of total capitalization as defined in § 56-65.1 of the Code of Virginia. Applicant has paid the requisite fee of \$250.

Applicant requests authority to borrow short-term debt up to \$275,000,000 through March 31, 2006. Applicant requests authority to borrow either directly from the capital markets or through the Money Pool which is currently being administered by PHI Services Company, a wholly owned subsidiary of Pepco Holdings, Inc. ("PHI"), a registered holding company under the Public Utility Holding Company Act of 1935 ("PUHCA"). Applicant intends to issue short-term debt through its commercial paper program, borrowings under credit agreements entered into, or other forms of short-term debt.

Delmarva also requests authority to invest excess cash in the Money Pool. Delmarva states it has adopted a policy to limit its investment in the Money Pool to a maximum of \$25,000,000 at any one time. All investments by Money Pool participants, including Delmarva, are guaranteed by PHI. Delmarva states that PHI has substantial liquidity supporting this guarantee. PHI has committed credit facilities from major lenders totaling \$700,000,000 to support its guarantee. As of December 31, 2003, the entire commitment was undrawn and available to PHI. PHI is rated investment grade by Moody's Investors Services, Standard and Poor's, and Fitch Investment Services, nationally recognized rating agencies. Delmarva states it will only borrow from the Money Pool when it is advantageous to do so. Applicant states that such direct and affiliate borrowings were most recently authorized in Case No PUF-2002-00003 by Commission Orders dated February 26, 2002, and September 6, 2002. Interest rates will vary depending on market conditions.

Applicant states that the short-term borrowings will be used to meet temporary working capital requirements and as interim or bridge financing for long-term capital requirements and for other proper corporate purposes.

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, subject to the modifications herein, will not be detrimental to the public interest.

The Commission notes that participants in the Money Pool include both regulated utilities and non-utility participants. The non-utility participants likely have less certain revenues and more business risk than rate regulated participants. Such risks increase the likelihood of bankruptcy by those participants. In the event of bankruptcy by one of the non-utility participants, Delmarva's investment in the Money Pool may be lost. Delmarva has proposed safeguards that can insulate its exposure to this additional risk. Delmarva's parent, PHI, through the Money Pool Agreement, has guaranteed all Delmarva deposits in the Money Pool. PHI maintains substantial independent committed lines of credit to support this guarantee. Delmarva has also instituted Short-Term Investment Guidelines that limit Delmarva's investment in the Money Pool to no more than \$25,000,000 at any one time. We find these two safeguards to be sufficient in this case to protect Delmarva's short-term investments in the Money Pool from the risks associated with unregulated affiliates.

Additionally, the Commission is aware that Securities and Exchange Commission ("SEC") authority for the Money Pool expires before the requested authorization period in this case. We will require that Delmarva file with the Division of Economics and Finance copies of any Form U-1 or Form U-1A it may file with the SEC. The Commission is also aware of the on-going debate over the possible repeal or amendment of PUHCA. Therefore, authority granted herein is subject to PUHCA remaining materially unaltered. We also find that the authority granted in Case No. PUF-2002-00003 should be terminated and superceded by the approval granted herein.

Accordingly, IT IS ORDERED THAT:

- 1) The authority granted in Case No. PUF-2002-00003 is hereby terminated and superceded by the authority granted herein.
- 2) Applicant is hereby authorized to incur short-term indebtedness in excess of twelve percent of total capitalization in an aggregate amount not to exceed \$275,000,000 at any one time from the date of this order through March 31, 2006, for the purposes and under the terms and conditions set forth in the application, and subject to the condition detailed herein. Such indebtedness may be incurred either through the Pepco Holdings System Money Pool or directly through the capital or credit markets.
- 3) Applicant is authorized to invest temporary excess cash up to \$25,000,000 in the Pepco Holdings System Money Pool from the date of this order through March 31, 2006, under the terms and conditions and for the purposes set forth in the application, subject to modifications detailed herein.
- 4) As a condition of the authority granted in this proceeding, in the event that PUHCA is repealed or materially amended before March 31, 2006: (a) within thirty days after PUHCA is repealed or materially amended, Delmarva shall file an application with the Commission to continue the authority granted in this proceeding; and (b) the authority granted in this proceeding shall expire ninety (90) days after PUHCA is repealed or materially amended unless otherwise ordered by the Commission.
- 5) Applicant shall seek subsequent approval from the Commission if the terms and conditions of the Pepco System Money Pool Agreement approved herein should change, or if PHI'S \$700,000,000 committed credit facility is ever reduced.
- 6) Approval of this application does not preclude the Commission from exercising the provision of §§ 56-78 and 56-80 of the Code of Virginia hereafter.

- 7) 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.
- 8) Approval of this application shall have no implications for ratemaking purposes.
- 9) Applicant shall file semi-annual reports of action on or before August 30, 2004, March 1, 2005, August 30, 2005, and March 2, 2006, for the preceding semi-annual period to include:
- a) schedules showing (1) monthly Pepco Holdings System Money Pool balances for each participant including beginning balance for the month, ending balance for the month, and net activity for the month; (2) the Pepco Holdings System Money Pool interest rate for each month and an explanation of how the rate is calculated; (3) an average comparable external borrowing or lending rate for each month; and (4) each type of allocated fee, and an explanation of how the fees were allocated; and
  - b) monthly schedules of the participating companies' average borrowings (balances and rates) through any short-term debt instrument other than the Pepco Holdings System Money Pool.
- 10) This matter shall be continued, subject to the continuing review, audit, and appropriate directive of the Commission.

**CASE NO. PUE-2004-00008  
JUNE 11, 2004**

PETITION OF  
KILBY SHORES WATER COMPANY

For approval to sell the water facility assets serving the Kilby Shores subdivision to the City of Suffolk pursuant to Chapter 5 of Title 56 of the Code of Virginia

**ORDER GRANTING APPROVAL**

On March 1, 2004, Kilby Shores Water Company ("Kilby Shores" or the "Applicant") filed a complete petition with the State Corporation Commission (the "Commission") requesting approval of a Sales Agreement (the "Agreement") to sell the water utility assets serving the Kilby Shores subdivision in Suffolk, Virginia (the "Kilby Shores system"), to the City of Suffolk (the "City") pursuant to Chapter 5 of Title 56 (the "Utility Transfers Act") of the Code of Virginia (the "Code").

Kilby Shores is a Virginia public service corporation that provides water service to 131 residential customers in the Kilby Shores subdivision. Kilby Shores has an additional connection that supplies water service to an apartment complex with 24 units. Kilby Shores is solely owned by R.L. Magette.

On December 4, 2003, the Applicant and the City executed an Agreement for the City to acquire the assets of the Kilby Shores system, which included a customer list, easements, a well house and lot, two wells, well pumps and motors, two storage tanks, distribution pumps, an air compressor, a master meter, valves and piping, electrical switch gear, over 8,000 feet of distribution piping, 130 meters, meter boxes and service lines, and two fire hydrants. The purchase price was \$250,000, which the Applicant represents was determined through arms' length negotiations. The transaction closed and the transfer of the utility assets took place December 5, 2003.

The Applicant represents that it had two reasons for making the transfer. First, the Kilby Shores system was one of approximately fifty (50) private water systems in the Tidewater region that were in violation of the Environmental Protection Agency's ("EPA(s)") regulatory standards for fluoride content. The EPA and the Virginia Department of Health ("VDH") were preparing to implement a consent order to require Kilby Shores to bring the system into compliance. To avoid the significant capital expenditures necessary to comply with the impending consent order, the Applicant sold the Kilby Shores system to the City. The Applicant indicates that the transfer allowed Mr. Magette, Kilby Shores' President and sole owner, to retire from the business after many years of ownership.

In a February 3, 2004, notice (the "Notice") informing Kilby Shores' customers of the water system transfer, the City's Director of Public Utilities stated that the City's acquisition of the Kilby Shores system "allows for the abandonment of the existing well and the delivery of potable water meeting all regulatory standards from the City's system. In addition to improved water quality, connection of the Kilby Shores system to the City's system provides the ability to improve fire protection within the neighborhood and improves the reliability of service during periods of power outages."

The Notice also discussed the fees that Kilby Shores' customers would incur as a result of the transfer. Normally, new customers pay a \$50 connection fee and a \$4,260 availability fee to hook up to the City's system. However, the City has an Environmental Incentive Reimbursement Policy ("EIRP") in place to encourage residents to discontinue private well use and connect to the City's systems. The EIRP entitles each property owner to a \$3,150 credit to connect to the City's system. As a result, Kilby Shores' customers paid only a \$1,160 fee to connect to the City's system.

The Notice also provided a cost comparison of Kilby Shores' prior rates with the City's rates. Assuming average bi-monthly water usage of 9,700 gallons, Kilby Shores' customers would reap bi-monthly cost savings of \$7. Projected cost savings were even greater for customers with lower usage. A May 25, 2004, letter from the City to the Applicant's counsel indicates that the City's prospective rates will be \$0.81 per thousand gallons less than those initially stated in the Notice (\$2.74 vs. \$3.55). Therefore, Kilby Shores' customers should reap cost savings in excess of the amounts stated above.

The Applicant and the City indicate that no customer objections have been received to date regarding the transfer.

NOW THE COMMISSION, upon consideration of the joint petition and representations of Petitioners and having been advised by its Staff, is concerned that the Applicant chose to consummate the transfer prior to receiving approval from the Commission. However, the transfer makes sense. The City had both the physical and financial capability to bring the Kilby Shores system in compliance with EPA and VDH guidelines. Based on the Applicant's

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and the City's representations, Kilby Shores' customers should benefit from better water quality, improved service, and lower monthly charges. Therefore, we are of the opinion and find that the transfer of the Kilby Shores system from the Applicant to the City neither impaired nor jeopardized 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 §§ 56-89 and 56-90 of the Code of Virginia, Kilby Shores Water Company is granted approval to dispose of the water facility assets serving the Kilby Shores subdivision in the City of Suffolk, Virginia, for the sum of \$250,000.
- 2) Certificate No. W-111 authorizing Kilby Shores Water Company to provide water service is hereby cancelled.
- 3) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2004-00009  
MAY 12, 2004**

PETITION OF  
TIDEWATER WATER COMPANY

For approval to sell the water facility assets serving the Riverview Plantation subdivision pursuant to Chapter 5 of Title 56 of the Code of Virginia

**ORDER GRANTING APPROVAL**

On March 1, 2004, Tidewater Water Company ("Tidewater" or the "Applicant") filed a complete petition with the State Corporation Commission (the "Commission") requesting approval of a Sales Agreement (the "Agreement") to sell the water facility assets serving the Riverview Plantation subdivision in James City County, Virginia (the "Riverview system"), to the Riverview Plantation Homeowner's Association, Inc. (the "Association"), pursuant to Chapter 5 of Title 56 (the "Utility Transfers Act") of the Code of Virginia (the "Code").

Tidewater is a Virginia public service corporation that provides water service to 384 customers in the City of Suffolk, 179 customers in Southampton County, and 78 customers in James City County. Tidewater's principal owners are R.L. Magette, President of Tidewater, Mary S. Magette, Jane M. Jones, Luran McLeod, and Ashley McLeod.

The Association is a corporation organized to provide communication, administration, supervision and care for the Riverview Plantation subdivision in James City County.

In the Agreement dated January 15, 2004, Tidewater agrees to sell all of the Riverview system assets, including the physical property, easements, and customer lists, to the Association for \$32,000. The Riverview system consists of a 100 by 150 foot well lot; a concrete block well house; three wells; three well pumps; an 11,000 gallon hydropneumatic tank and a 30,000 gallon storage tank, two distribution pumps; an air compressor; three master meters; miscellaneous valves, piping, and electrical switch gear; nine fire hydrants; 78 meters and meter boxes; and 17,310 feet of distribution lines ranging from 3/4 to 6 inches in diameter.

The Riverview system serves 78 connections within the subdivision. Current customer rates are \$60.75 every two months for 6,000 gallons of water, with a \$2.00 surcharge for each additional 1,000 gallons.

Tidewater represents that it is unaware of any rate changes or capital expenditures that will result from the transfer. The Applicant represents that the Riverview system's current quality of service is adequate, is under no federal or state regulatory order, and is in compliance with all requirements of the Commission and the Virginia Department of Health. The Applicant represents that, since the Association is representing the entire Riverview subdivision, it has not needed to notice individual customers concerning the transfer.

The Commission has considered the petition and representations made by Tidewater. The proposed sale would transfer ownership of the system to an entity, which has an interest in the provision of adequate service at just and reasonable rates. The Association, as the representative of the Riverview system customers, will be motivated to assure that the quality of service is maintained and that rates are no higher than necessary. The Association has already displayed its financial capability by collecting from its members the \$32,000 purchase price of the Riverview system.

The Commission must be concerned, however, about the Association's future operation of the system. Since the system serves more than fifty (50) customers, provisions of Chapters 1 (§ 56-1 et. seq.), 10 (§ 56-232 et. seq.) and 10.1 (§ 56-265 et. seq.) of Title 56 of the Code of Virginia might apply. If the Association anticipates the sale or lease of the system to another entity, Chapter 5 (§ 56-88 et. seq.) might apply. The record before us does not address such matters.

NOW THE COMMISSION, upon consideration of the joint petition and representations of Petitioners and having been advised by its Staff, is of the opinion and finds that, while the Applicant's proposed sale of the Riverview system to the Association will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates, our approval must be conditioned. Therefore, we condition our approval of the transfer upon the Association promptly filing for the appropriate authority under Title 56 of the Code of Virginia, as discussed in the preceding paragraph. So that the Association will have notice of this requirement, we will direct the Clerk of the Commission to mail a copy of this order to the Association's registered agent.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to §§ 56-89 and 56-90 of the Code of Virginia, Tidewater Water Company is granted approval to dispose of and Riverview Plantation Homeowner's Association, Inc., is granted approval to purchase the water facility assets serving the Riverview Plantation subdivision in James City County, Virginia, for the sum of \$32,000.
- 2) The approval granted herein is conditioned upon Riverview Plantation Homeowner's Association, Inc., filing with the Clerk of the Commission an application or applications for appropriate authority under Title 56 of the Code of Virginia within thirty (30) days of the date of this Order.
- 3) The approval granted herein shall have no ratemaking implications.
- 4) Within thirty (30) days of completing the transaction, subject to administrative extension by the Commission's Director of Public Utility Accounting, Tidewater Water Company shall file a Report of Action with the Commission. Included in the Report of Action shall be the date of sale, the sales price, a settlement sheet showing all receipts and disbursements related to the sale, and the accounting entries made to record the sale.
- 5) The Clerk of the Commission shall mail an attested copy of this Order to the registered agent for Riverview Plantation Homeowner's Association, Inc., Edward F. Miller, 112 Four Mile Tree, Williamsburg, Virginia 23188.
- 6) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2004-00010  
JUNE 18, 2004**

PETITION OF  
TIDEWATER WATER COMPANY

For approval to sell the water utility assets serving the Arbor Meadows and Nansemond Shores subdivisions to the City of Suffolk pursuant to Chapter 5 of Title 56 of the Code of Virginia

**ORDER GRANTING APPROVAL**

On March 1, 2004, Tidewater Water Company ("Tidewater" or the "Petitioner") filed a complete petition with the State Corporation Commission (the "Commission") requesting approval of a Sales Agreement (the "Agreement") to sell the water utility assets serving the Arbor Meadows and Nansemond Shores subdivisions in Suffolk, Virginia, to the City of Suffolk (the "City") pursuant to Chapter 5 of Title 56 (the "Utility Transfers Act") of the Code of Virginia (the "Code").

Tidewater is a Virginia public service corporation that provides water service to 389 connections (324 active customers) in the City and 179 customers in Southampton County. Tidewater's principal owners are R.L. Magette, President of Tidewater, Mary S. Magette, Jane M. Jones, Luran McLeod, and Ashley McLeod.

Arbor Meadows and Nansemond Shores are residential subdivisions located in the City. Tidewater provides water service to 109 connections (108 active residential customers) in the Arbor Meadows subdivision and 280 connections (216 active residential customers) in the Nansemond Shores subdivision.

On December 4, 2003, the Petitioner and the City executed a Sales Agreement (the "Agreement") for the City to acquire the assets of the Arbor Meadows and Nansemond Shores water systems. The Arbor Meadows system includes a well house and lot, two wells, two well pumps and motors, a steel storage tank, an air compressor, a master meter, valves and piping, electrical switch gear, approximately 7,100 feet of distribution piping, 110 meters, meter boxes and service lines, and a fire hydrant. The Nansemond Shores system includes a well house and lot, two wells, two well pumps and motors, two storage tanks, a hydropneumatic tank, two distribution pumps, an air compressor, a master meter, valves and piping, electrical switch gear, approximately 14,330 feet of distribution piping, 275 meters, meter boxes and service lines, and eight fire hydrants. The purchase price was \$160,000, which the Petitioner represents was determined through arms' length negotiations. The transaction closed and the transfer of the utility assets took place December 5, 2003.

The Petitioner's reason for selling the Arbor Meadows and Nansemond Shores systems, as stated in the application, is that in August 2000, the Virginia Department of Health ("VDH"), at the direction of the Environmental Protection Agency ("EPA"), removed regulatory exemptions for fluoride content from the Tidewater region's community well systems. Approximately fifty (50) water systems, including thirty-five (35) located within the City of Suffolk, were affected. The EPA and the VDH were preparing to implement a consent order to require Tidewater to bring the system into compliance. To avoid the significant capital expenditures necessary to comply with the impending consent order, Tidewater sold the Arbor Meadows and Nansemond Shores systems to the City.

According to the Petitioner, the City's acquisition of the Arbor Meadows and Nansemond Shores systems permitted the City to abandon the existing wells and deliver potable water meeting all regulatory standards from the City's system. In addition to improved water quality, connection of the Arbor Meadows and Nansemond Shores systems to the City's system provided the ability to improve fire protection within the neighborhood and improved the reliability of service during periods of power outages.

The Petitioner represents that new City customers normally pay a \$50 connection fee and a \$4,260 availability fee to hook up to the City's system. However, the City has an Environmental Incentive Reimbursement Policy ("EIRP") in place to encourage residents to discontinue private well use and connect to the City's systems. The EIRP entitles each property owner to a \$3,150 credit to connect to the City's system. As a result, Arbor Meadows' and Nansemond Shores' customers paid only a \$1,160 fee to connect to the City's system.

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Under Tidewater, Arbor Meadows' and Nansemond Shores' customers paid a \$41.50 bi-monthly minimum charge for the first 6,000 gallons and then \$2.00 per thousand gallons thereafter. Based on the City's tariff beginning July 2004 and average bi-monthly usage of 9,700 gallons, Arbor Meadows' and Nansemond Shores' customers will reap bi-monthly cost savings of \$19.32. Customers with lower usage will have even greater cost savings.

The Petitioner and the City indicate that no customer objections have been received to date regarding the transfer.

NOW THE COMMISSION, upon consideration of the petition and representations of the Petitioner and having been advised by its Staff, is concerned that the Petitioner chose to consummate the transfer prior to receiving approval from the Commission, and we remind the Petitioner that any future transfers of utility assets are to be approved prior to the transfer taking place. However, the transfer makes sense. The City had both the physical and financial capability to bring the Arbor Meadows and the Nansemond Shores systems in compliance with EPA and VDH guidelines. Based on the Petitioner's and the City's representations, Arbor Meadows' and Nansemond Shores' customers should benefit from better water quality, improved service, and lower monthly charges. Therefore, we are of the opinion and find that the transfer of the Arbor Meadows and Nansemond Shores systems from the Petitioner to the City neither impaired nor jeopardized 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 §§ 56-89 and 56-90 of the Code of Virginia, Tidewater Water Company is granted approval to dispose of the water facility assets serving the Arbor Meadows and Nansemond Shores subdivisions in the City of Suffolk, Virginia, for the sum of \$160,000.
- 2) Certificate No. W-212 authorizing Tidewater Water Company to provide water service in the Arbor Meadows and Nansemond Shores subdivisions in the City of Suffolk, Virginia, is hereby cancelled.
- 3) Any future transfers of utility assets are to be approved by the Commission prior to such transfers taking place.
- 4) The approval granted herein shall have no ratemaking implications.
- 5) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2004-00012  
JUNE 8, 2004**

APPLICATION OF  
VIRGINIA NATURAL GAS, INC.

For recovery through its gas cost recovery mechanism of charges under a Propane Sales Agreement

**FINAL ORDER**

On February 19, 2004, Virginia Natural Gas, Inc. ("VNG" or the "Company"), filed with the State Corporation Commission ("Commission") an application for recovery, through its gas cost recovery mechanism ("CRM") set forth in Section XX of VNG's tariff, of the charges it will pay to Pivotal Propane of Virginia, Inc. ("Pivotal"), an affiliate, in accordance with the Propane Sales Agreement ("Agreement") between VNG and Pivotal approved by the Commission in Case No. PUE-2003-00535. The Company asserted that its application demonstrates that: (1) the propane to be purchased from Pivotal is needed; (2) the proposed charges under the Agreement are reasonable; and (3) the recovery of these charges through VNG's CRM is appropriate under VNG's gas tariffs and consistent with Commission precedent.

The Company stated that in accordance with the Agreement, it will pay a Base Reservation Charge ("BRC"), an Operations and Maintenance Charge ("O&M Charge"), and a Commodity Charge to the extent VNG calls for deliveries under the Agreement. The BRC is designed to return Pivotal's actual costs, subject to a cap, that it incurs to construct a propane storage and vaporization facility ("Facility"). The O&M Charge is designed to recover the actual O&M expenses attributable to Pivotal's plant operations. The Commodity Charge includes: (1) the actual cost of the propane, which shall not exceed a market-based, published index price; (2) the cost of transporting the propane to the Facility; and (3) an inventory carrying charge ("ICC"). In addition, VNG shall pay an Annual Peaking Charge ("APC") for propane purchases in excess of the Maximum Annual Quantity as defined in the Agreement for the period from November 1 through March 31 of each year. The Agreement is for an initial 10-year term, with the possibility of renewal thereafter for terms of two years.

On February 24, 2004, the Commission issued an Order for Notice and Hearing that, among other things, docketed this case, required VNG to publish notice of its application, scheduled a public hearing for April 20, 2004, and established dates for submitting written comments, notices of participation, and testimony. Notices of participation were filed by the Virginia Industrial Gas Users' Association ("VIGUA") and the Division of Consumer Counsel of the Office of the Attorney General ("Consumer Counsel").

On March 8, 2004, VNG filed the direct testimony of Ann R. Chamberlain and Henry P. Linginfelter. Ms. Chamberlain, Director – Rates and Regulation for VNG, submitted testimony: (1) to show that the proposed CRM is consistent with VNG's tariff; (2) to describe in detail each charge VNG will incur under the Agreement and how the charges will be flowed through the CRM; (3) to show how such charges are similar in nature to charges that VNG and other gas distribution utilities routinely flow through their respective gas cost recovery mechanism; and (4) to show that these charges are reasonable. Mr. Linginfelter, President and Chief Executive Officer of VNG, submitted testimony: (1) to support VNG's request to flow the charges under the Agreement through the CRM; (2) to describe VNG's efforts to obtain the needed capacity; and (3) to explain why VNG entered into the Agreement, including why the Agreement will benefit VNG's ratepayers.

On March 29, 2004, VIGUA filed written comments, which focused on three issues of concern for the Commission's consideration. First, VIGUA stated it is concerned that VNG is proposing to recover costs in this case that are unreasonable, and that VNG should be prohibited from recovering any amount

greater than the amount of any feasible alternative project. VIGUA asserted that the Commission should consider whether it would be cheaper or otherwise more advantageous for VNG to build and operate the Facility itself, and the Commission should consider requiring VNG to demonstrate, for each dollar of propane cost it seeks to recover, that it could not obtain the propane cheaper by purchasing it on the open market. VIGUA explained that its second concern relates to VNG's proposed use of the propane Facility. VIGUA stated it is concerned that VNG and Pivotal might operate the Facility during peak times to enable VNG and its affiliate, Sequent Energy Management, LP ("Sequent"), to sell gas and upstream pipeline capacity off-system to the detriment of both firm and transportation customers. Finally, VIGUA discussed its concerns relating to the quality of the propane-air to be furnished and its possible impact on industrial processes and machinery.

On April 1, 2004, Consumer Counsel filed comments.<sup>1</sup> Consumer Counsel asserted that VNG bears the burden of demonstrating that its cost recovery proposal with Pivotal is the least-cost solution for meeting the peak demand requirements of its current customers and is in the public interest. Consumer Counsel stated, among other things, that because the proposed contract amount between VNG and Pivotal is based on traditional revenue requirement ratemaking using a 15-year life, instead of a longer 30- to 50- year life, the proposed contract price may be materially overstated. Consumer Counsel questioned VNG's proposal to use an 11.3% return on equity as being excessive considering current market capital costs, recent Commission decisions regarding natural gas companies' cost of capital, and Pivotal's guaranteed recovery of all costs and investments through the Agreement. In addition, Consumer Counsel stated that the proposed inventory carrying charge of prime plus 2% may be excessive given current market conditions and the financial strength of VNG. Consumer Counsel also asked the Commission to consider whether all non-fuel costs associated with the Agreement should be included in VNG's base rates.

On April 2, 2004, UGI Energy Services, Inc. ("UGI"), filed a Motion for Extension of Time requesting a four-day extension, from March 29, 2004, to April 2, 2004, in which to file its notice of participation and comments. On April 2, 2004, UGI filed its Notice of Participation and Comments.<sup>2</sup> UGI stated that it currently provides gas supply and related services to industrial and commercial customers behind the Columbia Gas of Virginia and Washington Gas Light Company systems and is evaluating participation as a supplier on VNG's system. UGI asserted that recovery of 100% of the costs through the CRM will impede the short- and long-term growth of competition on VNG's system. UGI contended that Pivotal or VNG's asset manager, Sequent, will be completely free to engage in off-system natural gas sales through displacement of pipeline deliveries to VNG's citygate on days when VNG does not call upon its peaking capacity – and that Pivotal or Sequent may undertake these gas sales at below-market prices. UGI also stated that VNG has failed to carry its burden of proving that the costs under the Agreement are just and reasonable. In addition, UGI asserted that any costs above market, or costs properly borne by Pivotal through other transactions using the Facility, should be disallowed from recovery through the CRM.

On April 5, 2004, the Commission's Staff ("Staff") filed the testimony of John A. Stevens, Farris M. Maddox, and Robert F. Sartelle.<sup>3</sup> Mr. Stevens, a Senior Utilities Engineer with the Commission's Division of Energy Regulation, addressed the appropriate methods for recovering the costs associated with the various charges VNG will be required to pay Pivotal under the Agreement. Mr. Stevens explained the Staff does not believe an automatic adjustment clause, such as the CRM, is the appropriate mechanism for recovering the capital costs and operation and maintenance costs associated with the Facility; rather, the BRC, O&M Charge, and APC should be recovered through base rates to the extent that they are found to be reasonable in a general rate proceeding. Mr. Stevens stated the Staff believes that allowing VNG to recover these costs through the CRM may actually set an undesirable precedent by encouraging VNG to select alternatives that will entitle it to pass on to its customers the largest possible share of affiliate costs, rather than selecting those methods that are most economical. Mr. Stevens also addressed the reasonableness of the proposed APC and concluded that it is not a cost-based charge and its implementation will more than likely result in an over-recovery of capital costs by Pivotal, which would be passed through to VNG's ratepayers.

Mr. Maddox, a Principal Financial Analyst in the Commission's Division of Economics and Finance, addressed the cost of capital issues embedded in the proposed BRC. Mr. Maddox estimated that an appropriate cost of equity for Pivotal's operations as proposed by VNG would range from 8.80-9.80% and stated that the midpoint (9.30%) provides the appropriate return on equity that should be reflected in the BRC if capital costs and accelerated depreciation are to be recovered automatically through the CRM. Mr. Maddox explained that this cost of equity recommendation reflects three adjustments to his baseline cost of equity estimate for an average gas distribution company and that his testimony also addresses the use of a more current capital structure for the purpose of setting rates in this matter.

Mr. Sartelle, a Principal Public Utility Accountant in the Commission's Division of Public Utility Accounting, examined the reasonableness of the BRC and O&M charge, and he presented a series of recommendations concerning the calculation, implementation, and accounting for the affiliate charges. Mr. Sartelle recommended a composite service life of 50 years for the Facility and stated that the Commission should limit the BRC to the costs that VNG would incur if it constructed and owned the Facility itself. Mr. Sartelle recommended that, prior to the initial BRC billing, VNG file a schedule detailing the actual construction cost by cost category, cost item, and FERC account and recalculating the BRC pursuant to the Commission's Final Order in this case. Mr. Sartelle asserted that VNG should be required to compare market prices for O&M and pay the lower of cost or market. Mr. Sartelle also recommended that VNG be required to true-up the O&M Charge to actual cost each year. In addition, Mr. Sartelle provided booking recommendations for the BRC and O&M Charge.

On April 13, 2004, VNG filed the rebuttal testimony of Scott Carter, Richard Ward, Edward H. Feinstein, Raymond Reno Cassidy, Eric Martinez, Ann R. Chamberlain, and Henry P. Linginfelter.<sup>4</sup> Mr. Carter, Director of State Regulatory Affairs for AGL Resources, Inc., offered testimony related to the benefits to Virginia ratepayers of having Pivotal build the Facility. Mr. Ward, Senior Plant Engineer, AGL Services Company, addressed VIGUA's concerns regarding the quality and safety of propane-air. Mr. Feinstein, a consulting petroleum engineer with the energy consulting firm of Brown, Williams, Moorhead & Quinn, Inc., discussed the determination of the just and reasonable depreciation rate to be applied to the Facility and found that a 15-year period is reasonable. Mr. Cassidy, a financial consultant and associate of Brown, Williams, Moorhead & Quinn, Inc., concluded that Staff witness Maddox understated the cost of each class of capital and substantially underestimated the cost of equity. Mr. Martinez, Senior Vice-President of Pivotal, explained

<sup>1</sup> By Order Granting Extension dated March 29, 2004, the Commission granted an unopposed motion by Consumer Counsel to extend its required filing date by three days, to April 1, 2004.

<sup>2</sup> On April 6, 2004, the Commission issued an Order Scheduling Responses and Reply, which required any response to UGI's Motion for Extension of Time to be filed on or before April 13, 2004, and any reply to be filed on or before April 16, 2004. On April 19, 2004, the Commission issued an Order on Motions, which granted UGI's Motion for Extension of Time and denied VNG's Motion to Dismiss UGI for lack of standing.

<sup>3</sup> On April 19, 2004, the Staff filed Amended Testimony and Exhibits of Farris M. Maddox.

<sup>4</sup> On April 16, 2004, VNG filed: (1) Exhibit A and Appendices A and B to Ms. Chamberlain's direct testimony; and (2) a corrected version of Mr. Carter's rebuttal testimony.

the measures taken by Pivotal to ensure that construction costs and the BRC are based on the lowest cost alternative, and he addressed the reasonableness of the APC and the risks assumed by Pivotal under the Agreement. Ms. Chamberlain addressed VNG's right to recover gas costs through the CRM and the need for the APC. Finally, Mr. Linginfelter explained the measures undertaken by VNG to ensure that the charges under the Agreement are the lowest cost alternative and explained why VNG is not building the Facility itself.

A public evidentiary hearing was held on April 20, 21, and 22, 2004. Edward L. Flippen, Esquire, and John W. Ebert, Esquire, appeared as counsel for VNG. Louis R. Monacell, Esquire, and Brian R. Greene, Esquire, appeared as counsel for VIGUA. Frank H. Markle, Esquire, appeared as counsel for UGI. C. Meade Browder, Esquire, and Raymond L. Doggett, Jr., Esquire, appeared as counsel for Consumer Counsel. William H. Chambliss, Esquire, and Don R. Mueller, Esquire, appeared as counsel for the Staff. All witnesses that filed testimony appeared at the hearing. No public witnesses testified at the hearing.

On May 14, 2004, post-hearing briefs were filed by VNG, VIGUA, Consumer Counsel, and Staff.

NOW THE COMMISSION, having considered the record, the pleadings, and the applicable law, is of the opinion and finds as follows. The facts of this case represent a particularly unusual situation. VNG has unique capacity constraints in serving the Chesapeake, Suffolk, Norfolk, and Virginia Beach areas ("Southern Segment") of its distribution system. No party disputes VNG's imminent need for reliable peaking capacity for its Southern Segment by the winter of 2004-05. VNG also explained the alternatives it previously sought to fulfill its capacity needs, the anticipated cost of such alternatives, and why those alternatives were ultimately unavailable. Under the specific circumstances of this case, we find that recovery of certain commodity, O&M, and capital costs, as discussed below, through VNG's CRM is reasonable subject to the detailed conditions required in this Final Order.

## COST RECOVERY

### Gas Cost Recovery Mechanism

Staff recommends that only commodity costs be recovered through the CRM. Staff asserts that whether VNG's tariff permits CRM recovery of all costs under the Agreement is, at best, ambiguous. Staff also states that non-gas costs should be recovered through base rates to assure ratepayers that VNG's recovery of Pivotal's charges will not exceed the cost of VNG's ownership of the Facility. However, if recovery of non-commodity costs through the CRM is allowed, Staff requests the Commission to specify that this treatment is "interim" and that such costs will be transferred into base rates at the time of VNG's next base rate case, subject to normal base rate cost of service scrutiny.

Consumer Counsel also supports recovery of only commodity costs through the CRM. However, Consumer Counsel concludes that VNG's tariff currently permits non-commodity costs to go through the CRM, and, therefore, its recommendation requires a change in VNG's tariff.

VNG asserts that its tariff permits all costs under the Agreement – including both commodity and demand costs – to be flowed through the CRM. VNG notes that demand costs included in third-party capacity transactions currently are recovered through the CRM, and that demand costs included in its former affiliate agreement with Southeastern LNG for gas transportation services also are recovered through the CRM.

We find that we are not prohibited, by statute, tariff, or otherwise, from permitting all charges under the Agreement to be recovered through VNG's CRM. We further find that recovery of each charge under the Agreement through the CRM as permitted below, under the particular facts of this case and subject to the conditions required herein, is reasonable as described below. However, our approval herein of recovery through the CRM does not preclude the Commission from requiring any such costs to be recovered through base rates, and not the CRM, at some point in the future.

### Commodity Charge

Recovery of the Commodity Charge is reasonable to the extent that such charge represents actual prudent expenditures at the lower of actual cost or available market prices for the commodity. In addition, we find that recovery of the proposed ICC of prime plus 200 basis points is excessive and should be reduced. The Company stated that it has no objection to lowering the ICC to prime plus zero basis points. Thus, the ICC shall be set at prime as published in The Wall Street Journal on the date of sale.

### O&M Charge

Recovery of the O&M Charge is reasonable to the extent that such charge represents actual prudent expenditures and is the lower of cost or available market price for the same service. In addition, as recommended by Staff, the O&M Charge shall be true-up to actual cost each year and corrected in the Company's annual Actual Cost Adjustment.

### APC

We deny recovery of the APC. VNG states that the APC is designed to cover excessive wear and tear on the Facility that is likely to occur as a result of VNG calling on the Facility in excess of the contractual amount. We agree with Staff that the APC is not cost-based and should be rejected. VNG also asserts that the APC is not necessary if the BRC is updated annually to recover ongoing capital expenditures. We also find that it may be reasonable to update the BRC during the primary term of the contract, as more fully discussed below.

### BRC

VNG proposes to base the BRC on an average service life of 15 years. VNG witness Feinstein supported a 15- to 20-year economic life as within the range of reasonableness. He also testified that the propane plants he analyzed had a weighted average useful life of 28 years. Staff presented evidence supporting an average service life of 50 years. Staff explained that this protects against intergenerational cross-subsidies and is consistent with Commission practice. VIGUA supports a service life of 50 years and contends that Pivotal should be required to transfer title of the Facility to VNG once VNG's ratepayers have paid for it. Consumer Counsel states that the BRC should be based on a service life of at least 30 years. We find that recovery of the BRC is reasonable to the extent that it is based on an average service life of 30 years. The evidence in this case supports a 30-year average service life, and utilization of a 30-year service life to calculate the BRC, as opposed to VNG's proposed 15 years, lessens the possible intergenerational inequities.



VNG proposes to use a return on equity of 11.3% for calculating the BRC, based on a hypothetical capital structure of its former parent company, Consolidated Natural Gas, Inc. ("CNG"). Staff recommends that the BRC be calculated based on an actual capital structure from VNG's current parent company, AGL Resources, Inc. ("AGL"), and a return on equity of: (i) 9.8% if all costs are recovered through base rates; (ii) 9.55% if all costs are recovered through the CRM but Staff's other recommendations are accepted; and (iii) 9.3% if all costs are recovered through the CRM and all of the Company's other recommendations are accepted. Consumer Counsel states that the return on equity used to calculate the BRC should be no more than 10.1%, which is based on the midpoint of recent Commission precedent involving other natural gas local distribution companies. We note that VNG's rate of return approved in its most recent rate case is 10.4% - 11.4%, with a midpoint of 10.9%. We further note that this return on equity was authorized in conjunction with an actual capital structure from VNG's parent company at the time, CNG. In addition, VNG states that the Commission previously approved using VNG's return on equity midpoint of 10.9% in calculating demand costs paid by VNG to another affiliate, Southeastern LNG, for a gas transportation agreement.

We find that recovery of the BRC is reasonable to the extent that it is based on the midpoint of VNG's most recently authorized rate of return, *i.e.*, 10.9%, and the actual capital structure of VNG's parent company, AGL. As of December 31, 2003, AGL's capital structure consists of 7.763% short-term debt, 48.056% long-term debt, and 44.181% common equity. We also accept Staff's recommended cost of short-and long-term debt, 1.160% and 6.954%, respectively. This results in an overall cost of capital of 8.248%. Furthermore, the return on equity and capital structure that we adopt in this proceeding may be subject to modification in the future, under our continuing authority over this affiliate agreement pursuant to § 56-80 of the Code of Virginia, should VNG's approved return on equity or capital structure be modified in a subsequent rate proceeding.

Finally, as part of Staff's recommended average service life for purposes of the BRC, Staff states that the Commission should authorize a modification to the Agreement allowing the Company to flow ongoing capital expenditures that extend the life of the Facility for VNG's benefit through the BRC. We find that the BRC may be updated throughout the term of the Agreement to reflect prudent expenditures appropriately booked as capital costs. If VNG seeks to update the BRC in this manner, it shall file an application with the Commission for its requested modification to the BRC, which modification shall not be implemented unless and until approved by the Commission.

#### CONDITIONS

We find that the above cost recovery is reasonable if conditioned upon the specific requirements mandated below.

##### Contract Renewal

VNG asserts that its goal in this matter is to have the cost to ratepayers under the Agreement be no greater than if VNG owned the Facility itself. However, as currently proposed, if VNG and Pivotal cannot reach agreement regarding contract extensions and a new BRC after the conclusion of the initial 10-year term, VNG's ratepayers will have paid for a significant part of the capital costs of the Facility but will not have access to the Facility if its capacity is still needed to meet VNG's public service obligations.

Accordingly, VNG and Pivotal shall modify the Agreement to clarify that VNG's right to renew the Agreement for successive 24-month periods includes the right to contract with Pivotal for a Commodity Charge and O&M Charge as reflected in the Agreement, and for a BRC based on the lower of: (1) the Facility's depreciated book value;<sup>5</sup> or (2) market price. In addition, the initial renewal and any subsequent renewal of the Agreement shall require Commission approval.

##### Option to Purchase the Facility

Staff recommends modifying the Agreement to allow VNG to purchase the Facility at the lower of net book value or market after the initial term. Consumer Counsel states that VNG should have a right to purchase the Facility at the lower of cost or market value. In this regard, VNG and Pivotal have agreed to give VNG an option to purchase the Facility at the end of the primary term or any renewal term – at the lower of its undepreciated book value or market. VNG's post-hearing Brief includes proposed contract language for this option to buy, which requires VNG to give Pivotal at least 12 months' notice of its intent to exercise this option. We find that VNG shall modify the Agreement to provide that, at the conclusion of the initial 10-year term or at the end of any subsequent extension of the Agreement, VNG shall have the right to purchase the Facility from Pivotal at the lower of: (1) depreciated book value;<sup>6</sup> or (2) market price. In addition, as discussed below, VNG shall be required to give the Commission at least 12 months' notice of its intent to exercise this option and purchase the Facility. Thus, for such notice to the Commission to have practical import, VNG's proposed contract language shall be modified to require VNG to give Pivotal at least six months' notice of its intent to exercise this option, which is the same notice required if VNG wishes to renew the Agreement.

##### Notification to the Commission

At the end of the primary or any subsequent term of the Agreement, VNG has the option: (1) to terminate the Agreement; (2) to renew the Agreement; or (3) to purchase the Facility. The Commission has the authority, pursuant to § 56-35 of the Code of Virginia, to require VNG to exercise any of these three options. VNG shall file with the Clerk of the Commission, at least 12 months' prior to the expiration of the primary term or any renewal term, a notice justifying its intention to take one of these three actions. In addition, if VNG intends to renew the Agreement, such notification should explain the terms of such renewal; if VNG intends to exercise its option to purchase the Facility, such notification should explain the terms of the purchase.

##### Construction Costs

VNG states that the new construction cost estimate for the Facility is \$27 million, as opposed to \$30 million as referenced in the Agreement. VNG shall modify the Agreement to change the \$30 million reference to \$27 million. In addition, as requested by Staff, VNG shall submit a schedule to the Commission's Division of Public Utility Accounting, prior to the initial BRC billing, detailing by cost category, cost item, FERC account, book amount, and

<sup>5</sup> For purposes of determining depreciated book value, depreciated book value shall be based on the Facility's initial construction cost net of accumulated depreciation and based on a 30-year life, both as approved herein, including the depreciated cost of any capital additions found reasonable by the Commission in the future.

<sup>6</sup> Depreciated book value is defined in footnote 5, above.

book/tax treatment the final actual construction cost of the Facility and VNG's recalculation of the BRC pursuant to this Final Order. The schedule also shall highlight any changes in cost item book/tax treatment that occurred between the initial filing and the Facility's completion.

#### CRM Filings

The Company shall prove, when it submits subsequent filings to recover specific Commodity Charges and O&M Charges through the CRM, that the actual costs incurred are reasonable. Such filings also should separately identify, with supporting calculations, the Commodity Charge, O&M Charge, and BRC. In addition, such filings shall include an analysis from the Company comparing the actual propane and transportation costs to those of potential market alternatives. As recommended by Staff, for all O&M Charge services provided by VNG affiliates where a market may exist, VNG shall investigate whether there are alternative sources from which it could purchase such services. If alternative sources exist, VNG shall compare such market prices to VNG's costs and pay the lower of cost or market. VNG also shall include the results of such investigation in its CRM filings and maintain records of its investigation to be available to Staff upon request.

#### O&M Recordkeeping

As recommended by Staff, VNG shall file a schedule detailing actual O&M Charges by cost category, cost item, FERC account, and amount in its Annual Informational Filings and any non-gas rate applications. VNG also shall retain onsite the original invoices, work orders, timesheets, and supporting documents for every cost flowed through the O&M Charge.

#### Reports and Audits

As recommended by Staff, VNG shall file a report on the Facility with the Director of the Division of Public Utility Accounting every five years containing: (a) interim retirements; (b) refurbishment expenditures; (c) future salvage or cost of removal; and (d) a narrative describing how the Facility is utilized in AGL Resources' portfolio of assets.

In addition, Staff recommends that an audit be performed to determine whether including the Facility under the Asset Management Agreement ("AMA") with Sequent is in the public interest. Staff states that either Staff or an independent firm could perform the audit. In this regard, VNG agreed to notify Staff whenever Sequent dispatches the Facility; due to VNG's anticipated small number of such transactions, VNG believes such notification will provide the Commission with sufficient information to evaluate the arrangement. Nonetheless, if the Commission prefers an audit of the Pivotal/Sequent transactions, VNG does not object to such an audit.

We find that VNG shall notify Staff whenever Sequent dispatches the Facility; such notification shall be provided to Staff within 30 days of the dispatch and in a form approved by the Commission's Division of Public Utility Accounting. In addition, Staff shall perform an audit of the Pivotal/Sequent transactions as it deems appropriate. An independent firm may be engaged to assist in such audit.

Finally, VNG shall make available at its offices in Norfolk, Virginia, all documents in the possession of VNG, Pivotal, and/or Sequent requested by the Commission's Division of Public Utility Accounting related to the operation and dispatch of the Facility.

#### Sequent

VIGUA requests that Sequent not be allowed to make off-system sales during any period that any of VNG's peaking resources are being used. VNG states that it will not grant Sequent permission to dispatch the Facility unless it is certain that it will not need the capacity for firm customers, and that it will instruct Sequent not to make off-system sales whenever VNG nominates propane from the Facility to serve firm customers. We agree that the Facility shall not be dispatched in a manner that harms Virginia ratepayers. Thus, Sequent shall not make off-system sales utilizing any VNG facilities when any of VNG's peaking facilities are being used to serve Virginia jurisdictional customers.

VIGUA also requests that the Facility be used only to serve VNG's on-system customers. However, it has not been established that Virginia jurisdictional ratepayers will be harmed if the Facility is dispatched in this manner; indeed, Sequent's use of the Facility may benefit firm customers via credits through the CRM. Thus, we will not at this time restrict the Facility's use to on-system customers as requested by VIGUA. Rather, we note the reporting and audit requirements above and recognize that we may place such restrictions on the Facility in the future if the evidence warrants.

Finally, VNG asserts that Sequent must reimburse VNG under the AMA for all incremental operations and maintenance expenses attributable to Sequent's use of the Facility. VNG further states that all charges under the Agreement, including capital costs, will be classified as operations and maintenance expenses for this purpose. In this regard, VNG shall ensure that Pivotal tracks, and that Sequent reimburses VNG for, all costs incurred under the Agreement attributable to Sequent's use of the Facility, including O&M Charges, BRC, and incremental Commodity Charges.<sup>7</sup>

#### Quality and Safety Standards

VIGUA asks the Commission to direct VNG to meet all quality and safety standards and regulations when supplementing natural gas with propane-air. VNG shall such meet standards, which it has already agreed to do in this proceeding.

#### Capacity Planning

VIGUA requests the Commission to establish a new formal docket and direct Staff or, alternatively, an independent expert, to investigate and recommend whether adequate plans and procedures are in place to address VNG's capacity problem on its Southern Segment. We will not initiate a new formal docket at this time. However, the Commission will consider taking such action in the future due to the unique capacity problems that have been shown to exist on the Southern Segment.

<sup>7</sup> Staff also recommends that, subsequent to any formal investigation of Sequent recently requested by United States Gypsum Company in Case No. PUE-2004-00050, the Commission should require VNG to re-file the AMA under Chapter 4 of Title 56 of the Code of Virginia. We will address this aspect of the AMA as part of Case No. PUE-2004-00050.

Revised Agreement

Pursuant to § 56-80 of the Code, the Commission has continuing supervisory control and jurisdiction over the Agreement approved in Case No. PUE-2003-00535. Within thirty (30) days of the date of this Final Order, VNG shall file with the Commission a revised Agreement with Pivotal, which incorporates the changes necessary to comply with this Final Order.

Accordingly, IT IS ORDERED THAT:

(1) VNG may recover through its CRM the Commodity Charge, O&M Charge, and BRC under the Agreement as discussed, and subject to the conditions, in this Final Order.

(2) This matter is dismissed.

**CASE NO. PUE-2004-00012  
JUNE 23, 2004**

APPLICATION OF  
VIRGINIA NATURAL GAS, INC.

For recovery through its gas cost recovery mechanism of charges under a Propane Sales Agreement

**ORDER GRANTING RECONSIDERATION**

On February 19, 2004, Virginia Natural Gas, Inc. ("VNG" or the "Company"), filed with the State Corporation Commission ("Commission") an application for recovery, through its gas cost recovery mechanism ("CRM") set forth in Section XX of VNG's tariff, of the charges it will pay to Pivotal Propane of Virginia, Inc. ("Pivotal"), an affiliate, in accordance with the Propane Sales Agreement ("Agreement") between VNG and Pivotal approved by the Commission in Case No. PUE-2003-00535.

On June 8, 2004, the Commission issued a Final Order in this case. The Final Order held that VNG may recover certain charges through its CRM as discussed, and subject to the conditions, in the Final Order.

On June 22, 2004, VNG filed a Petition for Reconsideration ("Petition"). VNG recognizes that one of the conditions in the Final Order provides as follows: "Thus, Sequent [Energy Management, LP ("Sequent")] shall not make off-system sales utilizing any VNG facilities when any of VNG's peaking facilities are being used to serve Virginia jurisdictional customers."<sup>1</sup> However, in its Petition, VNG asserts that Sequent should be able to use peaking facilities "to the extent they are not required for VNG system supply and, further, would provide lower cost gas to VNG firm sales customers." Petition at 3. As a result, VNG requests that the Commission modify the above-referenced condition to read as follows:

Thus, Sequent shall not make off-system sales utilizing any VNG facilities when any of VNG's peaking facilities are being used to serve Virginia jurisdictional customers, except to the extent that such facilities are unused and such use by Sequent reduces the cost of gas to VNG firm sales customers.

Id.

NOW THE COMMISSION, having considered the Petition, is of the opinion and finds as follows. We grant the Petition for the purpose of continuing our jurisdiction over this matter and considering the request in the Petition. In addition, we permit participants in this case to file comments addressing the request raised in the Petition and permit the Company to file a reply to such comments.

Accordingly, IT IS ORDERED THAT:

- (1) VNG's Petition for Reconsideration is hereby granted for the purpose of continuing our jurisdiction over this proceeding.
- (2) On or before July 7, 2004, any participant in this case may file comments addressing the request raised in the Petition for Reconsideration.
- (3) On or before July 14, 2004, the Company may file a reply to the comments of any participant.
- (4) This matter is continued pending further order of the Commission.

<sup>1</sup> Final Order at 16. Sequent is an affiliate of VNG and operates VNG facilities pursuant to an Asset Management Agreement the Commission previously approved in Case No. PUA-2000-00085.

**CASE NO. PUE-2004-00012  
JULY 23, 2004**

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VIRGINIA NATURAL GAS, INC.

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**ORDER ON RECONSIDERATION**

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Thus, Sequent shall not make off-system sales utilizing any VNG facilities when any of VNG's peaking facilities are being used to serve Virginia jurisdictional customers, except to the extent that such facilities are unused and such use by Sequent reduces the cost of gas to VNG firm sales customers.

*Id.*

On June 23, 2004, the Commission issued an Order Granting Reconsideration, which granted the Petition for the purpose of continuing our jurisdiction over this matter and considering the request in the Petition. In addition, the Order Granting Reconsideration permitted participants in this case to file comments addressing the request raised in the Petition and permitted the Company to file a reply to such comments.

On July 7, 2004, the Virginia Industrial Gas Users' Association ("VIGUA") filed comments in opposition to the Petition. VIGUA notes that the condition which VNG seeks to modify was requested by VIGUA in this case and explicitly adopted by the Commission. VIGUA argues that there is not sufficient information available to the Commission and its Staff to determine and police whether Sequent has dispatched peaking facilities only when they are not required for system supply and would reduce the cost of gas to firm sales customers. In addition, VIGUA also asserts that all off-system sales made by Sequent using VNG's assets should be "recallable" sales, and that recalling of off-system sales is, in a sense, a peaking resource that should be used first – before other peaking resources such as propane-air and LNG facilities. VIGUA also suggests that VNG's proposed exception to the condition is so broad that it renders the first part of the condition meaningless. Finally, VIGUA contends that if VNG had its way, Sequent would, if it needed more capacity to make more off-system sales, direct VNG to dispatch any of its peaking facilities. Thus, VIGUA concludes that VNG's modification to the condition would enhance Sequent's monopoly on upstream capacity and further inhibit other gas marketers from operating in the VNG southern system.

On July 14, 2004, VNG filed a reply to VIGUA's comments. VNG states that the Commission's Staff ("Staff") testified in this case that it would be "difficult" – but did not testify that it would be "impossible" – to police compliance with restrictions on when and how Sequent can make off-system sales. VNG reiterates that it and Sequent are willing to comply with any information requests that the Commission or the Staff make in this regard. VNG disagrees with VIGUA's contention that all off-system sales made by Sequent using VNG's assets should be recallable. VNG asserts that it has the right to call on all of its assets on any day if needed for system supply, and that VIGUA fails to cite any facts from this case that indicate the need for "recallable" language. VNG also argues that VIGUA's contention regarding Sequent's "monopoly" position is misplaced before this Commission. VNG states that VIGUA has failed to provide any facts to support its conclusion that Sequent is a monopoly, and that VIGUA has failed to allege any facts that establish an antitrust violation under the Virginia Antitrust Act, Va. Code § 59.1-9.1, *et. seq.* VNG also contends that the Virginia Antitrust Act entrusts investigatory discretion to the Attorney General of Virginia, not to the Commission.

NOW THE COMMISSION, having considered the Petition, the pleadings, the record, and the applicable law, is of the opinion and finds that the Final Order shall be modified as discussed below.

VNG seeks to modify the following condition found at page 16 of the Final Order: "Thus, Sequent shall not make off-system sales utilizing any VNG facilities when any of VNG's peaking facilities are being used to serve Virginia jurisdictional customers." The Final Order explains that such condition is intended to ensure that the Pivotal facility is not dispatched in a manner that harms Virginia ratepayers. However, as explained by VNG in its Petition, the breadth of that condition also may prevent Sequent from making off-system sales using VNG's remaining propane-air peaking facilities when such sales would benefit firm ratepayers. We agree with VNG that Sequent should operate peaking facilities in a manner that results in the lowest cost gas to firm sales customers. Thus, we will modify the Final Order to ensure that dispatch of the Pivotal facility does not harm Virginia ratepayers, while permitting off-system sales that result in cost savings for these ratepayers.

At page 7 of VNG's post-hearing brief, filed on May 14, 2004, the Company states that Sequent must seek and receive VNG's permission before dispatching propane from the Pivotal facility. The Company then states that "VNG will not grant such permission unless it is certain that it will not need the capacity for its firm customers and will instruct Sequent not to make off-system sales whenever VNG nominates propane from the Pivotal facility to service

<sup>1</sup> Final Order at 16. Sequent is an affiliate of VNG. The Commission previously approved, in Case No. PUA-2000-00085, an Asset Management Agreement between VNG and AGL Energy Services, Inc., the predecessor to Sequent.

firm customers' needs." At page 3 of its Petition, the Company reiterates that "VNG made a commitment that Sequent will not make off-system sales when the Pivotal facility is dispatched for VNG system supply." The Company then states that "VNG and Sequent fully understand that off-system sales must terminate anytime . . . Pivotal's propane-air facility [is] being used to any extent for VNG system supply."

Moreover, at the evidentiary hearing (Tr. 120), VNG witness Chamberlain affirmed this position:

Q . . . [I]s it VNG's position that VNG will agree to not authorize Sequent to make off-system sales on the days that VNG has nominated service from the Pivotal propane facility?

A That's correct. That's very well put.

Furthermore, at page 2 of VNG's reply, filed on July 14, 2004, the Company explains that it "has the right to call on all of its assets on any day if needed for system supply." VNG's reply also states that VNG and Sequent are willing to comply with any information requests that the Commission or the Staff make in conjunction with this matter.

The Final Order is modified as follows. First, the following condition contained in the Final Order is hereby stricken: "Thus, Sequent shall not make off-system sales utilizing any VNG facilities when any of VNG's peaking facilities are being used to serve Virginia jurisdictional customers." Next, as a condition of the Final Order, the following shall apply. As agreed to by VNG, Sequent shall not make off-system sales whenever VNG nominates propane from the Pivotal facility to serve firm customers. In addition, to ensure that VNG's firm customers are served with VNG's least-cost alternative for meeting system supply, VNG's peaking facilities shall not be operated to free-up less expensive non-peaking capacity for the purpose of making off-system sales unless it can be explicitly demonstrated that such off-system sales result in lower cost gas to firm customers than would have been the case if such sales had not been made. Furthermore, and as also explained by VNG, the Company shall retain the right to call on all of its assets on any day if needed for system supply. Finally, VNG and Sequent shall provide the Staff with all data and information that the Staff deems necessary to monitor these requirements.

Accordingly, IT IS HERBY ORDERED THAT:

- (1) The June 8, 2004, Final Order in this proceeding is modified as discussed herein.
- (2) This matter is dismissed.

**CASE NO. PUE-2004-00013  
APRIL 13, 2004**

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

**ORDER GRANTING APPROVAL**

On February 24, 2004, Columbia Gas of Virginia, Inc. ("CGV" or the "Applicant"), filed an application with the State Corporation Commission (the "Commission") under Chapter 4 of Title 56 of the Code of Virginia (the "Affiliates Act") requesting approval of a firm transportation service agreement (the "FTS Agreement") with Columbia Gas Transmission Corporation ("TCO").

CGV is a natural gas distribution company serving over 200,000 customers in central Virginia, southside Virginia, Piedmont Virginia, and most of the Shenandoah Valley, as well as portions of Northern and Southwest Virginia. CGV is a wholly owned subsidiary of the Columbia Energy Group, which is a wholly owned subsidiary of NiSource, Inc. ("NiSource").

TCO is an interstate natural gas company with natural gas pipelines stretching from the Gulf Coast through the Midwest to New England. TCO's services and operations, including its rates and charges, are regulated by the Federal Energy Regulatory Commission ("FERC"). TCO also is a wholly owned subsidiary of the Columbia Energy Group.

NiSource is an energy holding company whose subsidiaries provide natural gas, electricity, and other products and services to approximately 3.7 million customers located within a corridor that runs from the Gulf Coast through the Midwest to New England. Effective November 1, 2001, NiSource became a registered holding company under the Public Utility Holding Company Act of 1935.

Since CGV and TCO share the same senior parent company, NiSource, the companies are considered affiliated interests under § 56-76 of the Code of Virginia. As such, any contract or arrangement between the companies to provide or receive services must be approved by the Commission pursuant to the Affiliates Act.

The Applicant seeks approval of the FTS Agreement with TCO that provides CGV with 30,395 dekatherms per day ("Dth") of capacity on TCO's pipeline that CGV plans to use to serve firm customers in Northern Virginia, primarily the Gainesville and Manassas areas. Since TCO is under the FERC's jurisdiction, CGV will pay FERC-approved tariff rates to TCO for the capacity. Under the FTS Agreement, which was signed December 1, 2003, service commenced November 27, 2003, and will continue for twenty (20) years until October 31, 2023. Neither CGV nor TCO can terminate the agreement before 2023, at which time it will extend from year to year unless terminated by either party upon six (6) months notice.

The Applicant represents that it needs the additional capacity to meet the current and projected demand of its firm residential, commercial, industrial, and transportation customers in the Gainesville/Manassas area. CGV represents that the Gainesville/Manassas area has a current capacity deficiency of 17% or 13,336 Dth per day that will, if not addressed, reach 27% or 23,794 Dth by 2010/11. The Applicant expects the new capacity to allow

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it to meet all current and projected firm demand through 2010/11, including current standby obligations. CGV plans to release any surplus capacity during this period until it grows into the capacity.

The Applicant compared the FTS Agreement with five other capacity alternatives to determine the most cost-effective way to satisfy the Gainesville/Manassas area demand needs. The total annual demand cost of the FTS Agreement is estimated to be \$2,245,326 or \$6.156 per month per Dth. CGV determined that the FTS Agreement was 40% less expensive than the next capacity alternative.

NOW THE COMMISSION, upon consideration of the application and representations of the Applicant and having been advised by its Staff, is of the opinion and finds that the FTS Agreement is in the public interest and should be approved. The FTS Agreement will solve a capacity deficiency in a rapidly growing metropolitan area, while providing sufficient additional capacity to meet demand needs for the next five to seven years. Further, based on representations made by the Applicant, the FTS Agreement is clearly the most cost-effective alternative available.

However, we do have a concern with CGV's application in this proceeding. The Applicant acknowledges that it entered into the affiliate agreement with TCO prior to seeking Chapter 4 approval from the Commission. CGV represents that our July 18, 1996, Order Granting Approval in Case No. PUA-1995-00025 approving CGV's Policy for Executing Revised or New Transportation Agreements with Affiliates (the "Policy Order") allows CGV to enter into supply-related agreements with its affiliates before obtaining Commission approval with the understanding that the proper specifics of the agreements would be provided to the Commission at a later date.

We agree that the FTS Agreement falls within the general scope of the Policy Order. However, many of the supply-related agreements approved under the Policy Order had short terms and were easily cancelable. The FTS Agreement is for twenty (20) years with no cancellation before 2023. In addition, timely notice and prompt filing remain necessary for the Commission to exercise its regulatory oversight. We note that the Applicant did not file for Chapter 4 approval until nearly three months after signing the FTS Agreement.

Therefore, we find the following modifications to the Policy Order are necessary. First, CGV must provide notice to the Commission's Division of Public Utility Accounting of any supply-related agreement that CGV executes under the Policy Order as soon as the agreement becomes binding. Second, CGV must file for Chapter 4 approval within forty-five (45) days after signing such an agreement.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to § 56-77 of the Code of Virginia, Columbia Gas of Virginia, Inc., is hereby granted approval to enter into the above-referenced firm transportation service agreement with Columbia Gas Transmission Corporation.
- 2) On a prospective basis, CGV must provide notice to the Commission's Division of Public Utility Accounting of any supply-related agreement that it executes under the Policy Order as soon as the agreement becomes binding.
- 3) On a prospective basis, CGV must file for Chapter 4 approval within forty-five (45) days after signing any supply-related agreement executed under the Policy Order.
- 4) Commission approval shall be required for any changes in the terms and conditions of the FTS Agreement approved herein.
- 5) 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.
- 6) The approval granted herein shall not be deemed to include any approvals other than for the transactions contained in the FTS Agreement approved herein.
- 7) The approval granted herein shall have no ratemaking implications for annual informational filings or future rate proceedings.
- 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) CGV shall include the transactions covered under the FTS Agreement approved herein in its Annual Report of Affiliate Transactions submitted to the Commission's Director of Public Utility Accounting on or before May 1 of each year, which deadline may be extended administratively by the Director of Public Utility Accounting.
- 10) If Annual Informational and/or General Rate Case Filings are not based on a calendar year, then CGV shall include the affiliate information contained in the Annual Report of Affiliate Transactions in such filings.
- 11) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2004-00014  
APRIL 29, 2004**

APPLICATION OF  
MECKLENBURG ELECTRIC COOPERATIVE

For authority make a loan to an affiliate

**ORDER GRANTING AUTHORITY**

On February 25, 2004, Mecklenburg Electric Cooperative ("Mecklenburg" or "the Cooperative") filed an application with the State Corporation Commission ("Commission") under Chapter 4 (§ 56-76 *et seq.*) of Title 56 of the Code of Virginia ("Code") for authority to make a loan to its affiliate, Mecklenburg Communications Services, Inc. ("Communications").

By Order dated November 17, 1998, in Case No. PUF-1998-00027, the Commission granted Mecklenburg authority to guarantee a \$2,000,000 revolving line of credit for Communications through the National Cooperative Services Corporation, a subsidiary of the National Rural Utilities Cooperative Finance Corporation. The guarantee and revolving credit facility expired on January 13, 2004, with an outstanding balance of \$1,095,000.

At its Board of Directors meeting held November 19, 2003, the Cooperative's Board of Directors authorized the issuance of a note agreement ("Note") between Mecklenburg and Communications in the amount of \$1,200,000. The Note will have a 15-year maturity and will carry a 5.00% rate of interest for 2004. According to the application, the interest rate will be evaluated each December 31 and reset to represent a market rate of interest.

On or about March 26 and April 19, 2004, Mecklenburg provided written responses to a draft Action Brief prepared by the Commission's Staff ("Staff").<sup>1</sup> The Staff and Mecklenburg agree that the 5.00% one-year adjustable rate proposed by the Cooperative is higher than the interest rate for a comparable loan to Communications from a non-affiliated lender, with Mecklenburg as guarantor. Staff's Action Brief and the Cooperative's responses are being filed contemporaneously with this Order.

NOW THE COMMISSION, having considered the application and the applicable law and having been advised by its Staff, is of the opinion and finds that Mecklenburg's proposed loan to Communications is not inconsistent with the public interest as discussed herein.

As noted above, we previously authorized Mecklenburg to guarantee a \$2,000,000 revolving line of credit for Communications. The proposed loan of \$1,200,000 represents a continuation of the Cooperative's support of Communications, which has been in existence for a number of years. However, although we approve the Cooperative's application herein, subsequent applications by cooperatives under Chapter 4 of Title 56 of the Code will require a more thorough demonstration that such proposals comply with all statutory and regulatory requirements.

Specifically, § 56-231.34:1 B of the Code, which became effective in 1999, states that the Commission "shall promulgate rules and regulations, governing the conduct of cooperatives, to promote effective and fair competition between (i) affiliates of cooperatives that are engaged in business activities which are not regulated utility services and (ii) other persons engaged in the same or similar businesses." The Code further directs, among other things, that such rules and regulations shall include provisions:

1. Prohibiting cost-shifting or cross-subsidies between a cooperative and its affiliates;
2. Prohibiting anticompetitive behavior or self-dealing between a cooperative and its affiliates; [and]
3. Prohibiting a cooperative from engaging in discriminatory behavior towards nonaffiliated entities. . .<sup>2</sup>

As required by statute, the Commission promulgated regulations, which became effective July 1, 2000, prohibiting the above-referenced practices.<sup>3</sup>

Mecklenburg's application raises issues regarding one or more of the above prohibitions. For example, the Cooperative has not established that Communications could obtain - without Mecklenburg standing as guarantor - a comparable loan from a non-affiliated lender with an initial interest rate at or below 5.00%. Moreover, Mecklenburg has not demonstrated that Communications could obtain a comparable loan at any interest rate without Mecklenburg as guarantor. Thus, although there is no evidence in this case that the proposed loan will impair effective and fair competition between Communications and similar businesses, Mecklenburg's application raises serious questions as to whether the proposed loan may represent a cross-subsidy or self-dealing between the Cooperative and its non-regulated affiliate.

In sum, future applications of this nature must demonstrate that the proposed transaction does not violate § 56-231.34:1 B of the Code and the Commission's regulations promulgated thereunder. In addition, the Commission may require an applicant to provide public notice of subsequent filings of this nature.

Accordingly, IT IS HEREBY ORDERED THAT:

(1) Pursuant to § 56-82 of the Code of Virginia, Mecklenburg is authorized to lend Communications up to \$1,200,000, under the terms and conditions and for the purposes stated in the application.

<sup>1</sup> On April 23, 2004, the Commission entered an Extension Order, which extended the Commission's review period for this application by 30 days pursuant to § 56-82 of the Code.

<sup>2</sup> Va. Code § 56-231.34:1 B.

<sup>3</sup> See 20 VAC 5-203-30.

- (2) Any changes in the terms and conditions and/or purposes of the loan approved herein, including those involving successors and assigns, shall require further Commission approval.
- (3) 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.
- (4) The approval granted herein shall have no ratemaking implications.
- (5) The Commission reserves the authority to examine the books and records of any affiliate of Mecklenburg in connection with the authority granted herein whether or not the Commission regulates such affiliate.
- (6) The transaction authorized herein shall be included in Mecklenburg's Annual Report of Affiliate Transactions due to the Director of Public Utility Accounting by no later than May 1 of each year. Such report shall provide the amount of the loan, the interest rate effective for the past year, and a repayment history of the loan.
- (7) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUE-2004-00015  
JUNE 16, 2004**

APPLICATION OF  
VIRGINIA GAS DISTRIBUTION COMPANY

For permission to abandon service in a portion of its service territory

**FINAL ORDER**

On February 25, 2004, Virginia Gas Distribution Company ("VGDC" or "Company") filed an application with the Virginia State Corporation Commission ("Commission"), pursuant to Chapter 10.1 of Title 56 of the Code of Virginia, seeking permission to abandon a portion of its service territory and asking that a new certificate of public convenience and necessity ("Certificate") be issued to reflect this abandonment.<sup>1</sup>

Currently, Certificate No. G-164a permits VGDC to provide natural gas distribution service in Buchanan County. Upon amendment, the Company's certificated area would exclude the Garden Creek Subdivision, located in southern Buchanan County, southeast of Grundy, in an area known as Mount Heron. A legal description of the distribution system is as follows:

BEGINNING at a point 712.85' S87°31'38"W of the intersection of state routes 624 and 627, thence N33°56'40"E 856.70'; thence N41°04'02"E 1303.74'; thence S54°12'27"E 391.99'; thence S25°46'46"W 1040.66'; thence S37°26'20"W 678.53'; thence S7°55'46"W 705.98'; thence N70°54'41"W 481.96'; thence N23°0'38"W 600.89' to the point of BEGINNING, containing 35.18 acres, more or less.

The application of VGDC did not propose any changes to its tariffs, rates, rules, and regulations on file with the Commission and VGDC states that the effects of the abandonment will not have any impact on its rates.

On March 12, 2004, the Commission issued an Order Prescribing Notice and Inviting Comments and Requests for Hearing providing interested persons an opportunity to file comments and to request a hearing on the application, as well as directing the Staff to investigate the application. The Commission received no requests for hearings nor any comments before the April 23, 2004, deadline established in that Order.

On May 20, 2004, the Staff filed its report in the case. The Staff Report notes that the natural gas well used by VGDC's facilities to serve the Garden Creek Subdivision has consistently failed to meet the demands of the customers and that the property owners have all converted to alternative fuel sources. The Staff Report indicates that the Company, in abandoning its gas facilities, must comply with the federal pipeline safety standards adopted by the Commission.<sup>2</sup> The Staff Report also states that the Division of Utility and Railroad Safety would conduct inspections to monitor compliance with the Pipeline Safety Standards as the gas facilities are abandoned by VGDC. The Staff recommends that the Company's application for permission to abandon service to the Garden Creek Subdivision be approved.

On May 24, 2004, VGDC filed its reply to the Staff Report stating that VGDC concurred with the Staff Report and that the Company did not intend to file any further testimony or comments in the proceeding.

NOW THE COMMISSION, having considered the matter, is of the opinion and finds that VGDC's application to abandon the Garden Creek Subdivision portion of its service territory described herein should be accepted and that the Company should be permitted to abandon its gas distribution facilities in the Garden Creek Subdivision subject to compliance with the Pipeline Safety Standards. Consistent with representations made in the Staff Report, we expect the Division of Utility and Railroad Safety to conduct inspections to ensure the Pipeline Safety Standards are met. We will direct the Company to file maps delineating its revised service territory once the Garden Creek Subdivision has been abandoned. Once the Company's facilities have

<sup>1</sup> VGDC's other certificates of public convenience and necessity to offer natural gas distribution service in its other certificated service territories in Virginia are not affected by VGDC's application nor by this Final Order.

<sup>2</sup> Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards, 49 C.F.R. § 192 (2003) ("Pipeline Safety Standards") adopted by the Commission in Case No. PUE-1989-00052.



been properly abandoned and the appropriate maps have been filed, we will direct that VGDC's current certificate be cancelled and a new certificate be issued.

Accordingly, IT IS ORDERED THAT:

- (1) The application of VGDC to abandon the portion of its service territory described herein is hereby approved.
- (2) VGDC shall take the appropriate steps necessary to abandon its gas distribution facilities in the Garden Creek Subdivision in accordance with the Pipeline Safety Standards.
- (3) VGDC shall notify the Divisions of Energy Regulation and Utility and Railroad Safety once the abandonment is complete.
- (4) VGDC shall file with the Division of Energy Regulation two identical Virginia Department of Transportation General Highway Maps for Buchanan County its revised service territory indicated thereon.
- (5) Once VGDC's facilities have been properly abandoned and the appropriate maps have been filed, Certificate No. G-164a shall be cancelled and new Certificate No. G-164b shall be issued.
- (6) This proceeding shall be continued in order to receive the documents required to be filed herein by the Company.

**CASE NO. PUE-2004-00016  
APRIL 28, 2004**

JOINT APPLICATION OF  
ATMOS ENERGY CORPORATION  
and  
ATMOS ENERGY SERVICES, LLC

For authority to enter into a services agreement pursuant to Chapter 4 of Title 56 of the Code of Virginia

**ORDER GRANTING AUTHORITY**

On February 27, 2004, Atmos Energy Corporation ("Atmos") and Atmos Energy Services, LLC ("AES") (collectively the "Applicants"), filed an application with the State Corporation Commission (the "Commission") under Chapter 4, Title 56 of the Code of Virginia (the "Affiliates Act"), requesting approval of a services agreement (the "AES Agreement").

Atmos, which is headquartered in Dallas, Texas, is a natural gas distribution company providing distribution, transmission, and transportation services to approximately 1.7 million customers in Virginia, Tennessee, Colorado, Texas, Louisiana, Kentucky, Mississippi, Missouri, Kansas, Georgia, Iowa, and Illinois. In Virginia, Atmos provides gas distribution service to approximately 19,000 customers located in Abingdon, Blacksburg, Bristol, Marion, Pulaski, Radford, and Wytheville and their environs.

AES is a subsidiary of Atmos Energy Holdings, Inc. ("AEH"), which is a wholly-owned subsidiary of Atmos that oversees Atmos' unregulated activities. AES, which is located in New Orleans, Louisiana, provides administrative, management, and other services to Atmos and its affiliates.

The Applicants are seeking authority to enter into the AES Agreement under which AES can provide four categories of service to Atmos.

- A. Gas Supply Procurement - This category includes hedging administration, supply and pipeline capacity planning, commodity procurement and contracting, supply portfolio management, contract administration, and supplier relations.
- B. System Load Management - This category includes demand forecasting, scheduling, dispatch and balancing, weather database management, load database management, pricing database management, and capacity and storage management.
- C. Regulatory Support and Compliance - This category includes supply procurement planning, gas supply scheduling, purchase gas forecast, federal and state regulatory affairs, regulatory data response support, and hedging program reporting and filing support.
- D. Gas Supply Accounting Administration - This category includes gas supplier invoice reconciliation, gas supplier invoice coding and reporting, gas cost accounting (estimate/actual), and gas supply record retention.

Under the Agreement, Atmos initially chooses the range of services that it will receive from AES, and later has the option to modify its selection or terminate the Agreement upon giving AES 60 days written notice.

The Agreement allows AES to provide the contracted services by:

utilizing the services of such persons as have the necessary qualifications and expertise to provide the Services.  
If necessary, AES, after consultation with the Company, may serve as administrative agent, arranging and monitoring Services provided by third parties to the Company.

The Agreement also states that AES will provide the contracted services at cost. Direct costs are determined based on the applicable employee's labor distribution. Indirect costs such as departmental overheads, administrative and general costs, and taxes are associated with the services performed in proportion to the direct costs of the services or other relevant cost allocators.

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AES will assign, distribute, and allocate costs to Atmos as follows.

1. AES will directly charge specific costs from third parties.
2. AES will allocate costs to Atmos' operating divisions for agreed-upon services performed by AEH employees based upon their labor distribution. Indirect costs, including those from AES affiliate Atmos Energy Marketing ("AEM," formerly known as Woodward Marketing), will be charged using the proportion of distributed labor to total labor.
3. AES will allocate costs attributable to more than one jurisdiction within an operating division using methods consistent with the work performed. For Virginia, AES' costs will first be distributed to the Tennessee-Virginia Mid-states region based on a direct labor ratio. Then, AES' costs will be allocated between Tennessee and Virginia based on a three-year average of each region's historical total throughput.
4. Atmos' labor distribution studies will be reviewed annually, and adjustments may be made for any known, significant, and reasonably quantifiable events.

The Agreement contains an assignment clause, and is effective as of April 1, 2004.

NOW THE COMMISSION, upon consideration of the application and representations of the Applicant and having been advised by its Staff, is of the opinion and finds that the proposed AES Agreement is in the public interest and should be approved, subject to certain additional measures designed to protect the public interest.

Atmos' plan for AES to charge cost for its services, to allocate AES' costs based on direct labor distributions, and to shift recovery of AES' costs from the purchased gas adjustment to base rates appears reasonable. We normally require affiliate services to be provided to Virginia utilities at the lower of cost or market. However, based on representations made by the Applicants, it appears that such cost/market comparisons are not likely to be available in this instance. Nevertheless, we find that Atmos should bear the burden of proving, in any rate proceeding, that no market exists for the energy administrative services obtained from AES or, if a market exists, that Atmos is paying AES the lower of cost or market.

Atmos represents that it will continue to competitively bid its commodity procurement and asset management services. We believe that the unbundling of energy management services represents a major change in the terms and conditions of the Atmos-AEM affiliate agreement approved by the Commission in Case No. PUA-1996-00025. Therefore, we find that Atmos must file a new Chapter 4 application seeking approval of a revised agreement with AEM if it wishes AEM to continue to provide the unbundled commodity procurement and asset management services.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to § 56-77 of the Code of Virginia, Atmos Energy Corporation is hereby granted approval to enter into the above-referenced AES Agreement with Atmos Energy Services, LLC.
- 2) Commission approval shall be required for any changes in the terms and conditions of the AES Agreement approved herein, including successors and assigns.
- 3) Atmos shall bear the burden of proving, in any rate proceeding, that no market exists for the energy administrative services obtained from AES, or, if a market exists, that Atmos is paying AES the lower of cost or market.
- 4) Atmos must file a new Chapter 4 application seeking approval of a revised agreement with AEM if it wishes AEM to continue to provide the unbundled commodity procurement and asset management services. Such application shall be filed within ninety (90) days from the date of this Order.
- 5) 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.
- 6) The approval granted herein shall not be deemed to include any approvals other than for the specific transactions contained in the AES Agreement approved herein.
- 7) The approval granted herein shall have no ratemaking implications for annual informational filings or future rate proceedings.
- 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) Atmos shall include the transactions covered under the AES Agreement approved herein in its Annual Report of Affiliate Transactions submitted to the Commission's Director of Public Utility Accounting on or before April 1 of each year, which deadline may be extended administratively by the Director of Public Utility Accounting. Atmos shall include, in addition to items previously required, AES' annual charges by FERC account, functional cost description, and dollar amount in such report.
- 10) If Annual Informational and/or General Rate Case Filings are not based on a calendar year, then Atmos shall include the affiliate information contained in the Annual Report of Affiliate Transactions in such filings.
- 11) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2004-00017  
MARCH 24, 2004**

PETITION OF  
COLUMBIA GAS OF VIRGINIA, INC.

For an extension of time in which to file proposed transportation tariffs

**ORDER GRANTING PETITION**

On March 1, 2004, Columbia Gas of Virginia, Inc. ("Columbia" or "Company"), filed a Petition with the State Corporation Commission ("Commission") requesting a twelve-month extension in which to file proposed transportation tariffs with supporting documentation as directed by the Commission in Case No. PUE-2001-00587.

By Orders dated October 3 and 22, 2003, in Case No. PUE-2001-587, the Commission, among other things, denied certain transportation tariff proposals related to Phase II of that case, found that modifications to the Company's transportation schedules should be considered further, and directed Columbia to file proposed transportation tariffs with supporting documentation by April 29, 2004, as discussed in these Orders. The October 3, 2003, Order also found, among other things, that the Company failed to establish that it has the ability to provide the necessary technical and customer support service attendant to the transportation tariffs proposed in that case.

In its Petition, Columbia explains that it has renovated its electronic measurement data collection system ("EMDCS"), but that additional time is required to complete customer migration to the new system and to confirm the new system's reliability. The Company states that a fully functioning EMDCS, accessible by all transportation customers, is a prerequisite to modifying existing services. Thus, Columbia respectfully submits that it would be premature, at this time, to file modified transportation tariffs.

On March 4, 2004, the Commission issued an Order Permitting Comments, which allowed interested persons to file comments on the Petition, permitted Columbia to file a reply to such comments, and temporarily suspended the April 29, 2004, date for Columbia's filing of proposed transportation tariffs with supporting documents pending the Commission's consideration of the Petition.

On March 10, 2004, Stand Energy Corporation ("Stand") filed comments supporting the Company's requested twelve-month extension of the time to file proposed transportation tariffs. Stand relates that it and its customers are major users of Columbia's transportation services. Stand represents that the improvements Columbia has initiated, and will continue to make, in its EMDCS will contribute to the effective and efficient operation of the Company's system. Stand confirms that improvements have been made in the EMDCS, and that additional time is necessary to complete improvements to the EMDCS.

On March 18, 2004, the Virginia Industrial Gas Users' Association ("VIGUA") filed comments on the Petition. VIGUA does not oppose Columbia's request for an extension of time. However, among other things, VIGUA states that it is neither agreeing nor disagreeing with the Company's allegations in the Petition regarding the reasonableness and sufficiency of access to, and the reliability of, Columbia's new EMDCS technology.

On March 22, 2004, the Company filed a letter with the Clerk of the Commission advising that Columbia does not intend to reply to the comments filed by Stand or VIGUA.

NOW THE COMMISSION, having considered the Petition and the comments filed by Stand and by VIGUA, is of the opinion and finds that the Petition shall be granted.

Accordingly, IT IS ORDERED THAT:

(1) On or before April 29, 2005, Columbia shall file with the Clerk of the Commission proposed transportation tariffs with supporting documentation as directed in Case No. PUE-2001-00587.

(2) This case is dismissed from the Commission's docket of active cases, and the papers herein shall be placed in the Commission's file for ended causes.

**CASE NO. PUE-2004-00017  
NOVEMBER 9, 2004**

PETITION OF  
COLUMBIA GAS OF VIRGINIA, INC.

For a waiver of requirement to file revised transportation tariffs

**ORDER GRANTING WAIVER**

On January 2, 2002, Columbia Gas of Virginia, Inc. ("Columbia" or "Company"), filed an application with the State Corporation Commission ("Commission") for approval of its proposed retail supply choice plan ("Choice Plan"). On October 3, 2003, in Case No. PUE-2001-00587, the Commission issued an Order that denied Phase II of the Choice Plan. In that Order, the Commission also found that modifications to Columbia's transportation schedules should be considered further, and the Commission directed the Company to file proposed transportation tariffs within 120 days from the date of the Order. In an Order on Reconsideration, the Commission extended the 120-day filing requirement to 209 days, or until April 29, 2004. On March 24, 2004, the Commission issued an Order Granting Petition in the instant docket, which granted Columbia's request to further extend the filing date to April 29, 2005.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

On September 20, 2004, the Company filed a Petition for Waiver of Filing Requirement, wherein Columbia requested that the Commission issue a waiver of its requirement to file proposed transportation tariffs, without prejudice to Columbia to file such tariffs in the future. Columbia stated that circumstances have changed since it filed its Choice Plan in 2002, and that the proposed transportation tariffs may no longer be appropriate. On September 29, 2004, the Commission issued an Order for Comment, which permitted comments and a reply regarding Columbia's Petition for Waiver of Filing Requirement.

Comments were filed by the Commission's Staff, the Virginia Industrial Gas Users' Association, Chaparral (Virginia) Inc., Stand Energy Corporation, Glen-Gery Corporation, and Mr. Donald S. Wheeler. None of the comments opposed Columbia's Petition for Waiver of Filing Requirement. On November 5, 2004, the Company filed its reply to such comments and renewed its request for waiver.

NOW THE COMMISSION, having considered the pleadings and applicable law, is of the opinion and finds that the Petition for Waiver of Filing Requirement shall be granted.

Accordingly, IT IS ORDERED THAT:

- (1) Columbia's Petition for Waiver of Filing Requirement is hereby granted, without prejudice to Columbia to file proposed transportation tariffs in the future.
- (2) This case is dismissed from the Commission's docket of active cases, and the papers herein shall be placed in the Commission's file for ended causes.

**CASE NO. PUE-2004-00018  
MAY 7, 2004**

JOINT PETITION OF  
AQUA AMERICA, INC.,  
and  
ALLETE WATER SERVICES, INC.

For approval to transfer stock

**ORDER GRANTING APPROVAL**

On March 3, 2004, Aqua America, Inc. ("Aqua America"), and Allete Water Services, Inc. ("Allete") (collectively, the "Petitioners"), filed a joint petition with the State Corporation Commission ("Commission") requesting approval, pursuant to Chapter 5 of Title 56 (the "Utility Transfers Act") of the Code of Virginia ("Code"), to consummate a series of transactions (the "Transactions"), through which the transfer of all the outstanding stock of Heater Utilities, Inc. ("Heater"), is transferred from Allete to Aqua America.

Aqua America, a corporation organized under the laws of the Commonwealth of Pennsylvania, is the largest publicly traded water utility holding company in the United States serving approximately 2.5 million residents in 14 states. Aqua America has recently acquired control of a number of water and waste water systems in Virginia, including several regulated utilities, as part of its acquisition of AquaSource Utility, Inc.

Allete is organized under the laws of the state of Minnesota and is the parent company of Heater. Heater, a South Carolina corporation, owns and operates approximately 450 community water systems and 33 waste water utility systems within the state of North Carolina. Heater also owns and operates the Pinebrook and Brandywine water systems, located in Carroll County, Virginia.

Aqua America and Allete request that the Commission grant authority for the transfer of all of the outstanding stock of Heater from Allete to Aqua America. This will result in the transfer of control of Heater and, therefore, the Pinebrook and Brandywine water systems from Allete to Aqua America. Pursuant to the Stock Purchase Agreement ("Agreement"), Aqua America will indirectly acquire all of the issued and outstanding Heater stock, and, therefore, all of its operations in Virginia.

More specifically, under the Agreement, Aqua America will purchase Heater stock for \$48 million in the form of cash from short-term and long-term debt, common stock, and securities convertible into common stock. The ultimate funding decision will be decided by the current financial market conditions at the time of the proposed transaction.

The purpose of the proposed Transactions is to allow Allete to dispose of its water services businesses. Petitioners represent that Aqua America holds the technical, financial, and managerial qualifications to acquire control of the Pinebrook and Brandywine water systems. Petitioners further represent that economies of scale and scope may help to offset the ongoing rise in the cost of providing water and waste water service, thereby moderating the magnitude of future cost increases. Petitioners represent that the Pinebrook and Brandywine water systems will continue to receive services with no change in rates, terms, or conditions.

THE COMMISSION, upon consideration of the joint petition and representations of Petitioners and having been advised by its Staff, is of the opinion and finds that the above-described transfer of control 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 to consummate the Transactions as described herein to allow Aqua America, Inc., and Allete Water Services, Inc., to transfer 100% of the stock and, therefore, control of Heater Utilities, Inc., from Allete to Aqua America, 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 consummation of the transaction, subject to administrative extension by the Director of Public Utility Accounting. Such report shall include the date the transfer of control took place.

(3) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2004-00019  
MARCH 29, 2004**

APPLICATION OF  
VIRGINIA-AMERICAN WATER COMPANY

For authority to issue debt securities to an affiliate

**ORDER GRANTING AUTHORITY**

On March 3, 2004, Virginia-American Water Company ("company" or "Virginia-American"), filed an application with the Virginia State Corporation Commission ("Commission") under Chapter 3 of Title 56 of the Code of Virginia for authority to issue long-term debt to an affiliate through March 30, 2006. In its application, the Company indicated that it would issue the debt to an affiliate pursuant to the authority granted in Case No. PUA-2000-00038. In that case, the Commission authorized the Company to enter into a Financial Services Agreement ("FSA") regarding short-term debt, long-term debt, and cash management functions with its affiliate, American Water Capital Corp. ("Capital Corp."), but such authority expires June 30, 2004. In letters dated March 11, 2004, and March 12, 2004, the Company requested that the Commission in this case extend only the authority to issue long-term debt to an affiliate through March 30, 2006, as granted in the prior case. The Company intends to file an application in a separate proceeding requesting an extension of authority with respect to the FSA regarding short-term debt and cash management functions. The Company paid the requisite fee of \$250.

In its application, the Company requests authority to issue up to \$20.0 million in long-term promissory notes ("Notes") on or before March 30, 2006, to Capital Corp. pursuant to the FSA. The Company expects to issue \$10.0 million in 30-year bonds upon authorization by the Commission. The interest rate for the initial \$10.0 million issuance is expected to be 5.80%. Interest rates for Notes issued subsequently are anticipated to be fixed rates between 150 and 200 basis points over U.S. Treasury Notes/Bonds. The Notes will have the same rate, maturity and other terms (other than total principal amount) as contained in securities issued by Capital Corp.

The proceeds from the sale of the Notes will be used for the repayment of all or a portion of Virginia-American's outstanding short-term debt, the repayment at maturity of outstanding long-term debt, the purchase, acquisition and/or construction of additional properties and facilities, as well as improvements to Virginia-American's existing utility plant, and for general corporate purposes.

THE COMMISSION, upon consideration of the application and the advice of its Staff is of the opinion and finds that approval of the application will not be detrimental to the public interest. However, should the Company wish to continue the FSA with respect to short-term debt and cash management functions, Virginia-American shall file a new application for such authority on or before May 1, 2004.

Accordingly, IT IS ORDERED THAT:

1) The Company is hereby authorized to issue up to \$20.0 million in debt securities to Capital Corp. pursuant to the FSA on or before March 30, 2006, all under the terms and conditions and for the purposes set forth in the application.

2) The authority granted under the Affiliates Act in Case No. PUA-2000-00038 with respect to only the issuance of long-term debt is hereby superseded by the authority granted herein.

3) Within thirty (30) days of the date of each issuance of notes the Company shall file with the Commission a Report of Action which shall include the types of securities issued, the date(s) issued, the amount of the issuance, the applicable interest rate, the maturity date, net proceeds to the Company, an itemized list of actual expenses to date associated with the securities issuances, and a balance sheet reflecting the actions taken. Such report shall also include a cost benefit analysis for any securities issued for the purpose of refunding outstanding securities prior to maturity.

4) The authority granted herein shall have no implications for ratemaking purposes.

5) This matter shall remain open for the continued review, audit, and any further appropriate directive of the Commission.

**CASE NO. PUE-2004-00020  
MARCH 18, 2004**

PETITION OF  
STAFF OF THE STATE CORPORATION COMMISSION

For Declaratory Judgment Interpreting Various Sections of the Utility Facilities Act of Title 56 of the Code of Virginia, and for other Relief

**ORDER DENYING PETITION**

On March 5, 2004, the Staff of the State Corporation Commission ("Commission") filed a Petition requesting declaratory judgment and a determination that Pivotal Propane of Virginia, Inc. ("Pivotal"), and AGL Resources, Inc. ("AGLR"), are subject to the Utility Facilities Act, Chapter 10.1 (§ 56-265.1 et seq.) ("Utility Facilities Act") of Title 56 of the Code of Virginia ("Code"). Specifically, the Staff asks the Commission to interpret § 56-265.1(b) of the Code to find whether the definition of "public utility" refers to the production, storage, transmission, or distribution of all gas sold for heat, light, or power, or whether only certain kinds of gas are included in this definition of "public utility." If the Commission finds that the definition of "public utility" is not limited to certain kinds of gas sold for heat, light, or power, the Staff requests the Commission to determine that Pivotal and AGLR are required to obtain certificates of public convenience and necessity pursuant to §§ 56-265.2, 56-265.2:1, and 56-265.3 of the Code in order to perform under the Propane Sales Agreement ("Agreement") approved by the Commission on February 6, 2004, in Case No. PUE-2003-00535.

Pivotal is a wholly owned subsidiary of AGLR and an affiliate of Virginia Natural Gas, Inc. ("VNG"). VNG is a Virginia public service corporation holding a certificate of public convenience and necessity to provide gas distribution services in southeastern Virginia. VNG also is a wholly owned subsidiary of AGLR. In Case No. PUE-2003-00535, the Commission approved the aforementioned Agreement between VNG and Pivotal, pursuant to which Pivotal will construct and own a propane-air facility in Chesapeake, Virginia, to provide dedicated peak day capacity to the Chesapeake, Suffolk, Norfolk, and Virginia Beach areas of VNG's distribution system. The facility will be located entirely within the certificated service territory of VNG. AGLR Service Company employees that currently operate the on-system propane-air facility of VNG also will operate Pivotal's propane-air facility.

The Staff contends that propane is included in the term "gas" as used in the definition of public utility in § 56-265.1(b) of the Code, and, thus, Pivotal and AGLR are engaged in jurisdictional activities involving gas and are subject to the Utility Facilities Act. The Staff also asserts that if Pivotal and AGLR are deemed subject to the Utility Facilities Act, then these two foreign corporations will be required to reincorporate in Virginia as public service corporations in compliance with Article IX, § 5 of the Constitution of Virginia. Further, if Pivotal and AGLR are public utilities under the Utility Facilities Act, the Staff requests the Commission to determine that Pivotal and AGLR must obtain certificates of public convenience and necessity, under §§ 56-265.2, 56-265.2:1, and 56-265.3 of the Code, to construct the propane-air facility and to furnish public utility service.

On March 17, 2004, VNG filed a response to the Petition. VNG contends that, in this instance, a declaratory judgment is not available to the Staff under Rule 5 VAC 5-20-100 C of the Commission's Rules of Practice and Procedure, which permits a petition for declaratory judgment if there is no other adequate remedy. VNG states that the Staff clearly has another adequate remedy; the Staff can proceed with a motion for rule to show cause under Rule 5 VAC 5-20-90. VNG further asserts that Pivotal and AGLR are not public utilities under § 56-265.1(b) of the Code, are not required to reincorporate as Virginia public service companies, and are not required to obtain a certificate of public convenience and necessity in order to perform under the Agreement.

NOW THE COMMISSION, having considered the pleadings and the applicable law, is of the opinion and finds that the Petition shall be denied.

Accordingly, IT IS ORDERED THAT:

- (1) The Petition is hereby denied.
- (2) This matter is dismissed.

**CASE NO. PUE-2004-00021  
MARCH 23, 2004**

APPLICATION OF  
CENTRAL VIRGINIA ELECTRIC COOPERATIVE

For authority to issue long-term debt

**ORDER GRANTING AUTHORITY**

On March 8, 2004, Central Virginia Electric Cooperative ("Applicant") filed an application with the Virginia State Corporation Commission ("Commission") under Chapter 3 of Title 56 of the Code of Virginia requesting authority to incur long-term debt. Applicant has paid the requisite fee of \$250.

Applicant requests authority to borrow up to \$4,130,115.07 from the National Rural Utilities Cooperative Financing Corporation ("CFC"). The proceeds will be used to retire existing debt issued to the Rural Utilities Services ("RUS"). The loan will be structured so that the debt matures in installments throughout the next 11 years. According to the application, CFC has agreed to lock in current interest rates pending Commission approval. The interest rates will range from 2.95% to 5.70%, with an effective interest rate less than 5.0%, the current rate on the existing RUS debt to be retired.

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 \$4,130,115.07 from the National Rural Utilities Cooperative Financing Corporation, under the terms and conditions and for the purposes set forth in the application.
- 2) Within thirty (30) days of the date of each advance of funds from CFC, Applicant 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 selected, and the interest rate term.
- 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-2004-00022  
MAY 27, 2004**

APPLICATION OF  
WASHINGTON GAS LIGHT COMPANY

For approval of certain affiliate transactions pursuant to Chapter 4 of Title 56 of the Code of Virginia

**ORDER GRANTING APPROVAL**

On March 24, 2004, Washington Gas Light Company ("WGL" or the "Applicant") filed a complete application with the State Corporation Commission (the "Commission") under Chapter 4, Title 56 of the Code of Virginia (the "Affiliates Act") requesting approval of certain construction and maintenance work performed for WGL by its affiliate, American Combustion Industries, Inc. ("ACI").

WGL is a public service company providing natural gas distribution service to more than 900,000 residential, commercial, and industrial customers in the District of Columbia, Maryland, and Virginia. Within Virginia, WGL provides natural gas service to customers in the Counties of Arlington, Fairfax, Loudoun and Prince William, the Cities of Alexandria, Fairfax, Falls Church, Manassas and Manassas Park, and to customers in the Towns of Vienna, Middleburg, Occoquan, and Leesburg. WGL is a wholly owned subsidiary of WGL Holdings, Inc. ("WGL Holdings").

ACI is a mechanical contracting company that primarily provides boiler, air conditioning, and plumbing services to large commercial customers in Virginia, Maryland, the District of Columbia, and other jurisdictions. ACI is a wholly owned subsidiary of Washington Gas Resources Corporation, which is a wholly owned subsidiary of WGL Holdings.

Since WGL and ACI share the same senior parent company, WGL Holdings, the companies are considered affiliated interests under § 56-76 of the Code of Virginia (the "Code"). As such, any contract or arrangement between the companies to provide or receive services must be filed for approval by the Commission pursuant to the Affiliates Act.

WGL requests approval under § 56-77 of the Code of four agreements and maintenance work dating from 1999 to 2001 between ACI and WGL covering several construction and maintenance projects that ACI performed for WGL between 1999 and 2003. Each agreement is summarized below.

In 1999, WGL sought competitive bids for the project of upgrading the control systems for the four process steam boilers at WGL's Rockville propane facility in Rockville, Maryland. Following a sealed bid process, WGL awarded the contract to ACI after determining that ACI was the low bidder with a revised bid of \$197,145. This bid was approximately 13% or \$29,000 less than the next lowest offer. The parties signed the Rockville Agreement #1 on August 19, 1999. The contract later increased to include a \$10,010 change order to replace valves on three boilers in order to meet code requirements. According to WGL's accounts payable records, the final cost of the project totaled \$203,086.

In 2000, WGL sought competitive bids for the project of upgrading the control systems for the steam boilers at WGL's Ravensworth propane facility in Fairfax County, Virginia. Following a sealed bid process, WGL awarded the contract to ACI after determining that ACI was the low bidder with a bid of \$229,411. This bid was approximately 26% or \$80,000 less than the next lowest offer. The parties signed the Ravensworth Agreement #1 on June 23, 2000. According to WGL's accounts payable records, the final cost of the project was \$228,547.

In 2001, WGL sought competitive bids for the project of upgrading the cavern refrigeration control system at WGL's Ravensworth propane facility in Fairfax County, Virginia. Following a sealed bid process, WGL awarded the contract to ACI after determining that ACI was the low bidder with a bid of \$122,700. This bid was approximately 34% or \$63,000 less than the next lowest offer. The parties signed the Ravensworth Agreement #2 on June 23, 2001. According to WGL's accounts payable records, the final cost of the project was \$120,200.

In 2001, WGL awarded a contract to ACI to modify the Rockville boiler control system to make it compatible with the Ravensworth system. The parties signed the Rockville Agreement #2 on July 5, 2001. According to WGL's accounts payable records, the final cost of the project matched the bid amount of \$9,907. In 2003, ACI performed \$17,104 of maintenance work for WGL on the boiler control systems.

Overall, WGL paid ACI \$578,843 for the construction and maintenance work. Since \$560,690 of this total was capitalized to FERC account 362 (Gas Holders), approximately \$220,000 (excluding accumulated depreciation) is currently in jurisdictional rate base.

WGL represents that it did not seek prior approval for the four ACI construction agreements and the ACI maintenance work from the Commission because the engineers managing the projects were not aware of Affiliate Act requirements. WGL's Vice President for Regulatory Affairs and Energy Acquisition only recently became aware of the regulatory lapse. Since then, WGL has taken immediate action to educate its employees concerning the nature and scope of the Affiliates Act. WGL represents that it is also enacting several long-term internal control measures to ensure continued

compliance with the Affiliates Act. This includes revising WGL's compliance manual to include a section on the Affiliates Act, which will "explain that contracts between the utility and an affiliate require prior [Commission] approval, and that no such contract may be undertaken without consultation with [WGL's] Office of General Counsel." In addition, WGL plans to test its management employees concerning the provisions of the Affiliates Act. Finally, WGL indicates that it is revising its accounting procedures to ensure that future affiliate transactions are discovered before payments are made.

WGL employed competitive bidding to determine the contractor for three of the four projects, and ACI was chosen because it was the low bidder on each project. WGL represents that the fourth project, Rockville Agreement #2, was a special case. Since the same technicians operate and maintain the Rockville and Ravensworth boilers, it is essential to have the same control system for both facilities. WGL did not know the Rockville control system was obsolete and no longer being supported until it had received bids for the Ravensworth system. Once WGL realized the systems were incompatible, it decided to treat the Rockville upgrade as part of Ravensworth Agreement #1 and handled it as a change order for additional work rather than a separate project.

WGL represents that it did not inquire further concerning ACI's costs because it assumes that any bid from a contractor is at the contractor's cost plus a profit. By selecting ACI's bids, which were significantly less than the other bids, WGL assumed that ACI's profit was reasonable and minimized the cost of the projects.

NOW THE COMMISSION, upon consideration of the application and representations of the Applicant and having been advised by its Staff, believes that WGL's failure to file for Chapter 4 approval of these affiliate agreements was inadvertent. We note that, rather than discovering the violations through Staff's investigation, WGL brought the violations to the Staff's attention.

However, we have several concerns with this application. First, we are not convinced that WGL's immediate educational actions are sufficient to ensure long-term compliance with the Affiliates Act. Therefore, we find that our approval must be conditioned upon WGL providing notice and documentation to the Commission Staff when its long-term internal control measures are enacted and in place to ensure compliance with the Affiliates Act.

Our second concern is that we are not convinced that the four agreements were priced at the lower of cost or market. WGL provided satisfactory documentation showing that WGL employed competitive bidding and that ACI was the low bidder for each contract. However, WGL did not analyze whether ACI's bid was at cost. Therefore, we find that WGL should bear the burden of proving, in any rate proceeding, that WGL paid ACI the lower of cost or market for this construction and maintenance work.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to § 56-77 of the Code of Virginia, Washington Gas Light Company is hereby granted approval for the above-referenced construction agreements and maintenance work performed for WGL by its affiliate, American Combustion Industries, Inc.
- 2) WGL must provide the Commission Staff within 90 days of the date of this Order both notice and documentation of its long-term internal control measures and procedures enacted to ensure future compliance with the Affiliates Act.
- 3) WGL must bear the burden of proving, in any rate proceeding, that WGL paid ACI the lower of cost or market for the construction agreements and maintenance work approved herein.
- 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 approval granted herein shall not be deemed to include any approvals other than for the transactions contained in the four ACI construction agreements and maintenance work approved herein.
- 6) The approval granted herein shall have no ratemaking implications for annual informational filings or future rate proceedings.
- 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) WGL shall include the transactions covered under the four ACI construction agreements and maintenance work approved herein, including the related fiscal year-end plant and accumulated depreciation balances, in its Annual Report of Affiliate Transactions submitted to the Commission's Director of Public Utility Accounting on or before May 1 of each year, which deadline may be extended administratively by the Director of Public Utility Accounting.
- 9) If Annual Informational and/or General Rate Case Filings are not based on a calendar year, then WGL shall include the affiliate information contained in the Annual Report of Affiliate Transactions in such filings.
- 10) There appearing nothing further to be done in this matter, it hereby is dismissed.



**CASE NO. PUE-2004-00022  
JUNE 16, 2004**

APPLICATION OF  
WASHINGTON GAS LIGHT COMPANY

For approval of certain affiliate transactions pursuant to Chapter 4 of Title 56 of the Code of Virginia

**ORDER GRANTING RECONSIDERATION**

On March 24, 2004, Washington Gas Light Company ("WGL" or the "Company") filed with the State Corporation Commission ("Commission") an application pursuant to Chapter 4 (§ 56-76 et seq.) of Title 56 of the Code of Virginia for approval of four construction agreements with, as well as maintenance work performed by, the Company's affiliate, American Combustion Industries, Inc. ("ACI").

On May 27, 2004, the Commission issued an Order Granting Approval. Ordering Paragraph (3) provides that:

WGL must bear the burden of proving, in any rate proceeding, that WGL paid ACI the lower of cost or market for the construction agreements and maintenance work approved herein.

On June 10, 2004, WGL filed a Petition for Reconsideration of the Order Granting Approval requesting the Commission to reconsider Ordering Paragraph (3). The Company argues that, under the circumstances presented by this case, cost and market should be deemed to be the same. WGL requests the Commission replace Ordering Paragraph (3) with a paragraph making such a finding. In the alternative, the Company asks the Commission to exempt these transactions from the requirement of showing cost.

NOW THE COMMISSION is of the opinion and finds that, pursuant to 5 VAC 5-20-220 of the Rules of Practice and Procedure, 5 VAC 5-20-10 et seq., the Petition for Reconsideration should be granted for the sole purpose of allowing the Commission to retain jurisdiction over this matter and to consider the pleadings permitted to be filed herein. We will allow the Staff an opportunity to file a response and the Company to file a reply to the Staff Response.

ACCORDINGLY, IT IS ORDERED THAT:

- (1) The June 10, 2004, Petition for Reconsideration is hereby granted.
- (2) On or before July 1, 2004, the Staff shall file any response to the Petition for Reconsideration.
- (3) On or before July 9, 2004, WGL shall file any reply to the Staff Response.
- (4) This matter is continued for further orders of the Commission.

**CASE NO. PUE-2004-00022  
JULY 28, 2004**

APPLICATION OF  
WASHINGTON GAS LIGHT COMPANY

For approval of certain affiliate transactions pursuant to Chapter 4 of Title 56 of the Code of Virginia

**ORDER ON RECONSIDERATION**

On March 24, 2004, Washington Gas Light Company ("WGL" or the "Company") filed with the State Corporation Commission ("Commission") an application pursuant to Chapter 4 (§ 56-76 et seq.) of Title 56 of the Code of Virginia ("Affiliates Act" or "Chapter 4") for approval of four construction agreements with, as well as maintenance work performed by, the Company's affiliate, American Combustion Industries, Inc. ("ACI"), between 1999 and 2003.

On May 27, 2004, the Commission issued an Order Granting Approval. Ordering Paragraph (3) provides that:

WGL must bear the burden of proving, in any rate proceeding, that WGL paid ACI the lower of cost or market for the construction agreements and maintenance work approved herein.

On June 10, 2004, WGL filed a Petition for Reconsideration of the Order Granting Approval ("Petition") requesting the Commission to reconsider the requirement of Ordering Paragraph (3) for the Company to prove in a rate case that payments to ACI were the lower of cost or market. WGL requests that the Commission delete the requirement of Ordering Paragraph (3) and replace it with a paragraph making a finding that cost and market are deemed to be the same. In the alternative, the Company asks the Commission to exempt these transactions from the requirement of showing cost.

In the Petition, WGL first argues that, under the circumstances presented by this case, where bids were received from both an affiliate and third parties and the affiliate was the low bidder, cost is not necessary to protect the ratepayers, and that the Commission should regard this as a case where cost and market should be deemed to be the same. Since as a part of the bidding process the affiliate received its costs plus a reasonable profit and the third parties bid at a higher rate than the affiliate, the Company asserts that this provides assurance that cost and profit are not excessive.

WGL also argues that the effect of requiring a determination of cost in this situation is detrimental to ratepayer interests in that the costs defined in the ratemaking context are not necessarily the same as the costs considered in estimating a bid on a construction project. The Company states that the possibility exists that either the utility will not recover the full price, or that the utility will not pay the affiliate the full amount. WGL contends that this uncertainty is increased if the cost recovery issue is to be decided in a later rate case, not in the Affiliates Act filing. According to WGL, if the actual cost may not be fully recovered, the utility may decide not to accept bids from affiliates, or affiliates may decide not to bid on projects. Therefore, WGL argues that the effect would be to reduce the number of bids and exclude the potentially lowest bidder.

On June 16, 2004, the Commission issued an Order Granting Reconsideration for the purpose of continuing Commission jurisdiction over the matter and providing the Staff an opportunity to file any response to the Petition and the Company an opportunity to reply to any response filed by the Staff.

On July 1, 2004, the Staff submitted a Response of the Staff of the State Corporation Commission ("Response") requesting the Commission to maintain the requirement of Ordering Paragraph (3).

In the Response, the Staff first argues that this is not the appropriate proceeding for the Commission to deem cost and market to be the same, and that concern about the level of cost recovery is unfounded. The Staff notes that the Commission recently determined that an Affiliates Act proceeding is not the forum to resolve ratemaking treatment of costs resulting from affiliate transactions, and that such treatment should be addressed in a separate matter. The Staff cites a Commission decision, which was affirmed on appeal, that approval of affiliate agreements pursuant to the Affiliates Act is a determination on whether the structure of an agreement is in the public interest. The Staff also contends that agreements with affiliates are undertaken without the guarantee of, but rather the opportunity for, full recovery and are subject to further review. The Staff argues that this is a well-known risk and refers to Commission orders stating that approval of affiliate agreements has no ratemaking implications.

The Staff also argues that ratepayers are not necessarily assured that the affiliate expenses were reasonable simply because ACI had the low bid. According to the Staff, WGL has provided minimal support for its assertions that ACI's bid was based on cost and included a reasonable profit. The Staff notes that the Affiliates Act requires cost records. The Staff provides a finding by the Commission, which was also affirmed on appeal, that the burden is upon the utility to produce affirmative evidence of the reasonableness of its affiliate charges. The Staff asserts that the record does not support the conclusion that the ratepayers are not vulnerable to excessive affiliate costs.

Finally, the Staff argues that deeming cost and market to be the same in this case would be contrary to the Affiliates Act, since the Affiliates Act requires that affiliate agreements are consistent with the public interest, and also would be contrary to the principle of "lower of cost or market," which requires that charges must be based on the affiliate's cost, including a reasonable return, so long as this cost does not exceed the market price. The Staff cites Commission decisions affirmed on appeal that affiliate transactions require close scrutiny, and that the public interest requires assurance that an affiliate does not receive unjust benefits to the detriment of the utility's customers. The Staff quotes excerpts from a Commission discussion of the principle of lower of cost or market and provides a list of cases where the principle has been applied since it was affirmed. According to the Staff, granting WGL's request would not allow for the scrutiny required by the public interest and would base costs on the price charged.

On July 9, 2004, WGL filed a Reply of Washington Gas to the Response of the Commission Staff to Washington Gas' Petition for Reconsideration ("Reply").

In the Reply, WGL contends that the Staff misconstrues the Petition. WGL states that the Company is not challenging the asymmetrical pricing rule, but rather is suggesting that in this particular case, deeming cost and market to be the same serves the goal of protecting ratepayers, while not deeming them to be the same leads to both an unjust and undesirable result. The Company reports that ACI is concerned with its overall return, not the precise return from a particular job, and does not calculate the precise share of overall costs that each project must contribute. According to WGL, even if ACI did make such a calculation, the costs may have changed by the time the job is complete.

WGL also states that under the Commission's pricing policy, if ACI's costs are shown to be higher than the bid or market price, the Company may reflect the bid amount in rates, and if shown to be lower, reflect only the lower amount in rates. Further, WGL asserts that if ACI actual costs can not be shown with sufficient detail and precision the Staff would argue that only costs properly demonstrated should be allowed. The Company argues that if WGL had contracted with the next lowest bidder or if ACI had not bid, the price paid would have been included in rates without regard to the bidder's costs, and that to disallow part of the price paid, where a higher price would have been approved, is unjust. WGL indicates that if the Commission were to hold that the Company may only recover a portion of the price paid to ACI, the Company is not likely to consider ACI bids on future projects.

In reply to Staff arguments that affiliate transactions must be carefully scrutinized, the Company argues that the appropriate scrutiny in this case is to assure that ACI participated in the bidding process on the same basis as the other bidders, or in an arm's length transaction, and that cost data does not go to that issue. Finally, according to WGL, the intent of the Affiliates Act is that affiliate transactions should occur under the appropriate circumstances, and that it would be difficult to imagine more appropriate circumstances than where the affiliate is the low bid in a competitively bid project.

NOW THE COMMISSION, upon consideration of the pleadings, is of the opinion and finds that WGL's request that the Commission delete the requirement that the Company prove, in any rate proceeding, that WGL paid ACI the lower of cost or market for the construction agreements and maintenance work approved in this matter and replace it with a finding that cost and market are deemed to be the same should be denied. We also deny the Company's alternative request to exempt these transactions from the requirement of showing cost.

WGL arguably is asking for a determination on how the expenses associated with these transactions between the Company and ACI would be treated in a rate proceeding. In approving agreements pursuant to the Affiliates Act, however, we do not make such determinations. When we approve affiliate transactions, we order that such approval does not have ratemaking implications and does not preclude us from exercising the provisions of §§ 56-78 and 56-80 of the Affiliates Act that specifically provide for the treatment of payments to affiliates. In Case No. PUE-2003-00535, Application of Virginia Natural Gas, Inc., and Pivotal Propane of Virginia, Inc., For approval of a Propane Sales Agreement under Chapter 4 of Title 56 of the Code of Virginia, we recently found that "[a]ny ratemaking treatment, including the reasonableness of the costs and how such costs will be recovered, should be addressed in a separate proceeding."<sup>1</sup> We are not persuaded that the Commission should change course and decide issues of cost in this Affiliates Act proceeding. Like all other utilities and their affiliates, WGL and ACI enter into arrangements with knowledge of the Affiliates Act requirements, as well as the understanding that the reasonableness of the costs of the agreements are subject to further scrutiny.

<sup>1</sup> Order Granting Approval, February 6, 2004. (Emphasis added).

Accordingly, IT IS ORDERED THAT:

- (1) WGL's request to delete Ordering Paragraph (3) of our Order Granting Approval in this matter and replace it with a finding deeming cost and market to be the same is hereby denied.
- (2) WGL's alternative request that the four construction agreements and maintenance work performed by ACI be exempted from the requirement of showing cost is hereby denied.
- (3) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUE-2004-00023  
JULY 13, 2004**

APPLICATION OF  
NOAH'S LANDING PUBLIC SERVICE CORPORATION

For the issuance of a Certificate of Public Convenience and Necessity pursuant to Sections 56-265.2 and 56-265.3 of the Code of Virginia

**FINAL ORDER**

Before the State Corporation Commission ("Commission") is the application of Noah's Landing Public Service Corporation ("Noah's Landing" or "Company") for a certificate of public convenience and necessity filed pursuant to §§ 56-265.2 and 56-265.3 of the Code of Virginia ("Code"). The Company proposes to construct facilities and to provide wastewater service in a portion of Louisa County. According to the Company, Louisa County has created an authority for the provision of water or sewer service. As required by § 56-265.3 C of the Code, the Company obtained the approval of the Board of Supervisors of Louisa County. A copy of the Board of Supervisors' resolution of March 15, 2004, was attached to the application. Upon consideration of the local approval and the record in this proceeding, the Commission will grant the application.

By Preliminary Order of April 2, 2004, the Commission directed the Company to give notice of its application and established procedures for receipt of comments and requests for a hearing on the application. On May 6, 2004, Noah's Landing filed with the Commission Clerk proof of publication of public notice and service of notice on customers and local officials. In response to the notice, the Commission received no comments or request for a hearing.

In our Preliminary Order, we directed the Commission Staff to investigate the application and to file a report of its findings. In its Prefiled Staff Report of May 28, 2004, the Staff recommended that the Commission grant the application and approve the Company's proposed rates, charges, rules, and regulations, with one modification. Noah's Landing had proposed an annual inspection/maintenance fee, which would apply to lots connected to its system as well as lots not connected. The Commission has no jurisdiction over a fee for lots not connected or planned for connection, and the Staff recommended that the language extending the fee be deleted.

The Staff noted that the Company was not in operation, and its proposed rates and charges were based on estimates. While recommending approval of the rates and charges, the Staff also recommended that Noah's Landing file after one year of operation an income statement, balance sheet, cash flow statement, and a copy of its federal income tax return. With this information, the reasonableness of the rates could be reviewed.

The Staff also recommended that the Company maintain its books and records in accordance with the Uniform System of Accounts of Class C Wastewater Utilities; depreciate jurisdictional plant and amortize associated contributions in aid of construction at a composite rate of 3%; maintain its financial records in such detail as to facilitate a split between jurisdictional and non-jurisdictional businesses; and file Annual Financial and Operating Reports with the Commission's Division of Public Utility Accounting by April 30 of each calendar based on the previous calendar year's operations.

Noah's Landing filed its comments on the Staff's report and recommendations on June 8, 2004. The Company agreed to delete the language, which would extend the inspection/maintenance fee to lots not identified for connection to its system.

The Commission will grant the application. The application and the Staff report establish that the public convenience and necessity require the construction and operation of the wastewater treatment facilities in the proposed service territory. We also find that the Staff's recommendations should be adopted.

Accordingly, IT IS ORDERED THAT:

- (1) As provided by the Utility Facilities Act, § 56-265.1 et seq. of the Code of Virginia, and related provisions of Title 56 of the Code of Virginia, the Company's application for a certificate of public convenience and necessity is granted.
- (2) The Company be issued certificate of public convenience and necessity S-88, which authorizes the furnishing of sewer service in Louisa County as shown on maps attached to, and made part of, the certificate.
- (3) Within 21 days of the date of this Order, the Company shall file with the Commission's Division of Energy Regulation its rates, charges, rules, and regulations with all changes to conform to our findings in this Order. The rates, charges, rules, and regulations shall bear the date of this Order as the effective date.
- (4) The Company shall maintain its books and records in accordance with the Uniform System of Accounts of Class C Wastewater Utilities; depreciate jurisdictional plant and amortize associated contributions in aid of construction at a composite rate of 3%; maintain its financial records in such

detail as to facilitate a split between jurisdictional and non-jurisdictional businesses; and file Annual Financial and Operating Reports with the Commission's Division of Public Utility Accounting by April 30 of each calendar based on the previous calendar year's operations.

(5) Within 60 days of the completion of 12 months of operation, the Company shall provide the Commission's Division of Public Utility Accounting an income statement, balance sheet, cash flow statement, and a copy of its federal income tax return for the first 12 months of operation. The Division shall review this information to determine if rates and charges appear to meet the standards established by § 56-265.13:4 of the Code and advise the Company of the results of its review.

(6) This Case No. PUE-2004-00023 be dismissed from the Commission's docket and be placed in closed status in the records of the Clerk of the Commission.

**CASE NO. PUE-2004-00024  
MAY 4, 2004**

APPLICATION OF  
BARC ELECTRIC COOPERATIVE

For authority to issue long-term debt

**ORDER GRANTING AUTHORITY**

On March 18, 2004, BARC Electric Cooperative ("Applicant") filed an application with the State Corporation Commission ("Commission") under Chapter 3 of Title 56 of the Code of Virginia requesting authority to incur long-term indebtedness. On April 13, 2004, BARC completed the application. Applicant has paid the requisite fee of \$25.

Applicant requests authority to borrow up to \$4,300,000 from the Federal Financing Bank ("FFB") through a loan program guaranteed by the Rural Utilities Services ("RUS"). The proceeds will be used to finance BARC's current approved work plan covering the period September 2002 to September 2004. The FFB loan will have a 35-year maturity. The effective interest rate on the FFB loan will be based on the yield on the comparable maturity United States Treasury security plus 0.125%. Applicant requests authority to determine both interest rate and interest rate term at the time of each advance.

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 \$4,300,000 from the Federal Financing Bank, under the terms and conditions and for the purposes set forth in the application.
- 2) Within thirty (30) days of the date of any drawdown from FFB, Applicant 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 term and the effective interest rate selected
- 3) Approval of this application shall have no implications for ratemaking purposes.
- 4) There being nothing further to be done, this matter is hereby dismissed.

**CASE NO. PUE-2004-00025  
MAY 19, 2004**

APPLICATION OF  
SHENANDOAH VALLEY ELECTRIC COOPERATIVE

For authority to sell public service property

**ORDER GRANTING AUTHORITY**

On March 22, 2004, Shenandoah Valley Electric Cooperative ("SVEC" or "Applicant") filed an application with the State Corporation Commission ("Commission") under the Utility Transfers Act requesting authority for SVEC to sell to Verizon Virginia, Inc. ("Verizon"), certain utility assets.

SVEC and Verizon have entered into an Agreement for the Purchase of SVEC Poles by Verizon ("Agreement"), dated December 12, 2003, whereby SVEC will sell to Verizon enough of SVEC's poles for each company to own approximately one-half of the total number of poles shared by the two companies, subject to approval by the Commission.

SVEC is a Virginia public service company engaged in the business of distributing electricity in Virginia as a distribution electric cooperative, pursuant to §§ 56-23 1.15-56-231.37 of the Code of Virginia ("Code"). Verizon is a Virginia public service company that provides telecommunications services within Virginia.

Under the Agreement, the method for determining the selling price of the poles will be based on replacement cost new less depreciation. Replacement costs will be determined by the current year's engineering estimates to install poles, which includes the appropriate direct labor, overheads and material costs. Depreciation costs will be based on SVEC's current annual depreciation rate for poles determined by a depreciation study approved by the Commission and Rural Utilities Service in 2001. The sales price based on the replacement cost new depreciated is an accepted method that has been approved by the Commission in the past.

SVEC estimates that approximately 2,808 poles will be sold to Verizon under the Agreement. SVEC and Verizon will choose poles in the field based on age, class and height to insure that the total sale price will not exceed \$500,000. A field survey will be undertaken to ascertain the physical characteristics (the average age and size of the poles in a group) needed to exactly set the price. A final adjustment will be made after the field survey results are known, which may include more or fewer poles than the current estimate.

The Applicant represents that the joint poles will not be removed from service and will continue to serve the public, that the transaction is not expected to have any material impact on rates of either company, and that the transaction should reduce costs to both companies, thus benefiting customers.

THE COMMISSION, upon consideration of the application and representations of the Applicant and having been advised by its Staff, is of the opinion and finds that the above-described transfer of utility assets 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 §§ 56-89 and 56-90 of the Code, SVEC is hereby granted authority to sell to Verizon those utility assets as described herein.
- (2) The authority granted herein shall not be deemed to include any approvals other than for the transfer of utility assets as described herein.
- (3) The authority granted herein shall have no rate making implications.
- (4) The Applicant shall file a report of the action taken pursuant to the authority granted herein within thirty (30) days of the transaction taking place, which deadline may be extended administratively by the Commission's Director of Public Utility Accounting. Such report shall include the date the sale took place, the actual sales price, and the actual accounting entries reflecting the transaction.
- (5) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2004-00026  
APRIL 1, 2004**

PETITION OF  
VIRGINIA NATURAL GAS, INC.

For Authority to Dispose of Utility Assets

**ORDER GRANTING MOTION TO WITHDRAW PETITION**

On March 23, 2004, Virginia Natural Gas, Inc. ("VNG") filed a petition for approval to dispose of a certain 5.68 acre tract of real estate located in Newport News, Virginia. On March 26, 2004, VNG filed a Motion to Withdraw Petition on the grounds that the real estate at issue is not a "utility asset" that requires prior Commission approval to transfer under the Utility Transfers Act, Chapter 5 (§ 56-88 et seq.) of Title 56 of the Code of Virginia.

NOW THE COMMISSION, having considered the Motion to Withdraw Petition, is of the opinion, and finds, that the motion should be granted.

Accordingly, IT IS ORDERED THAT:

- (1) VNG's Motion to Withdraw Petition is granted.
- (2) The petition herein shall be lodged in the Commission's file for ended causes.

**CASE NO. PUE-2004-00030  
APRIL 19, 2004**

APPLICATION OF  
NORTHERN NECK ELECTRIC COOPERATIVE

For authority to incur long-term debt

**ORDER GRANTING AUTHORITY**

On March 26, 2004, Northern Neck Electric Cooperative ("Applicant" or the "Cooperative"), filed an application with the Virginia State Corporation Commission ("Commission") under Chapter 3 of Title 56 of the Code of Virginia for authority to incur long-term debt with the Rural Utilities Service ("RUS). Applicant paid the requisite fee of \$25.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

In its application, the Cooperative requests authority to borrow \$10,000,000 in the form of a RUS loan. The proceeds will be used to fund construction of distribution facilities per the Cooperatives three-year work plan ending in 2006. The loan will have a 35-year maturity. Applicant represents that the interest rate on the loan is fixed at 5 percent for the life of the loan.

THE COMMISSION, upon consideration of the application and the advice of 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 \$10,000,000 from the RUS, under the terms and conditions and for the purposes set forth in the application.
- 2) Within thirty (30) days of the date of each advance of funds from RUS, Applicant 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 selected and the interest rate term.
- 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-2004-00032  
AUGUST 4, 2004**

APPLICATION OF  
THE POTOMAC EDISON COMPANY D/B/A ALLEGHENY POWER

For authority to sell public service corporation property

**ORDER GRANTING AUTHORITY**

On May 20, 2004, The Potomac Edison Company d/b/a Allegheny Power ("Allegheny") filed an application with the State Corporation Commission ("Commission") requesting approval pursuant to Chapter 5 of Title 56 of the Code of Virginia ("Code") to transfer certain utility assets to the Town of Shenandoah, Virginia ("Town").

Allegheny is a Virginia public utility company that provides electricity to approximately 90,000 customers located in 14 northwestern Virginia counties. Allegheny also is a Maryland corporation, with its headquarters located in Hagerstown, Maryland. Along with providing electricity to Virginia customers, Allegheny also provides electric service in portions of Maryland and West Virginia.

In its application, Allegheny proposes to sell and the Town proposes to purchase a 0.798 acre parcel of land. Allegheny presently owns a 0.798 acre parcel of land located on Long Avenue in Shenandoah, Virginia, a short distance from the Shenandoah River. Allegheny originally acquired the property to be used as part of its Shenandoah Hydro Station but was never used for that purpose and is now no longer needed by Allegheny. The above-mentioned parcel borders property owned by the Town used for municipal purposes. The Town has requested that Allegheny sell the parcel to the Town to enable growth of its current municipal operations.

The proposed purchase price for the 0.798 acre of land is \$20,000. The agreement states that the Town will pay \$10,000 at closing and the remaining balance will be paid one year thereafter.

Allegheny represents that the land has a book cost of \$0. The land was originally to be part of the property transferred by Allegheny to Green Valley Hydro LLC ("Green Valley") on June 1, 2001, as part of Allegheny's unbundling of generation assets for which Green Valley paid book cost.<sup>1</sup> Because this parcel was surplus, Green Valley chose not to accept it even though it had been paid for, thus leaving it on Allegheny's books at no dollar value.

THE COMMISSION, upon consideration of the application and representations of Allegheny and having been advised by its Staff, is of the opinion and finds that the above-described transfer of utility assets 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 §§ 56-89 and 56-90 of the Code of Virginia, Allegheny Power is hereby granted authority to sell the 0.798 acre parcel of land as described herein for a total sales price of \$20,000.00.
- (2) The authority granted herein shall not be deemed to include any approvals other than for the transfer of the 0.798 acre parcel of land as described herein.
- (3) Allegheny shall submit a report of the action taken pursuant to the authority granted herein within thirty (30) days of the transaction taking place, which deadline may be extended administratively by the Commission's Director of Public Utility Accounting. Such report shall include the date the sale took place, the actual sales price, and the actual accounting entries reflecting the transaction.
- (4) There appearing nothing further to be done in this matter, it hereby is dismissed.

<sup>1</sup> This transfer was approved by the Commission by Order Granting Approval dated December 14, 2000, in Case No PUA-2000-00064 (PUA000064).

**CASE NO. PUE-2004-00033  
AUGUST 18, 2004**

APPLICATION OF  
B&J ENTERPRISES, L.C.

For a change in rates, rules, and regulations

**ORDER**

By notice dated April 15, 2004, B&J Enterprises, L.C. ("B&J" or the "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's") Division of Energy Regulation ("Staff") of its intent to increase its rates effective for service rendered on or after July 1, 2004, and to be reflected on August 2004 monthly billing statements. B&J proposes a monthly residential rate of \$113.00 and a monthly commercial rate of \$500.00 until metering devices are installed. These proposed increases represent an increase of 88.33% per month for residential customers and an increase of 108.33% per month for commercial establishments, which are greater than a 50% increase in B&J's annual revenue, thereby triggering certain requirements set out in § 56-265.13:6 C of the Code.<sup>1</sup>

One requirement of that Code section is that the utility file the financial data required by the Commission's Rules simultaneously with the notice provided to Staff. Accordingly, the Staff determined that B&J's initial notice and application were incomplete and informed B&J that it needed to file an adjusted rate of return statement, together with an explanation of the Company's adjustments. B&J filed that additional information to complete its application on June 3, 2004.

During this time of completing the application, B&J filed on May 17, 2004, a Motion for Extension of the Compliance Schedule Relating to the Refund Ordered by the Commission in the Final Order in Case No. PUE-2001-00716 ("Motion for Refund Extension"). While the Motion for Refund Extension was filed under the case number of the previous case, the Commission has chosen to address this request as part of the present case. The Motion for Refund Extension recites that the Company has refunded or credited to accounts \$27,946.11, but that sixty-one (61) refunds totaling \$38,780.50 are unpaid. The Company states that mass refunds would impair its ability to operate by depriving it of the ability to pay for needed repairs. The Company alleges that its Annual Financial and Operating Report for the year 2003 shows a net income loss of \$100,654 and that inadequate rate relief in the prior case will not allow it to both operate and to complete the refund in a timely manner. B&J requests a one-year extension of the compliance schedule, from June 2004 to June 2005.

In its Preliminary Order entered June 18, 2004, the Commission directed B&J to file a report detailing the refund amounts owed to each customer together with a narrative response. Staff and interested parties were allowed 10 days in which to respond to the Company's report, B&J's proposed rates were suspended, and this matter was continued for further orders of the Commission.<sup>2</sup> Having considered B&J's completed rate application, its Motion for Refund Extension, its report detailing the refund amounts owed to each customer, and the Staff and homeowners' responses to that report, the late-filed letter from Blacksburg Country Club, and other pleadings filed in this matter, the Commission has determined to open a new docket issuing a Rule to Show Cause against B&J to appear and show cause why it should not be sanctioned for failing to complete the refund of interim rates as ordered in Case No. PUE-2001-00716 and to demonstrate why it should be granted a one-year extension in which to complete that refund obligation.

The present case shall address the pending rate increase application. Pursuant to the provisions of Virginia Code § 56-265.13:6 A, B&J may implement its proposed rate increase, on an interim basis and subject to refund with interest, for service rendered on and after August 17, 2004, following suspension of the rates effected by the Commission's Preliminary Order of June 18, 2004. Pursuant to subsection C of that same statute, B&J shall escrow the funds produced by the increase in rates, fees, and charges until the Commission has rendered its final decision on the rate increase application. B&J shall place such funds in an escrow account with a non-affiliated financial institution and that escrow account shall be subject to a monthly review and audit by the Commission's Division of Public Utility Accounting. The Company may not use the funds held in escrow for the purposes listed in subsection C; i.e., to comply with environmental or health laws or regulations or to provide adequate service to its customers, unless so directed by the Commission.

Pursuant to Rule 5 VAC 5-20-120 A of the Commission's Rules of Practice and Procedure, this matter is assigned to a Hearing Examiner to conduct all further proceedings. The Hearing Examiner shall direct the publishing of public notice and schedule an expedited hearing as provided by § 56-265.13:6 C of the Code and establish a procedural schedule for discovery and for the filing of testimony and exhibits in advance of the hearing.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to Rule 5 VAC 5-20-120 of the Commission's Rules of Practice and Procedure ("Rules"), a Hearing Examiner is appointed to conduct all further proceedings in this matter.
- (2) B&J's proposed rates may take effect on an interim basis, subject to refund with interest, for service rendered on and after August 17, 2004. B&J shall place all funds produced by such increased rates in an escrow account in a financial institute not affiliated with B&J. Such escrow account shall be subject to the monthly review and audit of the Commission's Division of Public Utility Accounting.
- (3) This matter is continued generally.

<sup>1</sup> The Company requested a hearing on the proposed increase and also requested the ability to proceed on its own behalf without counsel. In addition, more than 25% of B&J's customers affected by the rate increase have sought a hearing. Accordingly, § 56-265.13:6 A of the Code requires a hearing to be held after at least 30 days' notice to B&J and to its customers.

<sup>2</sup> On August 10, 2004, the Commission received a late-filed letter from Blacksburg Country Club that disputed the Company's refund report's claim that it would not be prudent to return a refund to Blacksburg Country Club while it owes B&J moneys from connection fees. The Country Club asserts that B&J has no right to offset these amounts against the refund B&J owes it from collecting excessive rates (\$140 per month higher than ultimately authorized) in the prior case.

**CASE NO. PUE-2004-00035  
JUNE 25, 2004**

APPLICATION OF  
DALE SERVICE CORPORATION

For an expedited increase in rates

**ORDER FOR NOTICE AND HEARING**

On May 28, 2004, Dale Service Corporation ("Dale Service" or "Company") filed a rate application, supporting testimony, and exhibits with the State Corporation Commission ("Commission") for an expedited increase in rates. The Company filed financial and operating data with its rate application for the twelve months ending December 31, 2003, seeking to increase its annual operating revenues by \$770,192, an increase that the Company represents is approximately 12.1% in total going-level revenues. In accordance with the Stipulation approved in the Company's last rate case, Dale Service's proposed rate increase is based on test year revenues that include \$720,000 to reflect 400 new service connections at \$1800 per connection. *Application of Dale Service Corporation, For a general increase in rates*, Case No. PUE-2001-00200 (Final Order, February 21, 2003).

On June 22, 2004, Dale Service filed an amended application that reduced its proposed increase to \$590,192, an increase that the Company represents is approximately 9.3% in total going-level revenues. Dale Service's application indicates that the Company collected 1,054 connection fees during the test year, which far exceeds the 400 connections reflected in its original rate request. The Company therefore amended its application and test year operating revenues, after discussions with the Commission Staff, to reflect 500 new connections. This amendment to the Company's application increased test year revenues by an additional \$180,000 and reduced the Company's proposed increase to \$590,192.

The proposed increase, according to the Company, is due in large measure to the increased operating expenses and property taxes associated with upgrading the Company's wastewater treatment facilities and the construction of new facilities to meet the effluent limits in its wastewater discharge permits issued by the Virginia Department of Environmental Quality. The Commission recognized the extensive financing required for these new projects in the Company's last rate case, and approved rates designed to produce a debt service coverage ("DSC") of 1.20 times on a going-forward basis. According to the Company, the proposed increase in this case is likewise designed to produce a DSC of 1.20 times on a going-forward basis.

Dale Service also filed proposed rates designed to recover the additional operating revenues requested in its amended application. Under the Company's proposed rates, the rates of residential customers would increase from \$73.75 to \$80.00 per quarter, and the rates of commercial customers would increase from \$92.60 to \$100.50 per quarter. The Company further requested that its proposed increase in rates be allowed to go into effect, subject to refund, for service rendered on and after July 1, 2004.

Finally, the Company requested a waiver of the Commission's Rules Governing Utility Rate Increase Applications and Annual Informational Filings, 20 VAC 5-200-30 ("Rate Case Rules"), which require Dale Service to file a jurisdictional cost of service study in Schedule 30 and to report separately its non-jurisdictional revenues, expenses, and investments in Schedules 9, 10, 11, 15, 16, 17 and 18. According to the Company, it serves only 30 governmental non-jurisdictional customers representing approximately 0.14% of its total customer base. Since these non-jurisdictional customers have virtually no impact on the Company's jurisdictional cost of service, Dale Service requests that its application be allowed to proceed on a total company basis including both jurisdictional and non-jurisdictional operations in its cost of service.

On June 24, 2004, the Commission's Staff filed an interim report in which it concluded that there is a reasonable probability the proposed increase will be justified following a full investigation and hearing. The Staff also did not oppose the Company's request for a waiver of those Rate Case Rules that require the Company to file a cost of service study and to separate its jurisdictional and non-jurisdictional revenues, expenses, and investments when seeking rate relief. Since the inclusion of non-jurisdictional operations will have a *de minimus* impact on the Company's jurisdictional cost of service, the Staff had no objection to allowing the Company's application to proceed on a total company basis.

NOW THE COMMISSION, having considered the Company's amended application and the Staff's interim report, is of the opinion and finds that this matter should be docketed; that the Company's proposed rates should be allowed to go into effect on an interim basis, subject to refund, for service rendered on and after July 1, 2004; that a waiver of the Rate Case Rules should be granted to allow the Company's application to proceed on a total company basis; that a Hearing Examiner should be assigned to conduct all further proceedings in this matter on behalf of the Commission; that a hearing should be scheduled and a procedural schedule established to consider the Company's application; and that the Company should be directed to provide public notice of its application, the hearing, and the procedural schedule established by this Order.

Section B of the Commission's Rate Case Rules permits the proposed rates of a public utility to take effect within 30 days after an application for expedited rate relief is filed, subject to investigation and refund, so long as the application complies with the rules and the utility has not experienced a substantial change in circumstances since its last general rate case. The Commission Staff's interim report found that there is a reasonable probability the proposed increase will be justified following a full investigation and hearing. We will therefore allow the Company's proposed rates, as amended on June 22, 2004, to go into effect on an interim basis, subject to refund, for service rendered on and after July 1, 2004.

We will also allow the collective waiver of each and every rule requiring separation of jurisdictional and non-jurisdictional revenues, expenses, and investments and allow Dale Service's application to proceed on a total company basis. The Company's application states that non-jurisdictional customers pay for service on the basis of Commission-approved rates and further alleges there is virtually no impact on the Company's jurisdictional customers by establishing rates on a total company basis. Under these circumstances, we find there is no economic justification to require the Company to expend the money, time, and effort to separate jurisdictional and non-jurisdiction operations, and to file schedules separating accounting and financial data relating to non-jurisdictional operations.

Accordingly, IT IS ORDERED THAT:

(1) Dale Service may implement its proposed rates, as amended, on an interim basis, subject to refund, for service rendered on and after July 1, 2004.



(2) Dale Service is granted a waiver of each and every rule in the Commission's Rate Case Rules that requires the separation of jurisdictional and non-jurisdictional revenues, expenses, and investments, and the Company's application shall be allowed to proceed on a total company basis.

(3) As provided by § 12.1-31 of the Code of Virginia and Rule 5 VAC 5-20-120 of the Commission's Rules of Practice and Procedure, a Hearing Examiner is hereby appointed to conduct all further proceedings in this matter on behalf of the Commission and to issue a final report herein.

(4) A public hearing shall be convened before a Hearing Examiner on December 2, 2004, at 10:00 a.m., in the Commission's Courtroom, located on the Second Floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia, to receive comments from members of the public and to receive evidence on the captioned application. Any person not participating as a respondent as provided in Ordering Paragraph (7) below, may offer oral testimony concerning the application as a public witness at the December 2, 2004, public hearing. Public witnesses desiring to make statements at the public hearing concerning Dale Service's 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 register a request to speak with the Commission's bailiff.

(5) On or before August 16, 2004, Dale Service shall file with Joel H. Peck, Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, an original and fifteen (15) copies of any additional direct testimony, exhibits, and other material supporting the captioned application and shall serve a copy of the same upon Staff and all parties of record.

(6) Upon written request received by its counsel, the Company shall provide a copy of the application to the requesting party at no cost. If acceptable to the requesting individual, the Company may provide the application, with or without attachments, by electronic means. Written requests for a copy of the application shall be directed to Richard D. Gary, Esquire, or Renata M. Manzo, Esquire, Hunton & Williams LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074. Interested persons may also review a copy of the application, the Commission's Order for Notice and Hearing, and other Orders entered herein at the Commission's Document Control Center, located on the First Floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia, between the hours of 8:15 a.m. and 5:00 p.m., Monday through Friday. Interested persons may also access unofficial copies of Dale Service's application through the Commission's Document Search Portal at <http://www.state.va.us/scc/caseinfo.htm>.

(7) Any interested person desiring to cross-examine witnesses or participate as a party in this proceeding shall participate as a respondent and shall file, on or before September 7, 2004, an original and fifteen (15) copies of a notice of participation with the Clerk of the Commission at the address set out in Ordering Paragraph (5) above. A respondent shall, on or before September 7, 2004, serve a copy of the notice of participation on counsel to the Company, Richard D. Gary, Esquire, and Renata M. Manzo, Esquire, Hunton & Williams LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074. Pursuant to Rule 5 VAC 5-20-80, 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 parties shall refer in all of their filed papers to Case No. PUE-2004-00035.

(8) Within five (5) business days of receipt of a notice of participation, 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.

(9) On or before September 28, 2004, each respondent shall file with the Clerk of the Commission an original and fifteen (15) copies of any testimony and exhibits by which it expects to establish its case and shall serve copies of the testimony and exhibits on counsel to the Company and all other respondents. The respondent shall comply with Rules 5 VAC 5-20-140, 5 VAC 5-20-150, and 5 VAC 5-20-240 of the Commission's Rules of Practice and Procedure.

(10) On or before September 28, 2004, any interested person wishing to comment on Dale Service's application as a public witness, but not wishing to participate as a respondent pursuant to Ordering Paragraph (7) herein, shall file an original and fifteen (15) copies of such written comments with the Clerk of the Commission at the address set forth in Ordering Paragraph (5) herein and shall refer to Case No. PUE-2004-00035. A copy of such comments shall be mailed or hand-delivered to Richard D. Gary, Esquire, and Renata M. Manzo, Esquire, at the address set out in Ordering Paragraph (7) herein on or before September 28, 2004.

(11) Public witnesses desiring to submit comments electronically may do so by following the instructions available at the Commission's website: <http://www.state.va.us/scc/caseinfo.htm>.

(12) The Commission Staff shall investigate the captioned application. On or before November 1, 2004, 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 captioned application and shall promptly serve a copy of said testimony and exhibits on counsel to the Company and all respondents.

(13) On or before November 15, 2004, Dale Service shall file with the Clerk of the Commission an original and fifteen (15) copies of any rebuttal testimony, exhibits, and documents that the Company expects to offer in rebuttal to the testimony and exhibits of the respondents and the Commission Staff and shall on the same day serve one (1) copy of the rebuttal testimony and exhibits on Staff and all respondents.

(14) The Company and respondents shall respond to interrogatories and requests for the production of documents and things 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 and Procedure.

(15) On or before July 23, 2004, Dale Service shall complete the publication of the following notice as display advertising (not classified) on two occasions in newspapers of general circulation throughout Dale Service's service territory within the Commonwealth of Virginia:

NOTICE TO THE PUBLIC OF A N APPLICATION  
FOR AN EXPEDITED INCREASE IN RATES BY  
DALE SERVICE CORPORATION  
CASE NO. PUE-2004-00035

On May 28, 2004, Dale Service Corporation ("Dale Service" or "Company") filed an application with the State Corporation Commission ("Commission") for an expedited increase in rates. The Company filed

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financial and operating data for the twelve months ending December 31, 2003, with the rate application and seeks to increase its annual operating revenues by \$590,192, an increase that the Company represents is approximately 9.3 % in total going-level revenues. The Company states the additional revenues are necessary because of increased operating expenses and property taxes associated with upgrading the Company's wastewater treatment facilities and the construction of new facilities to meet the effluent limits in its wastewater discharge permits issued by the Virginia Department of Environmental Quality.

Dale Service's current and proposed rates are as follows:

Class	Rate Per Quarter	
	Present	Proposed
Residential	\$73.75	\$80.00
Commercial	\$92.60	\$100.50

Pursuant to § 56-240 of the Code of Virginia, the Commission has authorized the Company to put its proposed rates in effect on an interim basis, subject to refund with interest, for service rendered on and after July 1, 2004. Interested parties should be advised that, after considering all the evidence, the Commission may approve revenues and adopt rates that differ from those appearing in Dale Service's application or may apportion revenues and design rates in a manner differing from that found in the Company's application.

A public hearing on Dale Service's application is scheduled to be convened on December 2, 2004, at 10:00 a.m., before a Hearing Examiner in the Commission's Second Floor Courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219. 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).

Interested persons may review a copy of Dale Service's application and the Commission's Order for Notice and Hearing in the Commission's Document Control Center, located on the First Floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia, between the hours of 8:15 a.m. and 5:00 p.m., Monday through Friday. A copy of the application may also be obtained at no cost to interested persons by requesting the same from counsel for the Company, Richard D. Gary, Esquire, or Renata M. Manzo, Esquire, Hunton & Williams LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074. Interested persons may also access unofficial copies of the application through the Commission's Document Search Portal at <http://www.state.va.us/scc/caseinfo.htm>. Dale Service may make a copy of its application and accompanying materials available on an electronic basis upon request.

On or before September 7, 2004, interested persons who want to participate fully in the proceeding as respondents in order to be parties to the proceeding and to cross-examine witnesses must file an original and fifteen (15) copies of a notice of participation pursuant to Rule 5 VAC 5-20-80 B of the Commission's Rules of Practice and Procedure with the Clerk of the Commission at the address set forth below. A respondent shall serve a copy of its notice of participation upon counsel to the Company at the address set forth above on or before September 7, 2004. 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.

On or before September 28, 2004, each respondent shall file with the Clerk of the Commission at the address set forth below an original and fifteen (15) copies of the testimony and exhibits the respondent intends to offer in support of its notice of participation and shall, on the same day, serve one (1) copy of such testimony and exhibits on counsel to the Company and on all other respondents. The respondent shall comply with Rules 5 VAC 5-20-140, 5 VAC 5-20-150, and 5 VAC 5-20-240 of the Commission's Rules of Practice and Procedure.

On or before September 28, 2004, any person wishing to comment on Dale Service's application shall file an original and fifteen (15) copies of written comments with the Clerk of the Commission at the address set forth below and shall, on the same day, serve a copy of any such filed papers on counsel to the Company at the address set forth above.

Interested persons desiring to submit comments electronically may do so by following the instructions available at the Commission's website: <http://www.state.va.us/scc/caseinfo.htm> and referring to Case No. PUE-2004-00035.

Interested parties shall refer in all of their filed papers to Case No. PUE-2004-00035. All comments, notices of participation, or testimony shall be filed with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, and shall be simultaneously served on counsel for the Company, Richard D. Gary, Esquire, and Renata M. Manzo, Esquire, at the address set forth above. The unofficial text of the Commission's Order for Notice and Hearing, any other Order entered herein, and the Commission's Rules of Practice and Procedure, as well as other information concerning the Commission and the statutes it administers, may be viewed on the Commission's website at <http://www.state.va.us/scc/caseinfo.htm>.

(16) On or before July 23, 2004, the Company shall serve a copy of the Order for Notice and Hearing by personal delivery or by first-class mail, postage prepaid, to 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 alternative 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.

(17) On or before August 6, 2004, Dale Service shall file with the Clerk of the Commission proof of the publication and service required in Ordering Paragraphs (15) and (16) herein.

**CASE NO. PUE-2004-00036  
AUGUST 13, 2004**

APPLICATION OF  
ATMOS ENERGY CORPORATION

For approval of an amendment to purchased gas adjustment rider

**FINAL ORDER**

On April 21, 2004, Atmos Energy Corporation ("Atmos" or the "Company")<sup>1</sup> filed an application with the State Corporation Commission ("Commission") for continuation of its amended Purchased Gas Adjustment Rider ("PGA")<sup>2</sup> to allow the costs associated with gas price hedging contracts to be included in the definition of the cost of purchased gas for the winters 2004-2005 through 2006-2007. Atmos also proposes to increase the amount of gas the Company is authorized to hedge from 50% to 60% of the Company's expected gas purchases under normal conditions, net of storage over any 12-month period.

On May 5, 2004, the Company filed a request to continue its hedging program permanently under the condition that annual reports detailing the results of the hedging program for the previous winter continue to be filed with the Commission by June 30 of each year.

On May 20, 2004, the Commission entered an Order Prescribing Notice and Inviting Comments and Requests for Hearing. No comments or requests for hearing were filed by the deadline provided in the Order. The Order also directed the Staff to investigate the reasonableness of Atmos' application and to present its finding and recommendations in a report on or before July 23, 2004. Accordingly, the Staff filed its report on July 23, 2004.

The Staff Report states that the three-year hedging program did result, on a net basis, in lower gas costs and that the structure of the underlying derivative contracts resulted in ratepayers being shielded from extremely high gas costs on a portion of the total gas requirements. The Staff Report recommends that Atmos' hedging program be permanently approved by the Commission under the condition that annual reports detailing the results of the hedging program for the previous winter continue to be filed with the Commission by June 30 of each year. In addition, the Staff Report recommends that the Company's request to increase the amount of gas the Company is authorized to hedge from 50% to 60% of the Company's expected gas purchases under normal conditions, net of storage over any 12-month period be approved.

Atmos has advised the Staff that the Company supports the Staff Report.

NOW THE COMMISSION, upon consideration of the matter, is of the opinion and finds that the Company's application should be approved.

Accordingly, IT IS ORDERED THAT:

(1) Atmos' application for permanent authority to continue the hedging arrangements authorized by the Commission in Case No. PUE-2001-00305 in conjunction with 60% of the Company's expected gas purchases under normal conditions, net of storage, over any 12-month period is hereby approved.

(2) The definition of the cost of purchased gas in Atmos' PGA shall be permanently amended to allow for the recovery of prudently incurred costs associated with the hedging activities authorized by Ordering Paragraph (1).

(3) Atmos shall forthwith revise the Company's tariff on file with the Commission's Division of Energy Regulation.

(4) On or before June 30 of each year, Atmos shall file a report with the Commission's Divisions of Economics and Finance, Energy Regulation, and Public Utility Accounting which details the results of the hedging program for the previous winter.

(5) There being nothing further to come before the Commission in this proceeding, this case shall be removed from the docket and the papers transferred to the file for ended causes.

<sup>1</sup> Atmos is formerly known as United Cities Gas Company.

<sup>2</sup> By Order dated September 15, 2001, in Application of United Cities Gas Company (a Division of Atmos Energy Corporation), For approval of an amendment to purchased gas adjustment rider, Case No. PUE-2001-00305, 2001 S.C.C. Ann. Rept. 567, the Commission approved the amendment of the Company's PGA to allow for the recovery of prudently incurred costs associated with gas price hedging activities. The Commission authorized the Company to enter into futures contracts, forward contracts, and call options, including caps and collars, in conjunction with 50% of its expected gas purchases under normal conditions, net of storage, through the 2003-2004 heating season, in accordance with certain Staff recommendations and the Risk Management Control Guidelines approved by senior management, which were filed with the Commission.

**CASE NO. PUE-2004-00038  
SEPTEMBER 30, 2004**

APPLICATION OF  
BLUEFIELD VALLEY WATER WORKS COMPANY

To amend its certificate of public convenience and necessity

**FINAL ORDER**

Before the Virginia State Corporation Commission ("Commission") is the Application of Bluefield Valley Water Works Company ("Bluefield Valley" or "Company"). Bluefield Valley holds Commission certificate of public convenience and necessity W-22, which authorizes the company to furnish water service in the Town of Bluefield and adjacent portions of Tazewell County. The Company seeks authority to expand its territory in the Town of Bluefield. For the reasons explained in this Order, the Commission will grant the application and issue an amended certificate of public convenience and necessity.

By Order for Notice and Comment of July 12, 2004, the Commission docketed this application and directed Bluefield Valley to publish notice of the application and to provide notice to the Town of Bluefield and Tazewell County. We also directed the Commission Staff to investigate the application and to file a report on the results of its inquiry. On July 14, 2004, and August 24, 2004, the Company filed proofs of publication and service of notice as directed by the Commission. The Commission received no comments on the application or requests for a hearing. The Staff filed its report on September 13, 2004. The Staff recommended that the application be granted, and the Company did not file any comments on the Staff's report.

As discussed in Bluefield Valley's application and the Staff's report, the Company proposes to expand its service territory to serve commercial development in Bluefield. The developer would pay for the extension of service, and it is anticipated that current customers would not bear the cost in rates. Finally, local officials support the extension. Based on this record, the Commission finds that the public convenience and necessity would be served by expanding Bluefield Valley's authorized service territory.

Accordingly, IT IS ORDERED THAT:

- (1) As provided by §§ 56-265.2 A and E, 56-265.3 A and D, and related provisions of Title 56 of the Code of Virginia, the Company's application be granted.
- (2) Certificate of public convenience and necessity W-22, which authorizes the company to furnish water service in the Town of Bluefield and Tazewell County, be canceled and that the Company be issued amended certificate of public convenience and necessity W- 22(a), which authorizes the furnishing of water service in the Town of Bluefield and Tazewell County as shown on maps attached to, and made part of, the certificate.
- (3) This Case No. PUE-2004-00038 be dismissed from the Commission's docket and be placed in closed status in the records of the Clerk of the Commission.

**CASE NO. PUE-2004-00039  
MAY 6, 2004**

APPLICATION OF  
SHENANDOAH VALLEY ELECTRIC COOPERATIVE

For authority to issue long-term debt

**ORDER GRANTING AUTHORITY**

On April 26, 2004, Shenandoah Valley Electric Cooperative ("Applicant") filed an application with the Virginia State corporation Commission ("Commission") under Chapter 3 of Title 56 of the Code of Virginia requesting authority to incur long-term debt. Applicant has paid the requisite fee of \$250.

Applicant requests authority to borrow up to \$3,782,472.64 from the National Rural Utilities Cooperative Financing Corporation ("CFC"). The proceeds will be used to retire existing debt issued to the Rural Utilities Service ("RUS"). The loan will be structured so that the debt matures in installments throughout the next 9 years. The interest rates will range from 2.95% to 5.50%, with an effective interest rate on the total debt issued of less than 5.0%, the current rate on the existing RUS debt to be retired.

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 \$3,782,472.64 from the National Rural Utilities Cooperative Financing Corporation, under the terms and conditions and for the purposes set forth in the application.
- 2) Within thirty (30) days of the date of each advance of funds from CFC, Applicant 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 selected, and the interest rate term.

- 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-2004-00041  
SEPTEMBER 28, 2004**

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.* - Trabue-Winterpock 230 kV Transmission Line

**FINAL ORDER**

On April 29, 2004, Virginia Electric and Power Company ("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 Transmission Facilities: Trabue-Winterpock 230 kV Transmission Line, Application No. 224 (hereinafter "Application"). The Company seeks approval and a certificate of public convenience and necessity pursuant to §§ 56-46.1, 56.265.2, and related provisions of Title 56 of the Code of Virginia (the "Code") to construct a new overhead 230 kV transmission line in Chesterfield County from the Company's existing Trabue Substation to its existing Winterpock Substation. The new Trabue-Winterpock 230 kV line will be created by installing 10.535 miles of new conductor on existing structures and using 1.321 miles of existing conductor on existing structures, all within existing right-of-way ("Transmission Facility"). The Company proposes to install the minimal number of structures within existing right-of-way as needed to accommodate the new line configuration. The Company's proposed new transmission facilities will consist of new conductors, insulators, and associated equipment, as well as several new steel poles as needed. The approximate size and the materials to be used in the transmission line, and the right-of-way clearing methods, corridor usage, and maintenance procedures are described in Section II of the Appendix to the Application. The proposed facilities will meet or exceed the standards of the National Electrical Safety Code in effect at the time of construction.

On June 11, 2004, the Commission entered an Order for Notice in which it directed the Company to provide notice of the Application and invited comments and a request for hearing. The Order directed the Staff of the Commission ("Staff") to analyze the Application and file a report detailing its findings and recommendations by September 15, 2004.

The Commission noted in the Order for Notice that the Commonwealth's Department of Environmental Quality ("DEQ") would file a report by its Office of Environmental Impact Review concerning its coordinated review of the Application. On June 14, 2004, DEQ filed the results of its coordinated environmental review, which summarizes the line's potential impacts to natural resources, makes recommendations for minimizing those impacts, lists required permits and approvals, and includes copies of the comments provided to DEQ by the reviewers.

The Order for Notice directed the Company to: (1) publish notice of the Application and a sketch map of the proposed route in one or more newspapers circulating in the County of Chesterfield; (2) send a copy of the notice and a sketch map to all owners of property within the proposed line; and (3) serve a copy of the Order for Notice on the Administrator for the County of Chesterfield. The Company filed an affidavit of service of notice on July 13, 2004. No person filed comments, sought to intervene or requested a hearing with respect to the Application.

On September 15, 2004, Staff filed its Report on the Application (the "Report"). The Report recommends that the Application be approved. The Report states that economic development of northwestern Chesterfield County would be negatively impacted if the reliability of the bulk power system were not maintained in the face of the rapid load growth that is projected. Because completion of the proposed new transmission circuit improves that reliability, Staff concludes that the project would promote economic development.

Pursuant to § 56-46.1 A of the Code, the Commission must condition its approval of any electric facilities projects for which a certificate is required with the requirement that the project be completed with minimal adverse environmental impact. Accordingly, Staff recommends in the Report that all recommendations made in the DEQ coordinated review be required of the company as a condition of the certificate authorizing the project. DEQ's recommendations are summarized in Staff's Report as follows:

Take all precautions necessary to restrict emissions of volatile organic compounds (VOCs) and oxides of nitrogen (NO<sub>x</sub>) during construction.

Cease all ground disturbing activities immediately if unexpected discoveries of archaeological resources occur and contact the Department of Historic Resources.

Perform geotechnical testing in locations C and D prior to construction.

Contact the Department of Transportation to schedule and minimize transportation impacts to the traveling public.

Limit the use of pesticides and herbicides.

Follow pollution prevention principles including the reduction of solid wastes at the source and the re-use and recycling of materials to the maximum extent practicable.

NOW THE COMMISSION, having considered the record, the pleadings, and the applicable law, is of the opinion and finds that approval for the transmission facilities, identified as the Trabue-Winterpock 230 kV transmission line should be granted and that a certificate of public convenience and

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necessity to construct and operate the Transmission Facility should be issued herein. The public convenience and necessity require construction of the Transmission Facility as approved by this Order.

We have considered and weighed the factors set forth in §§ 56-46.1 and 56.265.2 A, which factors are, to a large extent, interrelated and overlapping. As required by § 56-46.1 A of the Code, we have considered the effect of the Transmission Facility on the environment. We will condition the certificate granted herein upon the Company's receipt of all environmental and other permits necessary to construct and operate the Transmission Facility. The DEQ's coordinated review of the project identified no potential adverse environmental impacts associated with the Transmission Facility. The environmental agencies recommended conditions reported by Staff and to which the Company did not object. We find that these conditions are desirable or necessary to minimize the adverse impact of the Transmission Facility and should be so ordered.

We find that the construction of the Transmission Facility will have no material adverse effect upon reliability of electric service provided by any regulated public utility.

We find that, as required by § 56-46.1 B of the Code, proper notice has been given, and the Commission may consider the Application.

We determine that the Transmission Facility is needed to respond to increased loading of existing transmission facilities and thereby maintain system reliability. We further determine that the proposed route of the Transmission Facility uses existing right-of-way and is located completely on the Company's property or existing right-of-way and, thus, reasonably minimizes any adverse impact on the scenic assets, historic districts, and environment of the concerned area.

Finally, we determine that the certificate should expire if the Transmission Facility is not constructed and in service by December 1, 2006.

Accordingly, IT IS ORDERED THAT:

(1) As provided by § 56-265.1, § 56-265.2, and related provisions of Title 56 of the code, the Company is hereby granted a certificate of public convenience and necessity authorizing construction and operation of the Transmission Facility as provided for in this Order.

(2) The Company is hereby authorized to construct and operate in Chesterfield county a 230 kV transmission line from the Company's existing Trabue Substation to its existing Winterpock Substation, which consists of 10.535 miles of new conductor on existing structures and using 1.321 miles of existing conductor on existing structures, all within existing right-of-way. This Trabue-Winterpock 230 kV Transmission Line shall include the minimal number of structures necessary to accommodate the new line configuration within the existing right-of-way.

(3) Pursuant to the Utility Facilities Act, Chapter 10.1 (§ 56-265.1 et seq.) of Title 56 of the Code, Virginia Power is issued the following certificate of public convenience and necessity.

Certificate No. ET-73u, which authorizes Virginia Electric and Power Company under the Utility Facilities Act to operate presently-constructed transmission lines and facilities in Chesterfield County, all as shown on the detailed map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUE-2004-00041; Certificate No. ET-73u will cancel Certificate No. ET-73t issued to Virginia Electric and Power Company on July 23, 1991.

(4) The certificate issued in Ordering Paragraph (3) above is conditioned on the Company undertaking the following:

Obtain all environmental permits or approvals or exceptions prior to commencement of construction activities.

Take all precautions necessary to restrict emissions of volatile organic compounds (VOCs) and oxides of nitrogen (NO<sub>x</sub>) during construction.

Cease all ground disturbing activities immediately if unexpected discoveries of archaeological resources occur and contact the Department of Historic Resources.

Perform geotechnical testing in locations C and D prior to construction.

Contact the Department of Transportation to schedule and minimize transportation impacts to the traveling public.

Limit the use of pesticides and herbicides.

Follow pollution prevention principles including the reduction of solid wastes at the source and the re-use and recycling of materials to the maximum extent practicable.

(5) As a condition of the certificate granted in this case, the Transmission Facility must be constructed and in service by December 1, 2006; however, the Company is granted leave to apply for an extension for good cause shown.

(6) There being nothing further to come before the Commission in this proceeding, this case shall be removed from the docket and the papers transferred to the file for ended causes.

**CASE NO. PUE-2004-00042  
JUNE 8, 2004**

APPLICATION OF  
COLUMBIA GAS OF VIRGINIA, INC.

For an Annual Informational Filing for 2003

**ORDER GRANTING WAIVER**

On April 29, 2004, Columbia Gas of Virginia, Inc. ("Columbia," "CGV," or the "Company"), filed its Annual Informational Filing ("AIF") together with its financial and operating data for the twelve months ending December 31, 2003, with the State Corporation Commission ("Commission"). On the same day, the Company filed a Motion ("waiver request") requesting a waiver of Rule 20 VAC 5-200-30 A (9) and the instructions for expedited rate cases found in Schedule 17 of the Commission's Rules Governing Utility Rate Increase Applications and Annual Informational Filings ("Rate Case Rules"). The Company explained in its waiver request that a waiver was necessary to include ratemaking adjustments in Schedules 12 and 17 of its AIF to reflect the acquisition costs associated with the purchase by NiSource, Inc. ("NiSource"), of Columbia Energy Group ("CEG"), including CGV. According to the Company, NiSource is Columbia's parent company.

On May 5, 2004, the Staff filed a Motion to extend the time in which it could file its response to the Company's Motion. Among other things, the Staff stated that counsel for the Company had authorized Staff counsel to represent that Columbia did not oppose Staff's request for an extension of time in which to file a response to Columbia's Motion.

On May 6, 2004, the Commission entered an Order that docketed the captioned matter and extended the time to May 28, 2004, in which responses to Columbia's waiver request could be filed with the Commission. The Commission continued the proceeding.

On May 28, 2004, the Staff filed its Response to Columbia's waiver request. In its Response, among other things, the Staff asked that it be permitted to work with the Company to develop a "place holder" means for presenting information related to an acquisition adjustment. The Staff requested, inter alia, that the Commission find that neither the Staff, any present or future party, nor this Commission are bound by the results of any methodology developed for presenting the acquisition adjustment in this or future proceedings, including any future AIF. The Staff proposed that in the event the Commission granted CGV's waiver request, the Commission make no finding on the propriety of any acquisition adjustment and further asked the Commission to find that it was not deciding the issues of Columbia's entitlement to and recovery of an acquisition adjustment.

Columbia, by counsel, advised that it does not intend to file a reply to the Staff's Response.

NOW, UPON CONSIDERATION of Columbia's waiver request and the Staff's Response, the Commission is of the opinion and finds that Columbia's waiver request should be granted and that the Company should be permitted to present the adjustments related to CEG's acquisition by NiSource in CGV's 2003 AIF. While Columbia may present adjustments related to the acquisition in its 2003 AIF, this authorization should not be construed as a decision on Columbia's entitlement to and recovery of an acquisition adjustment. Further, Columbia's presentation of these adjustments in this AIF should not be construed as preventing the Commission, Staff, or any other present or future participant in future AIFs or rate proceedings from considering: (i) whether the Company is entitled to an acquisition adjustment; (ii) whether the Company should recover these costs through rates paid by its ratepayers; (iii) whether other methods to measure savings or costs of acquisition should be employed; and (iv) does not obligate any of the foregoing to accept Columbia's method of presenting these costs in this case or any other case.

Accordingly, IT IS ORDERED THAT:

(1) Columbia's request for waiver of 20 VAC 5-200-30 A (9) and the instructions for expedited rate cases found in Schedule 17 of the Rate Case Rules is granted. Our decision in this Order to grant the Company's April 29, 2004, Motion does not obligate the Commission, Staff, or others who may participate in this AIF or future AIFs and rate proceedings to accept the Company's adjustments in this case or in any other proceedings. Moreover, the grant of CGV's waiver request by this Order does not imply that the Company is entitled to the recovery of an acquisition adjustment, or that the costs related to CEG's acquisition should be recovered through the rates paid by Columbia's ratepayers.

(2) This proceeding shall be continued pending further Order of the Commission.

**CASE NO. PUE-2004-00044  
JUNE 11, 2004**

APPLICATION OF  
INDEPENDENT ENERGY CONSULTANTS, INC.

For a permanent license to conduct business as an electric and natural gas aggregator

**ORDER GRANTING LICENSE**

On April 30, 2004, Independent Energy Consultants, Inc. ("IEC" or "the Company"), filed an application with the State Corporation Commission ("Commission") for a license to provide aggregation service for electricity and natural gas throughout the Commonwealth of Virginia pursuant to the Commission's Rules Governing Retail Access to Competitive Energy Services ("Retail Access Rules"). The Company attested that it would abide by all applicable regulations of the Commission as required by 20 VAC 5-312-40 B.

On May 6, 2004, the Commission issued an Order for Notice and Comment establishing the case, requiring that notice of the application be served upon appropriate persons, providing for the receipt of comments from the public, and requiring the Commission's Staff to analyze the reasonableness

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of IEC's application and to present its findings in a Staff Report. The Company filed proof of publication of its notice on May 17, 2004. No comments from the public on the Company's application were received.

The Staff filed its Report on May 27, 2004, concerning IEC's fitness to conduct business as an aggregator of electricity and natural gas. In its Report, the Staff summarized the Company's proposal and evaluated its financial condition and technical fitness. The Staff recommended that IEC be granted a license to conduct business as an aggregator of natural gas and electricity throughout the Commonwealth of Virginia, subject to filing proof of notice.

IEC filed comments to the Staff Report on June 2, 2004, affirming that it had properly filed proof of notice to other parties in response to the Staff Report on May 17, 2004. No other comments were received.

NOW UPON CONSIDERATION of the application, the Staff Report, and comments filed by IEC, the Commission finds that EC's request for a license to provide aggregation service for natural gas and electricity should be granted, subject to the conditions set forth below.

Accordingly, IT IS ORDERED THAT:

(1) IEC is hereby granted License No. A-17 to provide competitive aggregation service for electricity and natural gas throughout the Commonwealth of Virginia. This license to act as an aggregator 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-2004-00045  
JUNE 3, 2004**

APPLICATION OF  
COLUMBIA GAS OF VIRGINIA, INC.

For changes of names on certificates

**ORDER REISSUING CERTIFICATES**

On April 30, 2004, Columbia Gas of Virginia, Inc. ("CGV" or "Applicant") (formerly Commonwealth Gas Services, Inc.) filed an application requesting that all of the certificates of public convenience and necessity on file with the Division of Energy Regulation be amended to reflect the name change of the corporation. The previous name, Commonwealth Gas Services, Inc., was changed to Columbia Gas of Virginia, Inc., in January 1998.

The Commission finds that the existing certificates of public convenience and necessity should be canceled and reissued to reflect the new corporate name.

Accordingly, IT IS ORDERED THAT:

(1) Each certificate of public convenience and necessity, as shown on the attached list, heretofore issued to Commonwealth Gas Services, Inc., is hereby canceled and shall be reissued to Columbia Gas of Virginia, Inc., using the same certificate number and the next sequential alphabetical suffix.

(2) There being 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.

NOTE: A copy of Attachment 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-2004-00047  
MAY 21, 2004**

APPLICATION OF  
VIRGINIA ELECTRIC AND POWER COMPANY

For authority to establish a credit facility

**ORDER GRANTING AUTHORITY**

On April 30, 2004, Virginia Electric and Power Company ("Virginia Power" or "the Company") filed an application under Chapters 3 and 4 with the Virginia State Corporation Commission ("Commission") requesting authority to establish a 3-year revolving credit and competitive loan facility ("Facility"). Applicant paid the requisite fee of \$250.

Virginia Power, along with its corporate parent, Dominion Resources, Inc. ("DRY"), and its affiliate, Consolidated Natural Gas Company ("CNG"), propose to establish a shared Facility. The Facility will have a term of 3 years. All borrowings under the Facility will be due at the end of the



term. The Facility will be available for borrowings by Virginia Power, DRI and CNG, subject to the maximum aggregate limit of \$1.50 billion, with the maximum amount fully available to each borrower. The Facility will consist of two borrowing arrangements: 1) a revolving credit loan facility; and 2) a competitive loan facility. The revolving credit facility will be provided on a committed basis. The competitive loan facility will be provided on a non-committed basis through an auction mechanism conducted at the request of the borrower.

Loans under the competitive loan facility will bear interest at either an absolute rate or a margin above the LIBOR Rate with specified maturities ranging from seven to 360 days. The interest rate on borrowings under the revolving credit facility will bear interest, at the Borrower's election, at one of the following rates plus an interest margin: 1) the higher of the prime rate for J.P. Morgan Securities Inc. ("JPMorgan") at its New York City office or the federal funds rate plus .5% ("ADR Rate"); or 2) the Eurodollar deposit rate for a period equal to 14 days (to the extent a borrowing represents new money borrowing) and 1,2 or 3 months (as selected by the Borrower) appearing on page 2750 of the Telerate screen ("LIBOR Rate").

Commitment fees will accrue and be payable to the lenders based on the full amount of the Facility. DRI will be responsible for paying the commitment fee. The commitment fees, as well as other costs associated with establishing the Facility, will be allocated internally among the three borrowers.

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) Virginia Power is authorized to establish a \$1.50 billion syndicated revolving credit and competitive loan facility with DRI and CNG for a term of 3 years, under the terms and conditions and for the purposes as stated in the application.
- 2) Virginia Power shall file a copy of the Facility promptly after it becomes available. Virginia Power shall pay the facility fees, after internal allocation, based on an implied borrowing capacity of \$312.5 million as stated in the application.
- 3) Virginia Power shall pay the facility fees, after internal allocation, based on an implied borrowing capacity of \$312.5 million as stated in the application.
- 4) On or before June 30 of 2005, 2006 and 2007, Virginia Power shall file a report detailing the use of the Facility to include the date, amount, applicable interest rate of an loans under the facility aggregated by borrower, and the use of the proceeds. In addition, such report shall include a separate accounting by Virginia Power of its daily short-term debt balance and the source of the borrowings.
- 5) The authority granted herein shall have no implications for ratemaking purposes.
- 6) The authority granted herein shall not preclude the Commission from applying the provisions of § 56-78 and § 56-80 of the Code of Virginia hereafter.
- 7) The Commission reserves the right, pursuant to § 56-79 of the Code of Virginia, 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.

**CASE NO. PUE-2004-00050  
SEPTEMBER 20, 2004**

PETITION OF  
UNITED STATES GYPSUM COMPANY,  
Petitioner  
v.  
VIRGINIA NATURAL GAS, INC.  
and  
SEQUENT ENERGY MANAGEMENT f/k/a AGL ENERGY SERVICES, INC.,  
Respondents

**FINAL ORDER**

On May 4, 2004, United States Gypsum Company ("USGC") filed a Petition with the State Corporation Commission ("Commission") alleging certain misconduct by Virginia Natural Gas, Inc. ("VNG") and Sequent Energy Management, formerly known as AGL Energy Services, Inc. ("Sequent"), under a Gas Supply Asset Assignment and Agency Agreement ("Agreement") approved by the Commission in Case No. PUA-2000-00085, *Application of Virginia Natural Gas, Inc., and AGL Energy Services, Inc., For approval of an Energy Services Agreement under Chapter 4 of Title 56 of the Code of Virginia*, 2000 S.C.C. Ann. Rep. 240. The Petition alleges, among other things, that VNG and its agent and affiliate, Sequent, have mismanaged VNG's assets under the Agreement by: (1) refusing to release upstream pipeline capacity to customers on VNG's system (except in limited circumstances) before committing such capacity to off-system markets even though such capacity is available for release to VNG's transportation customers and often provides higher credits to firm customers; (2) tying the release of capacity to sales of natural gas; (3) selling natural gas off-system at a substantial loss; (4) inappropriately limiting service to transportation customers, including prohibiting such customers from withdrawing banked gas while at the same time selling gas off-system; and (5) refusing to explain changes to its quarterly reports that were prepared to allow the Commission Staff ("Staff") to monitor the operation of the Agreement. Given the alleged misconduct of VNG and Sequent under the Agreement, USGC requests that the Commission direct its Staff to perform an audit and formal investigation of the Agreement or, in the alternative, direct its Staff to retain an independent auditor to assist the Staff in an audit and investigation.

On May 25, 2004, VNG and Sequent filed an Answer to USGC's Petition ("Answer"). The Answer alleges, among other things, that all transactions using VNG's assets were conducted in accordance with the terms and conditions of the Agreement approved by the Commission. VNG and Sequent further allege the Agreement remains in the best interest of VNG and its customers. Finally, VNG and Sequent represent they will continue to work with the Staff to ensure that adequate information is made available to allow the Staff to continue to monitor and evaluate the Agreement to ensure it remains in the public interest and produces benefits for VNG and its customers. In light of the Staff's on-going review of the Agreement and their commitment to work with the Staff and provide any information necessary to allow the Staff to continue to monitor the Agreement, VNG and Sequent assert that USGC's Petition should be denied because an audit and investigation is unnecessary and will only result in a needless expenditure of time and resources.

On May 28, 2004, the Commission entered a Preliminary Order docketing USGC's Petition, and allowing interested persons to file responses to the Petition. The Order also allowed USGC to file a Reply to the Answer of VNG and Sequent and any responses filed by other interested persons.

On July 1, 2004, USGC filed its Reply to the Answer of VNG and Sequent. In its Reply, USGC argues there are legitimate factual issues in dispute between the parties that must be developed and resolved before the Commission can determine whether the Agreement remains in the public interest. USGC, therefore, renews its request for an audit and investigation of the Agreement.

Two additional filings were made in response to USGC's Petition. Pepco Energy Services, Inc. ("Pepco"), filed a Motion to Intervene in this proceeding, which was subsequently granted by a Commission Order entered on July 19, 2004. Pepco did not, however, file a responsive pleading to the Petition. In addition, Process Gas Consumers Group ("PGCG") submitted a letter to the Commission on July 23, 2004, stating that USGC's Petition raises valid concerns regarding the abuse of market power and urging the Commission to consider carefully the issues identified in the Petition.

On July 13, 2004, VNG filed a Motion to Dismiss USGC's Petition. In support of its motion, VNG argues that USGC failed to state a legal basis supporting its request for an audit and investigation as required by 5 VAC 5-20-100 (B)(iv) of the Commission's Rules of Practice and Procedure ("Rules"). VNG further argues that the Petition failed to state any facts, the proof of which would warrant an audit and investigation, contrary to the requirements imposed by 5 VAC 5-20-100 (B)(iii) of the Rules.

On July 30, 2004, USGC filed a brief in opposition to VNG's Motion to Dismiss. USGC argues that the allegations contained in its Petition must be accepted as true by the Commission when it considers VNG's Motion to Dismiss. USGC's primary allegation is that Sequent's conduct under the Agreement is designed to maximize its own profits at the expense of VNG and its customers. According to USGC, the only way to determine whether Sequent's conduct under the Agreement is detrimental or beneficial to VNG and its customers is to conduct the formal audit and investigation requested in its Petition.

On August 9, 2004, VNG and Sequent filed a Reply to USGC's brief in opposition to their Motion to Dismiss wherein they responded to USGC's brief and renewed their Motion to Dismiss.

NOW THE COMMISSION, having considered the pleadings filed herein and the applicable law, is of the opinion and finds that the Motion to Dismiss filed by VNG and Sequent should be denied and that USGC's Petition should be granted to the extent it requests that the Staff further audit and investigate the Agreement. VNG states that Staff currently is performing a "desktop audit" of the Agreement, and acknowledges that the Commission has continuing jurisdiction over the Agreement. Specifically, § 56-80 of the Code of Virginia provides the Commission with "continuing supervisory control over the terms and conditions of such contracts and arrangements . . . so far as necessary to protect and promote the public interest." Based upon the issues raised in this proceeding, and the fact that the Agreement comes up for renewal next year, we will direct the Staff to extend its audit and investigation for the purpose of determining whether the Agreement remains in the public interest.

Based on the pleadings, USGC's primary complaint is that Sequent is refusing to release any upstream pipeline capacity, except in limited circumstances, and USGC is experiencing difficulties having its own natural gas delivered to its plant in Norfolk, Virginia. USGC believes Sequent's refusal to make this upstream capacity available to USGC is motivated by Sequent's attempt to maximize its own profits through off-system sales at the expense of VNG's firm and transportation customers. While USGC's allegations are concerned primarily with its own difficulty in arranging transportation of natural gas to its plant, we believe that the Staff's audit and investigation of the Agreement must be conducted to determine whether the Agreement remains in the public interest for VNG's firm and transportation customers, not just USGC. Thus, our decision to extend the Staff's audit and investigation is not motivated solely by the allegations contained in USGC's Petition. Rather, our decision is founded primarily upon our desire to determine whether the Agreement is producing the benefits we envisioned when the Agreement was approved.

Our approval of the Agreement in Case No. PUA-2000-00085 was based upon VNG's representation that the Agreement was in the public interest because it would allow VNG to obtain natural gas procurement and asset management services from a consolidated and centralized source, thereby allowing the company to take advantage of economies of scale and other business efficiencies that would minimize the price of natural gas to VNG and its customers. It was also represented to the Commission that services provided under the Agreement would enable VNG and its customers to realize significant benefits through innovative natural gas procurement and asset management strategies that might not otherwise be available to VNG on a stand-alone basis. It was the anticipated benefits that would flow to VNG and its customers that supported our finding that the Agreement was in the public interest. Ultimately, the only way to determine whether the Agreement has, in fact, produced the benefits we envisioned is to examine the actual conduct of VNG and Sequent under the Agreement and the resulting financial impact on VNG and its customers.

We will, therefore, establish a separate docket, Case No. PUE-2004-00111, under which the Staff will perform an audit and investigation of the Agreement as discussed herein. We take this action pursuant to our continuing supervisory authority over the Agreement as provided for in § 56-80 of the Code of Virginia. The audit and investigation in Case No. PUE-2004-00111 will be broader than the issues raised by USGC's Petition and will focus primarily on whether the Agreement remains in the public interest. The Staff may retain the services of an outside independent auditor if needed to perform this task. During the course of the investigation, VNG and Sequent are authorized to continue operating under the Agreement, now set to expire in October 2005, pending further order of the Commission.

Accordingly, IT IS ORDERED THAT:

- (1) The Motion to Dismiss filed by Virginia Natural Gas is denied.

(2) United States Gypsum Company's Petition for an audit and investigation of the Gas Supply Asset Assignment and Agency Agreement between Virginia Natural Gas and Sequent Energy Management is granted to the extent it requests that the Staff further audit and investigate the Agreement to determine whether the Agreement remains in the public interest.

(3) A separate proceeding shall be established and docketed as Case No. PUE-2004-00111 for the Staff's audit and investigation of whether the Gas Supply Asset Assignment and Agency Agreement between Virginia Natural Gas and Sequent Energy Management remains in the public interest.

(4) The papers in this case shall be passed to the file for ended causes.

**CASE NOS. PUE-2004-00051 and PUE-2004-00052  
AUGUST 13, 2004**

APPLICATION OF  
VIRGINIA ELECTRIC AND POWER COMPANY

For expedited approval of authority to assume debt securities under Chapter 3 of Title 56 of the Code of Virginia of 1950, as amended

JOINT PETITION AND APPLICATION OF  
VIRGINIA ELECTRIC AND POWER COMPANY  
UAE MECKLENBURG COGENERATION L.P.  
and  
UNITED AMERICAN ENERGY CORP.

For approval of disposition and acquisition of stock under Chapter 5 of Title 56 of the Code of Virginia, for a certificate to operate generating facilities pursuant to Virginia Code § 56-580 D, for expedited consideration, and for such other relief as may be necessary

**FINAL ORDER**

On May 6, 2004, Virginia Electric and Power Company ("Dominion Virginia Power," "DVP" or "Company"), UAE Mecklenburg Cogeneration L.P. ("UAE Mecklenburg" or "Mecklenburg") and United American Energy Corp. ("UAE Corp.") (collectively, "Applicants"), filed with the State Corporation Commission ("Commission") a Petition and Application ("Disposition Petition") seeking (i) approval of disposition and acquisition of stock under Chapter 5 (§ 56-88 *et seq.*) of Title 56 of the Code of Virginia ("Transfers Act"), and (ii) a certificate to operate generating facilities pursuant to § 56-580 D of the Code of Virginia. The Disposition Petition was docketed as PUE-2004-00052.

The subject of the Disposition Petition is a 138 MW, coal-fired electric generating facility ("Generating Facility" or "Facility") located near Clarksville, Virginia. The Facility is presently owned by UAE Mecklenburg, which operates it pursuant to a long-term purchase power and operating agreement ("PPOA") with DVP; the Facility is presently interconnected to the Company's system at the Company-owned Buggs Island NUG Substation.

UAE Corp. proposes in this application to dispose of the Generating Facility by means of a transfer to DVP of the stock UAE Corp. holds in Mecklenburg Cogenco, Inc., and Cogeneration Capital Corp. ("Acquired Companies"), UAE Mecklenburg's general partner and limited partner, respectively. Stated simply, under the proposed transaction, DVP will be acquiring the Generating Facility through its acquisition of stock in the two companies that, collectively, own 100% of UAE Mecklenburg. As part of the proposed acquisition, DVP seeks to cancel and terminate an existing power purchase agreement between DVP and UAE Mecklenburg for the output of the generating facility that presently extends in its operation to 2017. According to the Disposition Petition, if and when this proposed transaction is approved, the Generating Facility will be owned and operated by DVP as part of the Company's generation system.<sup>1</sup>

In addition to the transactional approvals sought therein, the Disposition Petition raised several additional issues for the Commission's action. First, a Motion for a Protective Order was filed on May 6, 2004, by the applicants in docket PUE-2004-00052 concerning transactional data that the applicants deemed confidential or competitively sensitive. Secondly, the applicants requested that this Commission disclaim jurisdiction over UAE Mecklenburg and the Acquired Companies under § 56-88.1 of the Transfers Act, simply treating the transaction as an acquisition by DVP under that act. Finally, DVP requested that this Commission determine that the Commission's Rules Governing the Use of Bidding Programs to Purchase Electricity from Other Power Suppliers, 20 VAC 5-301, *et seq.*, have no application in the instant matter.<sup>2</sup>

A companion application was filed by DVP on May 6, 2004 ("Debt Assumption Petition" or "Chapter 3 Application"), and docketed as PUE-2004-00051. This application comprises a request by DVP for authority to assume debt securities related to DVP's acquisition of Mecklenburg Cogenco, Inc., and Cogeneration Capital Corp. in Commission Docket PUE-2004-00052. Specifically, DVP requests authority pursuant to Chapter 3 (§ 56-55 *et seq.*) of Title 56 of the Code of Virginia to assume the debt securities of UAE Mecklenburg as part of transactions proposed in the Disposition Petition discussed above. Since part of the transaction's design is to merge UAE Mecklenburg, Mecklenburg Cogenco, Inc., and Cogeneration Capital Corp.

<sup>1</sup> The Generating Facility began commercial operations in 1992 as a Qualifying Facility ("QF") under the federal Public Utility Regulatory Policies Act of 1978 ("PURPA"), 16 USCS § 824a-3, *et seq.*; it was not certificated by this Commission in 1992 under Virginia's Utility Facilities Act, Chapter 10.1 (§ 56-265.1 *et seq.*) of Title 56 of the Code of Virginia or any other provision of Virginia law. However, in 2002, UAE Mecklenburg applied for and obtained a certificate from this Commission to operate the Facility pursuant to § 56-580 D of the Virginia Electric Utility Restructuring Act, Chapter 23 (§ 56-577 *et seq.*) of Title 56 of the Code of Virginia. That application was made in conjunction with UAE Mecklenburg's anticipated loss of the Generating Facility's steam host, and, thus, its likely inability to continue operations in Virginia as a QF under PURPA. Consequently, and subsequent to this Commission's September 20, 2002, Order in that docket (PUE-2002-00313) so providing, the Generating Facility has been certificated under Virginia law.

<sup>2</sup> The Company maintains that this application does not comprise the purchase of new or additional capacity; instead, it is changing the form of the Company's ownership of the Facility's output, *i.e.*, from a contract right to receive the output to direct ownership of the Facility itself.

into DVP, with DVP emerging as the surviving entity, bonds and other financial instruments utilized to finance the Generating Facility must be expressly assumed by DVP, or otherwise exchanged for DVP securities acceptable to the current holders of debt instruments associated with the Generating Facility. This Commission must approve such assumptions or exchanges.

As a procedural matter § 56-61 of the Code of Virginia requires that Chapter 3 applications (such as that filed by DVP herein) must be reviewed and acted on by this Commission within 25 days, unless the Commission extends that review period for an additional 30 days or some longer period, setting forth its reasons for doing so.

On May 28, 2004, the Commission entered an Order for Notice and Comment ("May 28 Order") in which these two matters were docketed; interested parties were invited to submit written comments or request that the Commission convene a hearing; persons desiring to participate as respondents were advised to file Notices of Participation; the Commission Staff ("Staff") was directed to file a report concerning its review of the applications; and the Company was directed to give customers and public officials within the Facility's service area notice of the application.

The May 28 Order also stated that due to the interrelated nature of the two applications, such applications would be considered concurrently, without consolidation into a single docket. Additionally, that order extended the review period for both dockets in this combined proceeding to 120 days, pursuant to our authority to do so under Chapter 3 (§ 56-61) and Chapter 5 (§ 56-88.1). While we noted that expedited treatment had been requested by the applicants in these dockets, we deemed 120 days an appropriate amount of time to allow for public input, while ensuring prompt review by this Commission, and the preparation of final orders in both dockets.

Finally, the May 28 Order established a schedule for responsive pleadings and a Company reply concerning the protective order sought by the Company in a motion dated May 6, 2004, accompanying the application.<sup>3</sup>

We also noted in our May 28 Order that the Disposition Petition seeks certification for the Generating Facility pursuant to § 56-580 D of the Code of Virginia. Specifically, the application requested as part of this proposed transaction that the § 56-580 D certificate issued by this Commission to UAE Mecklenburg for the Facility in September 2002 be canceled and that a new certificate under § 56-580 D be issued to DVP. To that end, the application furnished information and documents that would otherwise be required under the Commission's rules (20 VAC 5-302-20) implementing § 56-580 D.

However, we determined in the May 28 Order that we would not recertificate under § 56-580 D this existing and presently certificated facility. We found no reason to issue a second "construction and operation" certificate to an already built facility. Instead, as we stated in that Order we deemed the Disposition Petition as having been made pursuant to § 56-265.2 A of the Utility Facilities Act, Chapter 10.1 (§ 56-265.1 *et seq.*) as well as under the Transfers Act. Section 56-265.2 A provides for Commission certification review when a public utility such as DVP proposes to acquire facilities for use in public utility service. As we understand the Disposition Petition, this is the nature of DVP's proposal and its plans for the use of the Facility. Consequently, we conducted our certification review under that statute, providing the Company an opportunity to make a supplemental filing, if necessary in light of this determination.

Subsequent to the Commission's issuance of the May 28 Order, the Company, by its counsel, made a June 17, 2004, filing in this proceeding entitled "Filing of Virginia Electric and Power Company Pursuant to Order for Notice and Comment" ("June 17 Filing" or "Filing"). The June 17 Filing indicated in paragraph 4 that the Disposition Petition contained sufficient information for the Commission's review, whether the same was conducted under § 56-265.2 A or § 56-580 D of the Code of Virginia. The Filing goes on, however, to question whether statutory review under § 56-265.2 A was appropriate, submitting that § 56-580 D is the proper statute for certification of the Facility and making several pages of argument in support of that proposition. However, consistent with our May 28 Order, we do not find that § 56-580 D of the Code of Virginia replaces the approval required under § 56-265.2 A for the acquisition of previously constructed facilities.

Finally, and as we noted in our May 28 Order, an ancillary issue that may be generated by these applications concerns the valuation and assessment of the Facility for local property tax purposes in connection with the proposed cancellation of the long-term purchase power agreement. The Disposition Petition does not indicate how this transaction will be treated by DVP for accounting purposes, generally, or whether it is contemplated that the value of the Generating Facility will be substantially changed for assessment purposes when the purchase power contract is eliminated. We noted in our May 28 Order that while paragraph 27 of the Disposition Petition states that under DVP's proposed ownership of the plant, the Facility will continue to contribute to the local tax base, the application does not indicate whether that contribution might be modified as a direct result of the proposed transaction.

On June 30, 2004, the Company, by its counsel, filed with the Clerk of the Commission proof of the newspaper publication and proof of service required by the May 28, 2004, Order for Notice and Comment.

No timely written comments, notices of participation, or requests for a hearing have been filed in this matter. Consequently, the only participants in this matter are the Applicants and the Commission Staff.

<sup>3</sup> We would note for the record that on June 23, 2004, the Commission Staff filed a Response to the Applicants' proposed protective order, objecting thereto and requesting that the Commission enter, instead, a protective order consistent with the one entered by this Commission in DVP's pending application to transfer functional control of its transmission assets to a regional transmission entity. *In the matter concerning the Application of Virginia Electric and Power Company for Approval of a plan to transfer functional and operational control of certain transmission facilities to a regional transmission entity, Case No. PUE-2000-00551.* The Order referenced by the Staff was entered on November 21, 2003. The Applicants' June 30, 2004, Reply to the Staff's Response stated that the Applicants did not object to the protective order proposed by the Staff, *i.e.*, one consistent with the November 21, 2003, Order entered in Case No. PUE-2000-00551. We would note further, that this Commission has issued no protective orders in this proceeding. Since the Applicants are the only parties to this proceeding, and the Staff's obligation of confidentiality is sufficiently covered under Rule 170 of the Commission's Rules of Practice and Procedure (5 VAC 5-20-170), the need for such issuance appears to be moot.

**Staff Report****Certification review under § 56-265.2 A of the Code of Virginia**

On July 26, 2004, the Commission Staff filed its Report ("Staff Report" or "Report"). The Staff concluded in its Report that six general areas of analysis previously identified by this Commission for review of certification applications under § 56-580 D are also appropriate for applications reviewed under § 56-265.2 A. These six areas are: (1) reliability, (2) competition, (3) rates, (4) environment, (5) economic development, and (6) other public interest. Environmental review by the Department of Environmental Quality ("DEQ") was not required in this case, however, since this case is not proceeding under § 56-580 D of the Code of Virginia.

Applying the six factors identified above, the Staff concluded that the Company's ownership and operation of the Facility: (1) will have no material adverse effect upon the reliability of electric service provided by any regulated public utility; (2) will not have an adverse impact on the goals of furthering economic competition; (3) should have no material adverse base rate or fuel impact; (4) will result in no change in the Facility's current environmental impact; and (5) will result in little or no effect on the level of local and regional economic activity.

With respect to the public interest aspects of this application (the sixth factor identified above), the Staff Report states as follows:

[t]he Company's proposal will strengthen the Company financially through the termination of above market capacity payments under the ["PPOA" between Mecklenburg and the Company]. The Staff believes that the Company's proposal is consistent with the Restructuring Act and the General Assembly's intent for utilities to reduce costs and improve their efficiency during the transition period of capped rates and wires charges.

The Staff Report also addressed the applicability of the bidding rules that establish minimum criteria for any bidding program designed by any electric utility to purchase capacity or energy from other providers. As noted in the Report, this Commission Order adopting those rules recognized the need for exemptions from them so as not to impede utilities' execution of transactions beneficial to utilities and their customers. The Staff supports a waiver of these rules in this particular case. The rationale Staff offers for its position is that the benefits to be derived from this transaction are specific to the acquisition of the Facility and cannot be accommodated through a competitive bidding process.

Thus, the Staff concluded that with respect to the Company's application for a certificate to operate the Facility, the application satisfies the requirements of § 56-265.2 A, and that DVP's ownership and operation of the Facility is consistent with the public interest<sup>4</sup> and will have no material adverse effect upon the reliability of electric service or just and reasonable rates. Accordingly, the Staff has recommended that the Commission grant the Company's request for a certificate pursuant to § 56-265.2 A.

**DVP's Transfers Act Application**

Related to that recommendation, the Staff has also recommended that the Commission approve the application as satisfying the requirements of the Transfers Act. As noted in the Staff's report, approval is also needed under the Transfers Act for the Company to acquire the Facility. The Staff notes that while Mecklenburg and UAE Corp. are not considered public utilities subject to § 56-88.1 of the Code of Virginia (and therefore these two entities do not require this Commission's approval under the Transfers Act to dispose of their utility assets or transfer ownership in them in the manner proposed herein), the Facility meets the definition of "utility assets" under the Transfers Act, and, therefore, DVP requires approval under § 56-89 of that act to acquire the Facility.<sup>5</sup>

In support of its recommendation to approve DVP's application under the Transfers Act, the Staff notes in its Report that the purchase price of the Facility is the same price that Mecklenburg negotiated with a third party in the original Stock Purchase Agreement. Additionally, DVP will record the aggregate assets acquired and liabilities assumed at their estimated fair market values as of the acquisition date. Finally, after DVP's purchase of the Facility, the Facility will continue to be used to provide service to DVP's customers. However, such service will not be tied to costs associated with the PPOA. The Company estimates that the elimination of the PPOA will result in approximately \$1.75 million in average annual fuel factor savings, on a system basis, during the years 2007-2010.

The Staff Report also addressed the potential effect the proposed transaction will have on the valuation and assessment of the Facility for local property tax purposes. The Report stated that (based on feedback the Staff received in Company responses to Staff interrogatories) the Company has not decided whether it will seek an adjustment in the assessed value of the Facility based on its appraised fair market value, which is yet to be determined. Consequently, the Company cannot predict at this time whether the proposed transaction will have any effect on local taxes.

The Staff recommended approval of the proposed acquisition under the Transfers Act because it appears that such acquisition by DVP will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates.

In conjunction with that recommendation, the Staff recommends that DVP book the transaction in accordance with the Uniform System of Accounts for Electric Utilities, Part 101, Electric Plant Instructions 5 and that a report of action be filed with the Commission within 30 days of the transaction taking place. Additionally, the Staff recommends that such report of action include the date of transfer, the price paid by DVP for the Facility, the appraised value as determined by the appraisal commissioned by the Company, and the actual accounting entries reflecting the transaction.

<sup>4</sup> The statutory standard of review guiding this Commission's certification under § 56-265.2 A is that "the public convenience and necessity require the exercise of such privilege."

<sup>5</sup> The standard by which such Transfers Act applications must be measured is set forth in § 56-90, *i.e.*, that "adequate service to the public at just and reasonable rates will not be impaired or jeopardized."

**DVP's Chapter 3 Application**

Finally, the Staff Report addressed DVP's Chapter 3 Application in which DVP seeks authority from this Commission to assume the debt securities of UAE Mecklenburg as part of its proposed purchase of the Facility. The total amount of debt proposed to be assumed is \$133.6 million, consisting of two bond issuances issued as part of Mecklenburg's financing plan for development of the plant.<sup>6</sup> As part of this transaction, the Company has agreed to exchange the taxable bonds for an equivalent amount of DVP senior notes with the same interest rates, maturity, redemption and make-whole provisions as the taxable notes. The issuance of these notes also requires approval under Chapter 3 of Title 56 of the Code of Virginia.

Currently, both the taxable bonds and the tax-exempt bonds are secured by a lien on, and a security interest in, the Facility and the PPOA along with other documents. According to the Staff Report, the Company has obtained bondholder consents to modify the security interest and restrictive covenants, including the termination of the PPOA.

The Staff notes in its Report that while the weighted average cost of debt being assumed (7.11%) appears to be reasonable, the 7.25% rate on taxable debt and the 6.50% rate on the tax-exempt debt are higher than what DVP could currently obtain in the capital market on debt issued by the Company with similar terms and conditions. The Report goes on to say that since the debt is not callable in the immediate future, the Company can not refinance the debt to lower its effective cost. The assumption of this debt will also cause the Company's weighted average cost of debt to increase, albeit by only 3 basis points, according to the Company's calculations.

Nevertheless, the Staff concludes that the assumption of debt is in the public interest and should be approved, and that the issuance of replacement debt for the taxable bonds should be approved as well. The Staff reaches this conclusion because by purchasing this Facility and canceling the PPOA, DVP's avoided cash flows should more than off-set increased cash flows associated with the higher cost debt. In short, the Staff concludes that the proposed transaction will result in a net positive increase in cash flow for DVP over what would have been the remaining life of the PPOA, absent its cancellation.

On July 29, 2004, DVP, by its counsel sent a letter to the Commission advising that the Company would offer no comments on the Staff Report. Similarly, on July 29, 2004, UAE Mecklenburg and UAE Corp., by their counsel, submitted a letter informing the Commission that neither entity had any comments on the Staff Report.

NOW THE COMMISSION, having considered the applications, the Staff's Report concerning both, and the applicable law, is of the opinion and finds as follows:

First of all, we will accept the Staff's suggestion that while we conduct our certification review under § 56-265.2 A of the Code of Virginia, we nevertheless take into consideration the six factors we have previously identified for use in analysis of projects falling under § 56-580 D of the Code of Virginia. These factors will be helpful to us as we consider whether the public convenience and necessity require this Commission's issuance of a certificate to DVP pursuant to § 56-265.2 A of the Code of Virginia, in conjunction with the Company's proposed acquisition of utility facilities for use in public utility service.

We conclude that the Company's ownership and operation of the Facility will likely: (1) have no material adverse effect upon the reliability of electric service provided by any regulated public utility; (2) have no adverse impact on the goals of furthering economic competition; (3) have no material adverse base rate or fuel impact; (4) result in no change in the Facility's current environmental impact; and (5) have little or no effect on the level of local and regional economic activity. We further conclude that DVP's proposed acquisition is in the public interest (the sixth factor) since it will likely strengthen the Company financially through the termination of above market capacity payments under the PPOA between Mecklenburg and the Company.

Underscoring our findings, we would note that the entire output of the Facility is currently under contract to DVP through 2017, and the Facility is already interconnected to the Company's system at the Buggs Island NUG Substation. Consequently, we concur with the Staff's conclusions that direct ownership by DVP: (i) may actually increase reliability; (ii) should have little, if any, practical impact on the level of Company market power; (iii) is likely to have an immaterial ratepayer impact; (iv) should have little or no effect on the level of local and regional economic activity;<sup>7</sup> and (v) is consistent with the Restructuring Act and the General Assembly's intent for utilities to reduce costs and improve their efficiency during the transition period of capped rates and wires charges.

While we did not require a DEQ environmental review (as would be required if this application had been reviewed under § 56-580 D), we note (as did the Staff) that DVP represents that Mecklenburg has obtained and maintains all necessary environmental permits for a Facility that has been operational since 1992. Moreover, since there is no anticipated additional construction or new land disturbances, the Staff indicated that there are no site or visual disturbances that require resolution.

In sum, we find that the Company's purchase of the Facility will maintain the status quo in that the entire output of the Facility will remain available for use by the Company to serve its customers. Under the Company's direct ownership, the Facility will be available at lower cost to the Company and its customers than under the existing PPOA. Consequently, we conclude that a certificate to acquire and operate this Facility under § 56-265.2 A of the Code is in the public interest and should be granted.

We also find, for the reasons stated in the Report, that the Bidding Rules are not applicable to this proceeding.

With respect to review of this application under the Transfers Act, and consistent with our findings under § 56-265.2 A of the Code of Virginia, we conclude, preliminarily and pursuant to § 56-88.1, that UAE Mecklenburg and UAE Corp. are not subject to our jurisdiction under the Transfers Act with

<sup>6</sup> These two bond issuances consist of \$109.1 million in UAE Mecklenburg Cogeneration LP 7.25% Senior Secured Bonds due October 15, 2017, and \$24.5 million of 6.5% Industrial Development Authority of Mecklenburg County, Virginia, Exempt Facility Revenue Bonds due October 15, 2019. The former are taxable bonds; the latter are tax-exempt.

<sup>7</sup> The only exception to this could be an impact on the future assessed value of the Facility related to this transaction and its impact on local property tax liability.

respect to the proposed disposition of their interests in Facility. We further find that DVP's proposed acquisition of this Facility will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates. We find, therefore, that the approval requested by DVP under the Transfers Act should be granted.

With respect to the Chapter 3 approvals required in conjunction with this transaction (and separately docketed under Case No. PUE-2004-00051), we find, for the reasons set forth in the Staff Report, that DVP's assumption of debt is in the public interest and should be approved, and that the issuance of replacement debt for the taxable bonds should be approved as well. As set forth in the Staff Report, by purchasing this Facility and canceling the PPOA, DVP's avoided cash flows should more than off-set increased cash flows associated with the higher cost debt. Thus, as the Staff concluded, the proposed transaction should result in a net positive increase in cash flow for DVP over the remaining life of the PPOA.

Finally, we would note that a related issue that we raised in our May 28 Order, and that may arise in the future concerns the assessment of the value of the Facility property subject to local property tax. The Staff addressed this valuation issue briefly in the Staff Report, but noted that the Company has not decided whether it will seek adjustment in the assessed value of the Facility.<sup>8</sup>

Our approval of the transaction subject of the Applications herein should not be interpreted by the Company or others as an endorsement of the fair market value of the Facility as determined by the Company's appraisers. The Commission will enter its orders of assessment of the value of property for tax year 2004 in the near future. If the Company disagrees with our assessment of the value of Facility property subject to local taxation, it may seek a review and correction of the assessed value of the Facility pursuant to § 58.1-2670 of the Code of Virginia

Accordingly, IT IS ORDERED THAT:

(1) This Commission having found that the public convenience and necessity require the acquisition by DVP of the subject Facility for use in public utility service, the Company is hereby granted a certificate therefor, pursuant to § 56-265.2 A of the Code of Virginia.

(2) The Commission's Division of Energy Regulation is hereby directed to cancel Certificate No. ET-165 issued to UAE Mecklenburg and to issue Certificate No. ET-172 to Virginia Electric and Power Company. By this Certificate of Public Convenience and Necessity (No. ET-172), Virginia Electric and Power Company is hereby authorized under § 56-265.2 A of the Code of Virginia to own and operate the subject Facility referenced above and described in its Application, the same being an existing electrical power generation facility located in Mecklenburg County near Clarksville, Virginia.

(3) Pursuant to the Utility Transfers Act, Chapter 5 (§ 56-88, et seq.) of Title 56 of the Code of Virginia, the Company is hereby granted the authority to acquire the Facility referenced above and described in its application.

(4) DVP shall book its acquisition of the Facility, approved herein, in accordance with the Uniform System of Accounts for Electric Utilities, Part 101, Electric Plant Instructions 5 and a report of action shall be filed with the Commission within 30 days of the transaction taking place, all as recommended in the Staff Report.

(5) The report of action directed by Ordering Paragraph (4) herein, shall include the date of transfer, the price paid by DVP for the Facility, the appraised value as determined by an appraisal commissioned by the Company, and the actual accounting entries reflecting the transaction.

(6) DVP's assumption of debt proposed and described in its Chapter 3 Application is hereby approved, and the issuance of replacement debt for the taxable bonds, as proposed and described in such Application, is approved as well.

(7) There being nothing further to come before the Commission in this proceeding, these cases shall be removed from the dockets herein and the papers transferred to the file for ended causes.

<sup>8</sup> In that vein, however, we will adopt the Staff's recommendation that DVP (i) book its acquisition of the Facility, approved herein, in accordance with the Uniform System of Accounts for Electric Utilities, Part 101, Electric Plant Instructions 5, and (ii) file a report of action with the Commission within 30 days of the transaction taking place. The report of action will include the date of transfer, the price paid by DVP for the Facility, the appraised value as determined by an appraisal commissioned by the Company, and the actual accounting entries reflecting the transaction.

**CASE NO. PUE-2004-00058  
MAY 20, 2004**

APPLICATION OF  
NORTHERN VIRGINIA ELECTRIC COOPERATIVE

For authority to issue long-term debt

**ORDER GRANTING AUTHORITY**

On May 13, 2004, Northern Virginia Electric Cooperative ("Applicant") filed an application with the Virginia State Corporation Commission ("Commission") under Chapter 3 of Title 56 of the Code of Virginia requesting authority to incur long-term debt. Applicant has paid the requisite fee of \$250.

Applicant requests authority to borrow up to \$13,088,389 from the National Rural Utilities Cooperative Financing Corporation ("CFC"). The proceeds will be used to retire existing debt issued to the Rural Utilities Services ("RUS"). The loan will be structured so that the debt matures in installments throughout the next 11 years. The interest rates will range from 2.95% to 5.60%, with an effective interest rate less than 5.0%, the current rate on the existing RUS debt to be retired.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

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 \$13,088,389 from the National Rural Utilities Cooperative Financing Corporation, under the terms and conditions and for the purposes set forth in the application.
- 2) Within thirty (30) days of the date of each advance of funds from CFC, Applicant 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 selected, and the interest rate term.
- 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-2004-00059  
JUNE 18, 2004**

APPLICATION OF  
ATMOS ENERGY CORPORATION

For authority to issue common equity and long-term debt

**ORDER GRANTING AUTHORITY**

On May 13, 2004, Atmos Energy Corporation ("Atmos" or "Applicant") filed an application with the State Corporation Commission ("Commission") under Chapter 3 of Title 56 of the Code of Virginia (§ 56-55 et seq.) requesting authority to issue common equity and/or long-term debt at any time before December 31, 2007, up to a maximum of \$246,000,000.<sup>1</sup> The Applicant paid the requisite fee of \$250.

Net proceeds from the proposed securities issuances will be used for the repayment of all or a portion of Atmos' outstanding short-term debt; for the purchase, acquisition and/or construction of additional properties and facilities, as well as improvements to Atmos' existing utility plant; for the refunding of higher coupon long-term debt as market conditions permit; and for general corporate purposes.

Atmos states it has existing authority to issue up to \$600,000,000 in securities from the Securities and Exchange Commission ("SEC") under a Universal Shelf Registration in File No. 333-75576 ("Shelf") that became effective on January 30, 2002. By Order dated March 11, 2002, in Case No. PUF-2002-00007, the Commission authorized the issuance of up to \$600,000,000 in common equity and/or long-term debt. To date, \$354,000,000 of securities have been issued. The authority granted to Atmos by the Commission expired on March 31, 2004. The Applicant seeks authority through December 31, 2007, to issue the remaining amount of \$246,000,000 securities authorized by the Shelf.

NOW THE COMMISSION, upon consideration of the application and having been advised by the Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest subject to the conditions contained below. We note that the Applicant has indicated it may be filing a new or revised Shelf application with the SEC in the next twelve months. We will require Atmos to file a copy of any such SEC filing with the Division of Economics and Finance.

ACCORDINGLY, IT IS ORDERED THAT:

- (1) Atmos is hereby authorized to issue common equity and/or long-term debt from the date of this Order through December 31, 2007, up to a maximum of \$246,000,000, under the terms and conditions and for the purposes set forth in the application.
- (2) Atmos shall submit a preliminary Report of Action within ten (10) days after the issuance of any securities pursuant to Ordering Paragraph (1), to include the issuance date, the type of security, the face amount of the issue, the interest rate, the maturity date, the net proceeds to Atmos, and the yield to maturity on a U. S. Treasury security of comparable maturity.
- (3) On or before February 15, 2005, 2006, and 2007, Atmos shall file with the Commission a detailed Report of Action with respect to all securities issued and sold during the previous calendar year to include:
  - (a) the issuance date, the type of security, the amount issued, the interest rate, the date of maturity, the underwriters' names, the underwriters' fees, other issuance expenses realized to date, and the net proceeds to Atmos; and
  - (b) the cumulative principal amount of securities issued under the authority granted herein and the amount remaining to be issued.
- (4) Atmos shall file a final Report of Action on or before February 28, 2008, to include all information required in Ordering Paragraph (3) and a detailed account of all the actual expenses and fees paid to date for each type of security issued.

<sup>1</sup> Section 56-61 of the Code of Virginia requires the Commission to approve or disapprove such application within 25 days of its filing, but allows the Commission to extend the review period by an additional period of no more than 30 days. By Order dated June 4, 2004, the Commission extended its jurisdiction until July 7, 2004.



- (5) Should Atmos file with the SEC a request for changes to the Shelf, within ten (10) days of such filing Atmos shall submit to the Commission's Division of Economics and Finance a copy of Form U-1 or Form U-1A filed with the SEC.
- (6) Approval of this application shall have no implications for ratemaking purposes.
- (7) This matter shall remain under the continued review, audit, and appropriate directive of the Commission.

**CASE NO. PUE-2004-00063  
AUGUST 19, 2004**

APPLICATION OF  
COLUMBIA GAS OF VIRGINIA, INC.

For partial waiver of tariff

**FINAL ORDER**

On May 24, 2004, Columbia Gas of Virginia, Inc. ("CGV"), filed its Application for Partial Waiver of Tariff ("Application") requesting a waiver of all or parts of subsection 5(a) and 5(d) of its Large General Service Rate Schedule ("LGS") tariff in order to facilitate provision of tariff-based service to Chaparral Steel-Virginia ("Chaparral"). Chaparral operates a steel recycling facility in Dinwiddie County, Virginia, within the certificated service territory of CGV.

CGV now provides natural gas transportation service to Chaparral under the terms of a Service Agreement between the two companies approved by the State Corporation Commission ("Commission") as a special rate and contract pursuant to § 56-235.2 of the Code of Virginia, by order entered July 12, 2000, in Case No. PUE-1999-00781. CGV also provides Chaparral with access to certain varying quantities of upstream pipeline capacity (most recently 4,600 Dth per day) across interstate pipeline systems, enabling Chaparral to transport natural gas supplies it has purchased elsewhere to CGV's city gate. CGV then delivers this gas to Chaparral's Dinwiddie County facility.

CGV and Chaparral have developed a new capacity release arrangement wherein a part of the old arrangement will be maintained and a new tariff-based arrangement will supplement the Service Agreement. Under the new arrangement, to be continued in the Service Agreement, CGV will release 4,600 Dth per day of upstream capacity to Chaparral through October 31, 2005, and provide any service to Chaparral in excess of this 4,600 Dth per day under its tariff at LGS rates, as a curtailable sales service.

CGV requests a partial waiver of certain terms and conditions of the LGS Rate Schedule portion of its tariff because certain fees otherwise due to CGV under subsections 5(a) and 5(d) of the tariff are already being paid by Chaparral pursuant to the Service Agreement. CGV does not wish to double bill Chaparral for these fees.

On June 11, 2004, the Commission issued its Order for Notice, Comments and Requests for Hearing, directing CGV to publish notice of its Application, and establishing a schedule for the receipt of comments, requests for hearing and a report of the Commission Staff's ("Staff") investigation of the Application. By Order dated July 7, 2004, we amended one of the notice provisions of the June 11 Order. On July 9, 2004, CGV provided proof of compliance with the notice and service provisions of these orders.

On July 15, 2004, Mr. Donald S. Wheeler of Ivy, Virginia, filed a notice of participation and request for hearing in this matter. On July 21, 2004, Chaparral filed its Notice of Participation and Motion, which it clarified by letter of counsel dated July 23, 2004. Chaparral urged the Commission to approve the Application. On August 6, 2004, the Staff filed public and confidential versions of the report of its investigation of the Application.

Staff reported that it evaluated the Application with respect to the three criteria that must be met for implementation of a special rate or contract. These criteria require that a special rate or contract (i) must protect the public interest, (ii) must not unreasonably prejudice or disadvantage any customer or class of customers, and (iii) must not jeopardize the continuation of reliable service by the utility to its other customers. Staff concluded that all criteria were met and recommended approval of the Application.

First, Staff noted the substantial economic benefits provided the Commonwealth, particularly Dinwiddie County and the City of Petersburg, from the investment and continued operation of Chaparral's facility. Staff concluded that no unreasonable prejudice or disadvantage to other customers would result from waiver of the tariffed fees, since the parties' Service Agreement already includes payment by Chaparral of equivalent fees. With regard to the final criterion, Staff noted that due to growth in CGV's core markets, CGV was no longer able to provide Chaparral with the same level of access to firm upstream capacity that it once did. Staff emphasized that CGV may be required at times to curtail sales service under the proposed new arrangement to Chaparral in order to meet the firm needs of its remaining customers and that, *as long as CGV exercised that authority*, service to other customers would not be jeopardized. Staff noted that in times of tight capacity supplies, Chaparral should expect that its curtailable sales service will not be available.

On August 10, 2004, Mr. Wheeler withdrew his request for hearing after reviewing the Staff Report. On August 13, 2004, Chaparral filed a Response to the Report of the Commission Staff and again urged the Commission to approve the Application. Also on August 13, 2004, CGV filed its Response, requesting the Commission to accept Staff's recommendation and to expeditiously approve the Application.

NOW THE COMMISSION, having considered the pleadings herein and the applicable statutes and rules, is of the opinion and finds that the request for waiver of subsection 5(a) and partial waiver of subsection 5(d) of CGV's Large General Service Rate Schedule LGS is in the public interest, will not unreasonably prejudice or disadvantage any customer or class of customers, and will not jeopardize reliable service by CGV to its other customers.

As noted above, we have previously determined that CGV's service to Chaparral met the statutory criteria for qualification as a special rate or contract. We make a similar determination with regard to the changes to the service arrangements proposed in the Application. We concur with the Staff that the level of service provided by CGV to Chaparral for at least a portion of the latter's gas supply is subject to curtailment if necessary to protect firm

sales to CGV's remaining customers. We trust and expect CGV to exercise the authority negotiated in the Service Agreement in a manner that will not cause jeopardy to the service needs of its remaining customers.

Accordingly, IT IS ORDERED THAT:

- (1) The waivers of Subsection 5(a) and 5(d) to CGV's Large General Service Rate Schedule LGS are approved as requested in the Application effective immediately.
- (2) This order shall have no ratemaking implications.
- (3) There being nothing further to come before the Commission, this matter is dismissed.

**CASE NO. PUE-2004-00064  
JULY 9, 2004**

APPLICATION OF  
BUCKEYE ENERGY BROKERS, INC.

For a permanent license to conduct business as an electric and natural gas aggregator

**ORDER GRANTING LICENSE**

On June 1, 2004, Buckeye Energy Brokers, Inc. ("Buckeye Energy" or "the Company"), completed an application with the State Corporation Commission ("Commission") for a license to provide electric and natural gas aggregation service 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 seeks authority to serve residential and commercial customers throughout the Commonwealth of Virginia. The Company attested that it would abide by all applicable regulations of the Commission as required by 20 VAC 5-312-40 B.

On June 3, 2004, the Commission issued an Order for Notice and Comment establishing the case, requiring that notice of the application be served upon appropriate persons, providing for the receipt of comments from the public, and requiring the Commission's Staff to analyze the reasonableness of Buckeye Energy's application and to present its findings in a Staff Report. The Company filed proof of publication of its notice on June 14, 2004. No comments from the public on Buckeye Energy's application were received.

The Staff filed its Report on June 29, 2004, concerning Buckeye Energy's fitness to conduct business as an electric and natural gas aggregator. In its Report, the Staff summarized Buckeye Energy's proposal and evaluated its financial condition and technical fitness. The Staff recommended that Buckeye Energy be granted a license to conduct business as an electric and natural gas aggregator for residential, commercial, and industrial customers throughout the Commonwealth of Virginia.

Buckeye Energy filed a response to the Staff Report on July 6, 2004 in which it stated that it agrees with Staff's recommendations. The Company further committed to retaining a record of all complaints for a three-year period.

NOW UPON CONSIDERATION of the application and the Staff Report, the Commission finds that Buckeye Energy's application to provide electric and natural gas aggregation service should be granted, subject to the conditions set forth below.

Accordingly, IT IS ORDERED THAT:

- (1) Buckeye Energy, Inc. is hereby granted license No. A-18 to provide competitive electric and natural gas aggregation service to residential commercial and industrial customers throughout the Commonwealth of Virginia as the Commonwealth opens up to retail access and customer choice. This license to act as an aggregator 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-2004-00065  
JULY 20, 2004**

JOINT APPLICATION OF  
DELMARVA POWER AND LIGHT COMPANY  
and  
CONECTIV DELMARVA GENERATION, INC.,

For approval of a transaction pursuant to Chapter 4 of Title 56 of the Code of Virginia

**ORDER GRANTING APPROVAL**

On May 26, 2004, Delmarva Power & Light Company ("Delmarva" or "Company") and Conectiv Delmarva Generation, Inc. ("CDG") (collectively referred to herein as "Applicants"), filed a joint application with the State Corporation Commission ("Commission") under the provisions of

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Chapter 4 of Title 56 of the Code of Virginia ("Code"), requesting approval to enter into a First Addendum ("Addendum") to the existing Easement and License Agreement (the "Agreement") between Delmarva and CDG. This Addendum will add 0.6616 acre to the original easement area of 10.517 acres approved under the Agreement.

Delmarva is a Delaware and Virginia corporation that provides electric service to approximately 21,000 retail customers and one wholesale customer on Virginia's Eastern Shore. Delmarva is a wholly owned subsidiary of Conectiv, a Delaware corporation, which is a wholly owned subsidiary of Pepco Holdings, Inc., also a Delaware corporation. Pepco Holdings, Inc., is a registered holding company under the federal Public Utility Holding Company Act of 1935.

CDG is a Delaware corporation and a wholly owned subsidiary of Conectiv Energy Holding Company, which is a wholly owned subsidiary of Conectiv.

On June 29, 2000, the Commission, in Case No. PUE-2000-00086 and Case No. PUA-2000-00032, granted Delmarva authority to transfer to CDG ownership of certain power plants. As a result of this transfer, Delmarva now provides only regulated utility power delivery services. In connection with this transfer, CDG and Delmarva entered into the Agreement under which CDG granted Delmarva access to Delmarva's transmission, distribution, substation, gas and communications facilities located on CDG's property, which consisted of a 10.517-acre easement area.

The additional easement area is roughly triangular with two sides contiguous to the existing easement area which contains 230 kV and 138 kV switchyard facilities. This additional easement area allows Delmarva to install a 138-13 kV transformer and 15 kV switchgear, with structures and two transformers, to be connected to existing facilities located on the existing easement area in order to serve an existing customer.

The Applicants deem that the additional easement area has \$0 fair market value and that CDG will convey the addition to Delmarva for \$10. The Applicants state that the joint application is in the public interest because it will provide Delmarva expanded access to its facilities for service in Delaware with no effect on its Virginia rates or service at minimal cost to Delmarva.

NOW THE COMMISSION, having considered the application, the applicable law, and having been advised by its Staff, is of the opinion and finds that the above-referenced Addendum to the Agreement is in the public interest and should be approved.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to § 56-77 of the Code, Delmarva is hereby granted approval to execute the Addendum to the Agreement, as described herein.
- 2) Any further amendment to the Agreement or change in the terms and conditions of the Agreement shall require further Commission approval.
- 3) An Executed Agreement with the Addendum shall be submitted to the Commission's Document Control Center within sixty (60) days of this Order, subject to administrative extension by the Director of Public Utility Accounting.
- 4) The approval granted herein shall have no ratemaking implications.
- 5) The approval granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code.
- 6) The Commission reserves the right and 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.
- 7) The approval granted herein shall not be deemed to include any approvals other than the Addendum referenced in ordering paragraph (1).
- 8) The Company shall include affiliate information related to the Agreement and the Addendum in its Annual Report of Affiliate Transactions.
- 9) If Annual Informational and/or General Rate Case Filings are not based on a calendar year, then the Company shall include the affiliate information contained in its Annual Report of Affiliate Transactions in such filings.
- 10) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUE-2004-00067  
AUGUST 24, 2004**

APPLICATION OF  
VIRGINIA GAS DISTRIBUTION COMPANY,  
VIRGINIA GAS PIPELINE COMPANY  
and  
VIRGINIA GAS STORAGE COMPANY

For approval of application for permission to transfer regulated gas for operational purposes between affiliates pursuant to Chapter 4 of Title 56 of the Code of Virginia

**ORDER GRANTING APPROVAL**

On June 2, 2004, Virginia Gas Distribution Company ("VGDC"), Virginia Gas Pipeline Company ("VGPC"), and Virginia Gas Storage Company ("VGSC") filed a complete application with the State Corporation Commission (the "Commission") that requested approval of permission to transfer

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

regulated gas for operational purposes between affiliates pursuant to Chapter 4 of the Title 56 (the "Affiliates Act") of the Code of Virginia (the "Code"). On August 13, 2004, VGDC filed a Request to Withdraw from the proceeding.

VGDC provides natural gas distribution service to approximately 300 customers located in Southwest Virginia. VGDC has certificates of public convenience and necessity ("CPCNs") to offer natural gas service to the counties of Russell, Buchanan, and Dickenson, a portion of Tazewell County, and the Town of Saltville. VGDC is a wholly-owned subsidiary of Virginia Gas Company ("VGC"), which is located in Abingdon, Virginia, and is a wholly-owned subsidiary of NUI Corporation ("NUI"). NUI is an exempt public utility holding company located in Bedminster, New Jersey, that owns several natural gas distribution, pipeline, and storage businesses.

VGPC provides pipeline transmission and underground natural gas storage services to customers in southwestern Virginia and eastern Tennessee. VGPC has CPCNs to construct, own, operate, and maintain an underground natural gas storage facility in Smyth and Washington Counties, and to own, develop, construct, and operate an intrastate gas transmission line in the counties of Smyth, Wythe, and Pulaski. VGPC is a wholly owned subsidiary of VGC.

VGSC provides underground natural gas storage service to customers in southwestern Virginia and eastern Tennessee. VGSC has a CPCN to operate the Early Grove storage field in Scott and Washington Counties. VGSC is a wholly owned subsidiary of VGC.

VGPC and VGSC (collectively the "Applicants") are seeking approval of an arrangement (the "Arrangement") whereby VGPC and VGSC can transfer excess natural gas between each other for operational purposes. Excess natural gas is defined as any gas in inventory that is not anticipated to be used internally during the next two months. The Applicants are currently authorized by their respective CPCNs to purchase gas for their own use. VGPC and VGSC, for example, purchase gas for use as compressor fuel.

The Applicants represent that the primary purpose of the Arrangement is to help VGPC and VGSC mitigate certain business risks associated with purchasing natural gas during periods of high prices. Currently, VGPC and VGSC have separate balancing arrangements with East Tennessee Natural Gas Company ("ETNG"). Over the past two fiscal years, VGPC and VGSC experienced periods of cold weather from mid-February to March when all of their customers nominated peak withdrawals for sustained periods, reducing storage field operating pressures so that VGPC and VGSC were not able to meet their ETNG nominations. Pursuant to the balancing arrangements, ETNG at such times can either reduce VGPC's and VGSC's nominations or require the two companies to purchase gas to correct the imbalance.

The Applicants represent that the excess gas transfers should reduce the risk of imbalance shortfalls, customer curtailments, and high-priced natural gas purchases for VGPC and VGSC.

The Applicants propose to charge the average cost of gas purchased for any excess natural gas transfers between VGPC and VGSC. Average cost will consist of commodity cost plus the costs of storage and transportation, where applicable.

The Applicants represent that the companies will account for the gas transfers by debiting or crediting a gas inventory account and debiting or crediting an inter-company receivables/payables account.

NOW THE COMMISSION, upon consideration of the application and representations of the Applicants and having been advised by its Staff, finds that VGDC may withdraw from the proceeding and that, subject to certain conditions, the Arrangement to transfer excess gas between VGPC and VGSC is in the public interest and should be approved. The transfer of excess gas between the two companies should allow the VGPC and VGSC to improve their gas usage planning, coordinate their gas purchase activities, mitigate some of the fluctuations in gas costs, and increase overall corporate cash flow.

However, we have some concerns with the Arrangement as presented. First, we find that the Arrangement is too informal for such a complex relationship. Therefore, we will require that the Arrangement be formalized into a legal agreement (the "Agreement") so that the Applicants' duties and responsibilities to each other are clearly spelled out.

Second, we note that VGPC's and VGSC's CPCNs would permit the transfer of excess natural gas between them as related to their storage operations. However, there are no provisions in VGPC's and VGSC's tariffs for such sales. We will require both VGPC and VGSC to submit to the Commission's Division of Energy Regulation revisions to their tariffs to reflect the excess gas transfer transactions.

Finally, we note that the excess gas transfers are a type of transaction that is new to the Commission and the Applicants. In addition, NUI and AGL Resources, Inc. ("AGLR"), have filed a joint application with the Commission requesting approval for AGLR to acquire control of NUI. The effect that the acquisition, if approved, may have on the Agreement is unknown at this time. Therefore, we will limit our approval of the Agreement to twenty-four (24) months from the date of our Order in this case. We will also limit our approval to the Applicants and for the purposes outlined in the application. Transferring excess gas for the purpose of making off-system sales is expressly prohibited. We will also require the Applicants to file certain information in their Annual Reports of Affiliate Transactions to assist the Staff in monitoring the effectiveness of the Agreement.

Accordingly, IT IS ORDERED THAT:

- 1) Virginia Gas Distribution Company's request to withdraw from the proceeding is granted.
- 2) Pursuant to § 56-77 of the Code of Virginia, Virginia Gas Pipeline Company and Virginia Gas Storage Company are hereby granted approval to enter into an arrangement to exchange excess gas between each other for operational purposes. The arrangement shall be formalized into a legal agreement that clearly defines the Applicants' duties and responsibilities to each other. The executed Agreement shall be filed with the Commission within sixty (60) days of the date of this Order.
- 3) The Applicants shall submit for approval to the Division of Energy Regulation a revision to their tariffs to reflect the excess gas transfer transactions approved herein within sixty (60) days of the date of this Order.

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4) The approval granted herein shall have a term of twenty-four (24) months, effective with the date of the Order in this case. Should the Applicants wish to continue the Agreement after that date, they must file a new application with the Commission requesting approval of an Agreement extension pursuant to Chapter 4 of Title 56 of the Code of Virginia.

5) Commission approval shall be required for any changes in the terms and conditions to the Agreement submitted as part of this application, including any 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 of Virginia hereafter.

7) The approval granted herein shall be limited to the Applicants and shall not be deemed to include any approvals other than for the specific transactions contained in the Agreement approved herein. Excess gas transfers for the purpose of making off-system sales is expressly prohibited.

8) The approval granted herein shall have no ratemaking implications for annual informational filings or future rate proceedings.

9) 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.

10) The Applicants shall prepare a schedule summarizing the current year's excess gas transfers by transferor, transferee, date of transfer, volumes transferred, and dollar amount of transaction, that will be included in their Annual Reports of Affiliate Transactions submitted to the Commission's Director of Public Utility Accounting on or before May 1 of each year, which deadline may be extended administratively by the Director of Public Utility Accounting.

11) If Annual Informational and/or General Rate Case Filings are not based on a calendar year, then VGPC and VGSC shall include the affiliate information contained in the Annual Reports of Affiliate Transactions in such filings.

12) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2004-00067  
OCTOBER 21, 2004**

APPLICATION OF  
VIRGINIA GAS DISTRIBUTION COMPANY,  
VIRGINIA GAS PIPELINE COMPANY,  
and  
VIRGINIA GAS STORAGE COMPANY

For approval of application for permission to transfer regulated gas for operational purposes between affiliates pursuant to Chapter 4 of Title 56 of the Code of Virginia

**SUPPLEMENTAL ORDER**

On August 24, 2004, Virginia Gas Distribution Company ("VGDC"), Virginia Gas Pipeline Company ("VGPC"), and Virginia Gas Storage Company ("VGSC") (collectively "Applicants") were granted approval by the State Corporation Commission ("Commission"), pursuant to § 56-77 of the Code of Virginia, to enter into an arrangement to exchange excess gas between each other for operational purposes (Order Granting Approval, Ordering Paragraph 2, issued August 24, 2004). Applicants were ordered to file an executed Agreement within sixty (60) days of the Order Granting Approval and to submit for approval to the Division of Energy Regulation a revision to their tariffs to reflect the excess gas transfer transactions, also within sixty (60) days of the Order Granting Approval (Order Granting Approval, Ordering Paragraph 3).

On October 19, 2004, VGDC and VGSC, by counsel, filed an executed copy of the Applicants' "Agreement for Operational Transfer of Gas" in satisfaction of Ordering Paragraph 2 of the Order Granting Approval. Applicants request an extension of time from October 23, 2004, until November 12, 2004, to file their tariff revisions for the excess gas transfer transactions as required in Ordering Paragraph 3 of the Order Granting Approval.

NOW THE COMMISSION, upon consideration of Applicants' filing of October 19, 2004, and having been advised by its Staff, finds that Applicants should be granted the requested extension of time in which to file their revised tariffs.

Accordingly, IT IS ORDERED THAT:

(1) The Applicants are hereby granted an extension of time from October 23, 2004, until November 12, 2004, within which to file revised tariffs for approval by the Division of Energy Regulation, pursuant to Ordering Paragraph 3 of the Order Granting Approval.

(2) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUE-2004-00069  
NOVEMBER 17, 2004**

PETITION OF  
C&P ISLE OF WIGHT WATER COMPANY

For approval to transfer water supply facilities to the City of Suffolk pursuant to Chapter 5 of Title 56 of the Code of Virginia

**ORDER GRANTING APPROVAL**

On July 23, 2004, C&P Isle of Wight Water Company ("C&P" or the "Petitioner") filed a complete petition with the State Corporation Commission (the "Commission") requesting approval of an agreement (the "Agreement") pursuant to Chapter 5 of Title 56 (the "Utility Transfers Act") of the Code of Virginia (the "Code") to transfer the water supply facilities (the "Suffolk system(s)") serving the subdivisions known as Beck's, Bennett's Harbor, Deerfield, Holland, Idlewood, Lake Forest, Lake Meade, Maple Hills, Oakridge, and S.L. Hines to the City of Suffolk (the "City") for the consideration of \$1,890,000. C&P further petitions to amend its certificate of public convenience and necessity ("CPCN") to reflect the transfer of the Suffolk systems. The Suffolk systems will be conveyed with a deed of General Warranty.

The Petitioner is a Virginia public service corporation that provides water service via 21 community water systems to approximately 1,700 customers located in the City and the County of Isle of Wight in southeastern Virginia. C&P, which is headquartered in Smithfield, Virginia, is jointly owned and operated by Ted W. Christian and David D. Pugh.

The Petitioner has several responsibilities under the Agreement. First, C&P agrees to notify all customers, utility companies, and regulatory agencies of the transfer to the City. Second, C&P agrees to provide operations and maintenance service for certain Suffolk systems and invoice these customers for water purchases after the transfer of ownership for a set time period. The schedule below shows the date on which the City will assume operating responsibility for each Suffolk system.

April 1, 2004	Maple Hills Deerfield
June 1, 2004	Bennett's Harbor Lake Forest
August 1, 2004	S.L. Hines Beck's
October 1, 2004	Oakridge Lake Meade
December 1, 2004	Idlewood Holland

Third, C&P agrees to be responsible for collecting all outstanding bills due from customers for service provided prior to the date of transfer of operations and maintenance service. In turn, the City agrees to assist C&P in the collection of payments from customers up to the date the City assumes responsibility for providing operations and maintenance service. Fourth, C&P agrees to supply the city with an up-to-date list of customers by the date of the transfer of ownership. Finally, C&P agrees to provide the City with all maps of the Suffolk systems that are available.

According to Attachment B to the Agreement, C&P receives its consideration for the Suffolk systems in five payments of \$378,000, due on April 1, June 1, August 1, October 1, and December 1 of 2004.

Section 56-90 of the Code requires that the Commission be assured that the proposed transfer of utility assets neither impairs nor jeopardizes the provision of adequate service to the public at just and reasonable rates before approving such transactions.

The Petitioner represents that it seeks to transfer the Suffolk systems to the City because the Suffolk systems are currently under a Consent Order entered into with the Virginia Department of Health ("VDH") concerning fluoride levels in the water that exceed the Environmental Protection Agency's ("EPA(s)") guidelines under the Clean Water Act. C&P represents that compliance with the Consent Order would require it to incur major capital expenditures to upgrade the Suffolk systems and precipitate substantial rate increases to its customers. C&P represents that the City, by connecting all but the Holland customers to its public mains, will be able to avoid these capital outlays while maintaining adequate service at just and reasonable rates. The Petitioner represents that the staggered operational transfer schedule is intended to allow C&P's and the City's staffs time to exchange information on each Suffolk system, replace meters as necessary, and make the service interconnections from the community wells to the City's water mains. The City plans to work with the Virginia Department of Health to initiate water quality improvements for Holland, which is a stand-alone Suffolk system.

The proposed transfer affects 1,043 customers at the 10 Suffolk systems as follows:

<u>Subdivision/System</u>	<u>Number of Connections</u>	<u>Number of Active Customers</u>
Beck's	81	73
Bennett's Harbor	108	108
Deerfield	124	124
Holland	174	174
Idlewood	59	59
Lake Forest	53	54
Lake Meade	23	24
Maple Hills	77	72
Oakridge	236	236
S.L. Hines	127	119
Total	<u>1,062</u>	<u>1,043</u>

The Beck's facilities consist of a well house and lot, two wells, two well pumps and motors, one 5,000 gallon steel storage tank, an air compressor, a master meter, valves, piping, electrical equipment, 62 meters/meter boxes/service lines, and approximately 7,400 linear feet of two and three-inch piping.

The Bennett's Harbor facilities consist of a well house and lot, two wells, two well pumps and motors, one 10,000 gallon steel storage tank, an air compressor, a master meter, valves, piping, electrical equipment, five fire hydrants, 108 meters/meter boxes/service lines, and approximately 12,400 linear feet of two and four-inch piping.

The Deerfield facilities consist of 122 meters/meter boxes/service lines and approximately 11,600 linear feet of two and six-inch piping.

The Holland facilities consist of a well house and lot, six wells, six well pumps and motors, one 1,000 gallon steel tank, two 5,000 gallon steel tanks, one 30,000 gallon steel storage tank, an air compressor, a master meter, valves, piping, electrical equipment, 183 meters/meter boxes/service lines, and approximately 37,620 linear feet of two and three-inch piping.

The Idlewood facilities consist of a well house and lot, two wells, two well pumps and motors, one 11,000 gallon steel storage tank, an air compressor, a master meter, valves, piping, electrical equipment, 60 meters/meter boxes/service lines, and approximately 5,125 linear feet of two and four-inch piping.

The Lake Forest facilities consist of one fire hydrant, 51 meters/meter boxes/service lines, and approximately 6,200 linear feet of two and six-inch piping.

The Lake Meade facilities consist of one fire hydrant, 23 meters/meter boxes/service lines, and approximately 2,850 linear feet of two and six-inch piping.

The Maple Hills facilities consist of 75 meters/meter boxes/service lines, and approximately 7,700 linear feet of two and three-inch piping.

The Oakridge facilities consist of 239 meters/meter boxes/service lines, and approximately 13,800 linear feet of two and four-inch piping.

The S.L. Hines facilities consist of 56 meters/meter boxes/service lines, and approximately 18,000 linear feet of two-inch piping.

C&P currently charges its customers a \$45 bi-monthly minimum service charge and \$2.20 per 1,000 gallons for usage exceeding 6,000 gallons. The City charges customers a \$3.00 bi-monthly meter service charge and a water rate, effective July 1, 2004, of \$3.66 per 1,000 gallons. Based on these rates, customers that use less than 19,730 gallons bi-monthly will reap savings from switching to the City. This does not take into account the rate increases that would be necessary for C&P to bring the Suffolk systems into compliance with the VDH and EPA.

The Petitioner represents that new City customers normally pay a \$50 connection fee and a \$4,260 availability fee to hook up to the City's system. However, the City has an Environmental Incentive Reimbursement Policy ("EIRP") in place to encourage residents to discontinue private well use and connect to the City's systems. The EIRP entitles each property owner to a \$3,250 credit to connect to the City's system. As a result, the Suffolk system customers pay only a \$1,060 fee to connect to the City's system.

The City held informational meetings concerning the transfer on February 11 and February 17, 2004. The Petitioner provided notice of the proposed transfer to all of the customers of each Suffolk system via a letter dated March 25, 2004. C&P received no objections to the transfer.

NOW THE COMMISSION, upon consideration of the petition and representations of Petitioner and having been advised by its Staff, is of the opinion and finds that the Petitioner's Agreement to transfer the Suffolk systems to the City will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates and, therefore, meets the test of the Utility Transfers Act. We note, however, that the Petitioner consummated the transfer before receiving Commission approval, and we remind the Petitioner to take the necessary steps to ensure future compliance with the Utility Transfers Act.

Accordingly, IT IS ORDERED THAT:

1) Pursuant to §§ 56-89 and 56-90 of the Code of Virginia, C&P Isle of Wight Water Company is granted approval to transfer the water supply facilities serving the subdivisions known as Beck's, Bennett's Harbor, Deerfield, Holland, Idlewood, Lake Forest, Lake Meade, Maple Hills, Oakridge, and S.L. Hines to the City of Suffolk for the consideration of \$1,890,000.

2) C&P Isle of Wight Water Company's Certificate No. W-283(e) is hereby cancelled.

3) C&P Isle of Wight Water Company shall be granted a certificate of public convenience and necessity, Certificate No. W-283(f), to provide water service to the subdivisions previously authorized in Certificate No. W-283(e) that are not covered by our approval in this matter.

4) Within sixty (60) days from the date of this Order, C&P Isle of Wight Water Company shall submit to the Commission's Division of Energy Regulation a new tariff that reflects the changes to C&P's service area.

5) Within thirty (30) days from the date of this Order, C&P Isle of Wight Water Company shall file a Report of Action with the Commission. Included in the Report of Action shall be the date of the transfer and any legal document or settlement sheet recording the transfer.

6) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2004-00070  
JUNE 21, 2004**

PETITION OF  
RIVERVIEW PLANTATION HOMEOWNERS ASSOCIATION, INC.

For approval to transfer the water facility assets serving the Riverview Plantation subdivision pursuant to Chapter 5 of Title 56 of the Code of Virginia

**ORDER GRANTING APPROVAL**

On June 4, 2004, Riverview Plantation Homeowner's Association, Inc. (the "Association" or the "Petitioner"), filed a complete petition with the State Corporation Commission (the "Commission") requesting approval to transfer the water facility assets serving the Riverview Plantation subdivision in James City County, Virginia (the "Riverview system"), to the James City Service Authority (the "Authority") pursuant to Chapter 5 of Title 56 (the "Utility Transfers Act") of the Code of Virginia (the "Code").

The Association is a legal entity organized for the purposes of communications, administration, supervision and care of the Riverview Plantation subdivision property in James City County, Virginia. The Association exists to promote, through cooperative endeavor, activities to enhance the property of individual owners for the common good of both present and future residents of the Riverview Plantation subdivision.

The Authority was chartered by the Commission in 1969 to provide water and sewer service within James City County, Virginia. The Authority currently serves approximately 16,000 customers.

On May 12, 2004, the Commission issued an order (the "Tidewater Order") in Case No. PUE-2004-00009 that granted approval to Tidewater Water Company to dispose of and the Association to acquire the Riverview system for the purchase price of \$32,000. In the Tidewater Order, the Commission indicated that, since the Riverview system served more than fifty (50) customers, the Association's ownership and operation of the system would be subject to the provisions of Title 56 of the Code. Therefore, the Commission conditioned approval of the transfer upon the Association filing an application with the Commission within thirty (30) days of the date of the Tidewater Order for appropriate authority under Title 56 of the Code. The current petition is intended to fulfill that condition.

The Petitioner plans to transfer the Riverview system to the Authority at no cost. In a letter to the Commission Staff dated March 31, 2004, the Authority states that it is prepared to own and operate the Riverview system as soon as the transfer is approved by the Commission.

The Riverview system consists of a 100 by 150 foot well lot; a concrete block well house; three wells; three well pumps; an 11,000 gallon hydropneumatic tank and a 30,000 gallon vertical storage tank, two distribution pumps; an air compressor; three master meters; miscellaneous valves, piping, and electrical switch gear; nine fire hydrants; 78 meters and meter boxes; and approximately 17,310 feet of distribution piping ranging from 4 to 6 inches in diameter.

The Riverview system serves approximately 78 connections within the subdivision. Current customer rates are \$60.75 every two months for 6,000 gallons of water, with a \$2.00 surcharge for each additional 1,000 gallons. Once the transfer is complete, the Authority's water rates, which are lower than the current rates, will take effect. After the transfer, the Authority plans to charge up to a maximum of \$5,000 per customer for capital improvements to the Riverview system. Riverview customers have been notified of the proposed transfer, rate change, and one-time capital fees, and have no objections.

NOW THE COMMISSION, upon consideration of the petition and representations of Petitioner and having been advised by its Staff, is of the opinion and finds that the Petitioner's proposed transfer of the Riverview system to the Authority will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates and, therefore, meets the test of the Utility Transfers Act.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to §§ 56-89 and 56-90 of the Code of Virginia, Riverview Plantation Homeowner's Association, Inc., is granted approval to transfer the water facility assets serving the Riverview Plantation subdivision in James City County, Virginia, to James City Service Authority at no cost.
- 2) Within thirty (30) days of completing the transaction, subject to administrative extension by the Commission's Director of Public Utility Accounting, Riverview Plantation Homeowner's Association, Inc., shall file a Report of Action with the Commission. Included in the Report of Action shall be the date of the transfer and any legal document, settlement sheet, or accounting entries recording the transfer.
- 3) There appearing nothing further to be done in this matter, it hereby is dismissed.



**CASE NO. PUE-2004-00071  
AUGUST 10, 2004**

APPLICATION OF  
APPALACHIAN POWER COMPANY

For consent to and approval of a Modification of an existing Inter-Company Agreement with Ohio Valley Electric Corporation and other affiliates pursuant to Title 56, Chapter 4, of the Code of Virginia

**ORDER GRANTING APPROVAL.**

On June 11, 2004, Appalachian Power Company ("Appalachian" or "the Company") filed an application with the Commission pursuant to Title 56, Chapter 4, of the Code of Virginia requesting consent to and approval of a modification of an existing Inter-Company Agreement with Ohio Valley Electric Corporation ("OVEC").

As described in the application, OVEC is an Ohio corporation organized in 1952 primarily for the purpose of supplying electric energy to the United States Atomic Energy Commission ("AEC") at its Portsmouth, Ohio, gaseous diffusion uranium enrichment plant (the "Facility"). OVEC supplies electric service to the Facility pursuant to a Power Agreement dated October 15, 1952 (the "DOE Power Agreement"), between OVEC and the United States Department of Energy ("DOE"). The AEC was abolished on January 19, 1975, and certain of its functions, including the procurement of electric power for the Facility, were transferred to, and vested in, the Administrator of the United States Energy Research and Development Administration ("ERDA"). On October 1, 1977, all of the functions of ERDA were transferred to the Secretary of the DOE.

OVEC subsequently entered into an Inter-Company Power Agreement dated July 10, 1953 (the "Agreement"), with the Sponsoring Companies.<sup>1</sup> The Agreement governs, among other things, the obligations of the Sponsoring Companies to sell supplemental power to OVEC and the rights of the Sponsoring Companies to purchase surplus power from OVEC. The Agreement was intended to complement OVEC's supply of power and energy under the DOE Power Agreement. As such, the Agreement obligates the Sponsoring Companies, in certain circumstances, to supply OVEC with supplemental energy. Such energy will enable OVEC to fulfill its power supply obligations under the DOE Power Agreement.

The Agreement grants to the Sponsoring Companies the right to surplus energy not needed to serve DOE'S uranium enrichment plant. The Agreement also grants the Sponsoring Companies the right to surplus power, which DOE releases to OVEC for the Sponsoring Companies' use. The Commission has previously approved fourteen (14) modifications to the Agreement. The latest, Modification No. 14, was approved by Order dated July 12, 2001, in Case No. PUA-2001-00023.

In the application, the Company requests approval of Modification No. 15, which amends the Agreement to specify the conditions under which a Sponsoring Company could transfer all or part of its rights, title or interests in, and obligations under, the Agreement to another Sponsoring Company, an affiliate of a Sponsoring Company, or an unaffiliated third party, without obtaining the unanimous consent of OVEC and the other Sponsoring Companies. APCO requests the approval effective April 30, 2004. More specifically, the current Sponsoring Companies would be entitled to a right of first offer to purchase any interest in the Agreement before such interest could be sold to a third party, and all transfers would be subject to specified creditworthiness and other requirements agreed to by the parties. Also, Modification No. 15 would clarify the method to calculate the cost-based charges for energy sold to such entities and the applicable delivery point for any third party transferees to avoid any confusion or unintended results with respect to the terms and conditions of the Agreement.

NOW THE COMMISSION, upon consideration of the application and representations of the Company and having been advised by its Staff, is of the opinion and finds that the above-described Modification No. 15 is in the public interest and should be approved effective as of April 30, 2004.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to § 56-77 of the Code of Virginia, Appalachian Power Company is hereby granted consent to and approval of Modification No. 15 to the Inter-Company Power Agreement as described herein, such approval to be effective as of April 30, 2004.
- 2) The approval granted herein shall not be deemed to include any approvals other than for the specific modification referred to in ordering paragraph (1) above.
- 3) The approval granted herein shall have no ratemaking implications.
- 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 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.

<sup>1</sup> Appalachian Power Company, Allegheny Energy Supply Company, L.L.C., The Cincinnati Gas & Electric Company, Columbus Southern Power Company, The Dayton Power and Light Company, FirstEnergy Generation Corporation, Indiana Michigan Power Company, Kentucky Utilities Company, Louisville Gas and Electric Company, Monongahela Power Company, Ohio Power Company, and Southern Indiana Gas and Electric Company, and The Toledo Edison Company are collectively referred to as the "Sponsoring Companies." To date, three of the corporate directors of Appalachian are also directors of OVEC, nine are directors of Columbus Southern Power Company, five are directors of Indiana Michigan Power Company, and nine are directors of Ohio Power Company. Therefore, OVEC, Columbus Southern Power Company, Indiana Michigan Power Company, and Ohio Power Company are affiliated interests of Appalachian pursuant to § 56-77 of the Code of Virginia.

6) The Company shall include this modification in its Annual Report of Affiliate Transactions to be submitted to the Director of Public Utility Accounting of the Commission by no later than May 1 of each year for the preceding calendar year, subject to administrative extension by the Director of Public Utility Accounting of the Commission.

7) If Annual Informational and/or General Rate Case Filings are not based on a calendar year, then Appalachian shall include the affiliate information contained in the Annual Report of Affiliate Transactions in such filings.

8) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2004-00072  
SEPTEMBER 30, 2004**

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

**ORDER GRANTING APPROVAL**

On June 11, 2004, Columbia Gas of Virginia, Inc. ("CGV" or the "Applicant"), filed an application (the "Application") with the State Corporation Commission (the "Commission") under Chapter 4 of Title 56 (the "Affiliates Act") of the Code of Virginia (the "Code") requesting approval of a new corporate services agreement (the "New Agreement") with NiSource Corporate Services Company ("NCSC"). On August 2, 2004, the Commission issued an Order Extending Time for Review through September 9, 2004, based on the complex nature of the issues in the Application. On September 8, 2004, CGV filed a Motion and Amendment to the Application requesting that the Commission allow it to amend the Application, to approve the amended New Agreement without the necessity of a public hearing, and to restart the 60-day application review period. On September 9, 2004, the Commission issued an Order granting the amendment to the Application and restarting the 60-day review period.

CGV is a natural gas distribution company serving approximately 215,000 customers in central Virginia, southside Virginia, Piedmont Virginia, and most of the Shenandoah Valley, as well as portions of Northern and Southwest Virginia. CGV is a wholly owned subsidiary of the Columbia Energy Group, which is a wholly owned subsidiary of NiSource, Inc. ("NiSource").

NCSC is a Delaware corporation with approximately 1,500 employees that are engaged in providing corporate, administrative and technical support services to members of the NiSource system.

NiSource is an energy holding company whose subsidiaries provide natural gas, electricity, and other products and services to approximately 3.7 million customers located within a corridor that runs from the Gulf Coast through the Midwest to New England. Effective November 1, 2001, NiSource became a registered holding company under the Public Utility Holding Company Act of 1935 (the "1935 Act"). For the fiscal year ending 2003, NiSource reported gross revenues of \$6.25 million, total assets of \$16.6 billion, and 8,614 employees.

Since CGV and NCSC share the same senior parent company, NiSource, the companies are considered affiliated interests under § 56-76 of the Code. As such, the companies must obtain approval from the Commission pursuant to the Affiliates Act prior to entering into any contract or arrangement between the companies to provide or receive services.

The Applicant requests approval of a New Agreement with NCSC wherein NCSC will provide CGV with centralized corporate, administrative, and technical support services ("Corporate Services"). The New Agreement is intended to replace an existing service agreement (the "Old Agreement") between Commonwealth Gas Services, Inc. (now CGV), and Columbia Gas System Service Corporation (now NCSC), which was approved by the Commission in its December 15, 1981 Order in Case No. PUA-1981-00100. The Corporate Services that NCSC will provide to CGV under the New Agreement include: accounting and statistical services, auditing services, budget services, business promotion services, corporate services, depreciation services, economic services, electronic communications services, employee services, engineering and research services, gas dispatching services, information technology services, information services, insurance services, legal services, office space services, officers services, operation and planning services, purchasing and storage services, rate services, tax services, transportation services, treasury services, land/surveying services, and other miscellaneous services ("Miscellaneous Services").

The New Agreement also allows NCSC, after consulting with CGV, to engage the services of third-party experts, consultants, advisers, and other parties to provide additional Corporate Services ("Additional Services") beyond those described above.

The New Agreement states that all Corporate Services shall be rendered to CGV at actual cost. CGV shall compensate and pay to NCSC all costs that are reasonably identifiable and related to particular Corporate Services performed by NCSC for or on CGV's behalf. Payment for services rendered by NCSC to CGV will cover all of NCSC's costs of doing business including, but not limited to, salaries and wages, office supplies and expenses, outside services employed, insurance, injuries and damages, employee and retiree pensions and benefits, miscellaneous general expenses, rents, maintenance of structures and equipment, depreciation and amortization, and reasonable compensation for use of capital as permitted under the 1935 Act. The Corporate Service charges will be billed, to the extent possible, directly to CGV. Any amounts remaining after direct billing will be apportioned using allocation factors approved by the Securities and Exchange Commission ("SEC"). NCSC will render a monthly report of Corporate Service charges to CGV that CGV will have ten days to review. If no concerns are identified, CGV is obligated to remit to NCSC all charges billed to it within 30 days of receiving the monthly report.

The New Agreement shall become effective upon receiving the necessary approvals from the applicable state public service commissions and the SEC. The SEC has not yet reviewed the New Agreement. NiSource is first seeking state commission regulatory approvals and afterwards will send the New Agreement to the SEC for approval.

The New Agreement will remain in force unless terminated by CGV or NCSC upon not less than one year's prior written notice. The New Agreement may be terminated at any time without notice if continued performance under the New Agreement comes into conflict with changes in the 1935 Act or any federal or state statute, rule, decision, or order stemming from any federal or state regulatory agency that has jurisdiction over the New Agreement.

The New Agreement states that NCSC shall keep its accounts and records in accordance with the Uniform System of Accounts for Mutual Service Companies and Subsidiary Service Companies found in the General Rules and Regulations promulgated by the SEC pursuant to the 1935 Act.

The Applicant represents that the New Agreement is in the public interest because it is the least cost alternative available to CGV to satisfy its need for the Corporate Services provided under the New Agreement. The Applicant represents that NCSC maintains an organization of specialists who are experienced in the administration and operation of public utilities and related businesses, together with appropriate facilities and equipment through which it is able to furnish services to the members of the NiSource system, including CGV. The Applicant represents that the rendition of such Corporate Services on a centralized basis enables CGV to realize substantial economic and other benefits, through efficient use of personnel and equipment, coordination of analysis and planning, and availability of specialized personnel and equipment, which CGV cannot economically maintain on an individual basis.

The Applicant states in the Application's Transaction Summary (Exhibit 1) that it does not believe that Virginia's competitive bidding statute (§ 56-233.1 of the Code) is applicable to the New Agreement. CGV represents that it has not sought competitive bids for any of the Corporate Services because NCSC is the only viable source of the services needed to administer and operate CGV's public utility business. According to the Applicant,

Only NCSC personnel have the relevant and specific understanding of the operations of CGV . . . [that] allow NCSC to provide services under the [New Agreement] as efficiently and economically as possible. Not only is it economically impractical for CGV to maintain these specialized personnel, but it would be virtually impossible for any other company to do so. It would, therefore, be impracticable for CGV to use competitive bidding in the purchasing of services set forth in the [New Agreement], since no other bidding entity would have the depth of understanding and knowledge of CGV's operations.

(CGV's July 2, 2004, Response to Staff Data Request No. 8, First Set, quoted in Staffs Action Brief)

CGV also represents that it has not conducted a formal study or investigation to determine whether there is a market for any of its affiliate transactions (including Corporate Services) for the past three years (2001-2003). As stated in CGV's 2003 Annual Report of Affiliate Transactions:

The vast majority of [affiliate] services were screened out for market testing because they were under \$50,000, required internal knowledge, or did not reflect a service commonly provided in the marketplace. The characteristics of the remaining services were analyzed and determined to consist mainly of the flow-through of labor costs, contractor costs, consultant costs and materials and thus were eliminated from testing.

NOW THE COMMISSION, upon consideration of the Application and other representations of the Applicant and having been advised by its Staff, is of the opinion and finds that, subject to certain conditions, the New Agreement is in the public interest and should be approved. CGV should reap benefits from the Corporate Services provided by NCSC under the New Agreement through the efficient use of personnel and equipment, the coordination of analysis and planning, and the availability of specialized personnel and equipment.

However, we have some concerns that must be addressed to protect the public interest. First, we note that the New Agreement represents the first comprehensive update of the service company relationship in 23 years. Since 1981, CGV and its parent(s) have experienced a number of dramatic corporate changes, including four mergers, four corporate reorganizations, two corporate spin-offs, one name change, and four years under Chapter 11 of the Federal Bankruptcy Code. The natural gas industry has also experienced substantial change during this period. There is no reason to expect that the future will be different. The Corporate Services offered under the New Agreement are inevitably affected by these internal and external events. Therefore, to keep the New Agreement up to date, we will limit the duration of our approval to five years.

Second, the type and amount of Corporate Services charged to CGV have grown significantly in recent years. A comparison of the New Agreement with the Old Agreement reveals changes to more than 50% of the document, including new or expanded Corporate Services in the areas of information technology, legal, energy trading and marketing, treasury, and land/surveying. Some of the apparent changes may be cosmetic in nature. However, service company charges to CGV have increased from \$32 million in 1998 to \$42 million in 2003. Convenience and contract billings alone have risen from \$10 million to \$28 million. The Applicant acknowledges that subsequent to the 2000 NiSource-Columbia merger many corporate functions were consolidated into NCSC, causing NCSC's work force to grow from 300 to approximately 1,500 employees. A comparison of pre and post-merger contract billings shows new Corporate Service charges in accounts payable, audit, corporate secretary, fleet management, insurance, legal, marketing, operational excellence, security, stock compensation, tax, and technical operations. Some of this may simply reflect a re-categorization of existing NCSC charges. Nevertheless, we are concerned with the overall trends displayed here. We believe that the public interest can best be served within the context of the Affiliates Act by requiring CGV to file a separate application for approval when it seeks to add a new Corporate Service, including Additional and Miscellaneous Services. Therefore, we will not approve the Additional and Miscellaneous Services categories.

Third, we are concerned with situations where NCSC engages third parties to provide Corporate Services to CGV. For example, the New Agreement allows NCSC to engage expert third parties such as public accountants, depreciation consultants, insurance companies, actuaries, law firms and investment companies to assist NCSC in providing auditing, depreciation, insurance, employee benefit, legal and treasury services to CGV. This practice may be acceptable when it involves unaffiliated third parties. However, we believe the engagement by NCSC of Nisource affiliates to provide Corporate Services to CGV is a concern as the NCSC-NiSource affiliate relationship is not arms' length and would avoid Commission scrutiny. Therefore, we find that such affiliated third party transactions shall be prohibited absent separate Commission approval.

Fourth, we have ruled on several of the Corporate Services covered by the New Agreement in other cases. For example, our Orders in Case No. PUE-2003-00223 provide specific guidance regarding NiSource's Intrasystem Money Pool Financing. Similarly, our Orders in Case No. PUE-1995-00033 dictate the ratemaking treatment for CGV's capacity release and off-system sales programs. To avoid any confusion over which rulings take precedence, we find that our approval of the New Agreement in this case does not affect or supersede the Commission's rulings on CGV-NCSC's affiliate transactions in Case Nos. PUE-2003-00223 and PUE-1995-00033.

Fifth, the New Agreement employs unusual allocation terminology and provides NCSC with substantial flexibility in determining how to distribute Corporate Service costs to its local gas distribution affiliates, including CGV. As a change in the terms and conditions of the New Agreement, we will require separate Commission approval for any changes in the allocation methodologies that affect service company charges to CGV. In addition, we will direct CGV to include in its Annual Report of Affiliate Transactions (the "Affiliate Report") a schedule showing payroll-related, convenience, and contract billings by Corporate Service and segregated between "specific" and "apportioned" charges. For each apportioned charge, the allocation basis and actual allocation factor will be shown.

Finally, we are not satisfied that CGV has demonstrated that the cost of Corporate Services received from NCSC will be less than the cost of such services if performed by CGV or obtained from the market. Under Code §§ 56-78 and 56-79 and Virginia case law, the Applicants bear the affirmative burden of proof of demonstrating that the affiliate charges are just and reasonable in any future rate proceedings. *Commonwealth Gas Services, Inc. v. Reynolds Metals Co., et al.*, 236 Va. 362, 368, 374 S.E.2d 35, 39 (1988). Furthermore, the Commission's "lower of cost or market" rule for affiliate charges states that:

Where the Company proposes that the Commission set rates based on charges from an affiliate, the charges must be based on the affiliate's cost, including a reasonable return, so long as this cost does not exceed the market price. The market test applied by this Commission and the Court is to test whether the affiliate's costs are reasonable.

*Application of GTE South Incorporated, For revisions to its local exchange, access and intraLATA long distance rates*, 1997 S.C.C. Ann. Rept. 218, aff'd sub. Nom. *GTE South Incorporated v. AT&T*, 259 Va. 338 (2000).

As noted above, CGV has not employed competitive bidding, and it does not have any recent market studies to support its assertion that NCSC's shared services are provided at least cost. Therefore, we find that CGV shall develop and maintain records to demonstrate that the Corporate Services provided by NCSC are cost beneficial to Virginia ratepayers and that such services cannot be obtained more economically at the local level. For all Corporate Services provided by NCSC where a market may exist, CGV shall investigate whether there are alternative sources from which it could purchase such services. If an alternative source exists, CGV shall compare the market price to NCSC's charges and pay the lower of cost or market. Records of such investigations and comparisons shall be available for Commission Staff review upon request.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to § 56-77 of the Code of Virginia, Columbia Gas of Virginia, Inc., is hereby granted approval to enter into the above-referenced New Agreement with NiSource Corporate Services Company as described herein, excluding the categories of Additional Services and Miscellaneous Services, consistent with the findings above.
- 2) The approval granted herein for the New Agreement is limited to five years from the date of the Order Granting Approval. Any further provision of Corporate Services under the New Agreement shall require subsequent Commission approval.
- 3) Should CGV desire to add new Corporate Services not specifically provided for in the New Agreement, it shall be required to file a separate application for approval pursuant to the Affiliates Act.
- 4) The approval granted herein shall not include the provision by NCSC of Corporate Services to CGV by the engagement of affiliated third parties. Should CGV desire to make use of such affiliates' expertise, it shall be required to file a separate application for approval pursuant to the Affiliates Act.
- 5) The approval of Corporate Services under the New Agreement shall not affect or supersede specific Commission rulings on CGV-NCSC affiliate transactions in Case Nos. PUE-2003-00223 and PUE-1995-00033.
- 6) CGV shall maintain records, consistent with the findings above, to demonstrate that the Corporate Services provided by NCSC are cost beneficial to Virginia ratepayers and that such services cannot be obtained more economically at the local level. For all Corporate Services provided by NCSC where a market may exist, CGV shall investigate whether there are alternative sources from which it could purchase such services. If an alternative source exists, CGV shall compare the market price to NCSC's charges and pay the lower of cost or market. Records of such investigations and comparisons shall be available for Commission Staff review upon request.
- 7) Commission approval shall be required for any changes in the terms and conditions of the New Agreement approved herein, including changes in allocation methodologies affecting CGV and any successors or assigns.
- 8) 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.
- 9) The approval granted herein shall not be deemed to include any approvals other than for the specific transactions contained in the New Agreement approved herein.
- 10) The approval granted herein shall have no ratemaking implications for annual informational filings or future rate proceedings.
- 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.
- 12) CGV shall include the transactions covered under the New Agreement approved herein in its Annual Report of Affiliate Transactions submitted to the Commission's Director of Public Utility Accounting on or before May 1 of each year, which deadline may be extended administratively by the Commission's Director of Public Utility Accounting. Such report shall include a schedule displaying annual NCSC payroll-related, convenience, and

contract billings by Corporate Service and segregated between "specific" and "apportioned" charges as described above. This is in addition to the reporting requirements of other CGV affiliate arrangements currently approved by the Commission.

13) If Annual Informational and/or General Rate Case Filings are not based on a calendar year, then CGV shall include the affiliate information contained in the Annual Report of Affiliate Transactions in such filings.

14) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUE-2004-00072  
OCTOBER 15, 2004**

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

**ORDER GRANTING RECONSIDERATION**

On September 30, 2004, the State Corporation Commission ("Commission") issued an Order Granting Approval ("Order") on the above-captioned Application filed by Columbia Gas of Virginia, Inc. ("CGV"). CGV was granted approval for its service agreement with NiSource Corporate Services Company ("NiSource") with certain conditions and requirements.

On October 14, 2004, CGV filed a Petition for Reconsideration ("Petition"). CGV requests that the Commission amend the Order so as to allow NiSource to retain the services of unaffiliated parties in the provision of authorized services to CGV without further Commission approval and to allow NiSource to continue to provide certain Miscellaneous Services to CGV without additional Commission approval. CGV also seeks clarification of the Order (ordering paragraph 4) so that Corporate Services presently provided by NiSource to CGV through the engagement of affiliated third parties may continue without additional approval.

NOW THE COMMISSION, having reviewed the Petition, grants the Petition for purposes of continuing our jurisdiction over this matter and considering such Petition.

Accordingly, IT IS ORDERED THAT:

- (1) The Petition for Reconsideration filed by Columbia Gas of Virginia, Inc., is hereby granted for purposes of continuing our jurisdiction over this proceeding.
- (2) The Order Granting Approval of September 30, 2004, is suspended.
- (3) This matter is continued pending further order of the Commission.

**CASE NO. PUE-2004-00072  
DECEMBER 1, 2004**

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

**ORDER ON RECONSIDERATION**

On June 11, 2004, Columbia Gas of Virginia, Inc. ("Columbia" or "Company"), filed an Application with the State Corporation Commission ("Commission") under Chapter 4 of Title 56 ("Affiliates Act") of the Code of Virginia ("Code") requesting approval of a new corporate services agreement ("New Agreement") with NiSource Corporate Services Company ("NCSC"). On September 8, 2004, Columbia filed a Motion and Amendment to the Application requesting that the Commission allow it to amend the Application, to approve the amended New Agreement without the necessity of a public hearing, and to restart the 60-day application review period. On September 9, 2004, the Commission issued an Order granting the amendment to the Application and restarting the 60-day review period.

Columbia is a natural gas distribution company serving approximately 215,000 customers in central Virginia, Southside Virginia, Piedmont Virginia, and most of the Shenandoah Valley, as well as portions of Northern and Southwest Virginia. Columbia is a wholly-owned subsidiary of the Columbia Energy Group, which is wholly-owned subsidiary of NiSource, Inc. ("NiSource"). NCSC is a Delaware corporation with approximately 1,500 employees that are engaged in providing corporate, administrative and technical support services to members of the NiSource system. NiSource is an energy holding company whose subsidiaries provide natural gas, electricity, and other products and services to approximately 3.7 million customers located within a corridor that runs from the Gulf Coast through the Midwest to New England. Effective November 1, 2001, NiSource became a registered holding company under the Public Utility Holding Company Act of 1935. Since Columbia and NCSC share the same senior parent company, NiSource, the companies are considered affiliated interests under § 56-76 of the Code. As such, the companies must obtain approval from the Commission pursuant to the Affiliates Act prior to entering into any contract or arrangement between the companies to provide or receive services.

On September 30, 2004, the Commission issued an Order Granting Approval finding that, subject to certain conditions, the New Agreement is in the public interest and should be approved ("Order Granting Approval"). On October 14, 2004, the Company filed a Petition for Reconsideration and Request for Suspension of Order Granting Approval ("Petition"). The Petition requests that the Commission: (1) amend the Order Granting Approval "so as to allow NCSC to retain the services of unaffiliated third parties in the provision of authorized services to [Columbia] without further Commission approval" (Petition at 2); (2) amend the Order Granting Approval "so as to allow NCSC to continue to provide certain Miscellaneous Services to [Columbia] without additional Commission approval" (Petition at 4); and (3) clarify the Order Granting Approval "so as to recognize that existing Corporate Services provided by NCSC to [Columbia] by the engagement of affiliated third parties may continue without additional approval" (Petition at 6).

On October 15, 2004, the Commission issued an Order Granting Reconsideration, which suspended the Order Granting Approval and granted the Petition for the sole purpose of continuing our jurisdiction over this proceeding.

NOW THE COMMISSION, upon consideration of the Application, the Petition, and applicable law, and having been advised by its Staff, is of the opinion and finds as follows.

First, we grant the Company's request to amend the Order Granting Approval so as to allow NCSC to retain the services of unaffiliated third parties in the provision of authorized services to Columbia without further Commission approval. Columbia notes that the Order Granting Approval excludes Additional Services from the services that can be provided by NCSC to the Company pursuant to the New Agreement. However, we agree with Columbia's assertion that the Additional Services referenced in the New Agreement do not authorize any new Corporate Services and do not expand or increase the services listed in the Description of Services in Article 2 of Appendix A of the New Agreement. Rather, the Additional Services provision allows NCSC to contract for the performance of services specified in the Description of Services through a third party. We modify the Order Granting Approval to include the category of Additional Services as part of the services that can be provided by NCSC to the Company pursuant to the New Agreement. This modification does not permit Columbia to add new Corporate Services under the Additional Services provision but, rather, allows NCSC to retain the services of unaffiliated third parties in the provision of authorized services to Columbia without further Commission approval.

Second, we deny Columbia's request to amend the Order Granting Approval so as to allow NCSC to continue to provide Miscellaneous Services to the Company without additional Commission approval. The Order Granting Approval rejected the Miscellaneous Services provision of the New Agreement. Columbia notes, however, that this provision currently is included in the existing corporate services agreement, which was approved by the Commission in its December 15, 1981, Order in Case No. PUE-1981-00100. The New Agreement lists 24 specific categories of service; Miscellaneous Services is the 25th category. The Company commits that it will not utilize the Miscellaneous Services category to provide new services that are beyond the scope of services traditionally performed by or for natural gas utilities in the satisfaction of their public service obligations. Columbia also commits to promptly inform the Commission's Staff ("Staff") if the Company identifies any services that do not appear to fit within one of the 24 specific categories of service and, if the Staff reasonably believes that such service is beyond the scope of services specified in the New Agreement and the Staff believes that it would be appropriate for Columbia to file a request for approval to have NCSC provide such service, then the Company will file an application pursuant to the Affiliates Act.

We find that the Miscellaneous Services category is not in the public interest. Our Order Granting Approval noted that Columbia, its parent(s), and the natural gas industry have experienced substantial changes since 1981, and that the type and amount of corporate services provided to the Company by an affiliate have grown significantly in recent years. As explained in the Order Granting Approval, we find that the public interest can best be served within the context of the Affiliates Act by requiring the Company to file a separate application for approval when it seeks to add a new Corporate Service. We recently made a similar finding in approving an affiliate agreement for another natural gas company, concluding that an open-ended category of "other services" permitting the addition of new services without further Commission approval is not in the public interest.<sup>1</sup> Furthermore, we are mindful of Columbia's commitment to contact the Staff if it identifies a new service that may not fit within a specific category of service included in the New Agreement. The Miscellaneous Services provision, however, is not needed to capture this situation; if the Company questions whether a new service falls within one of the 24 specific categories, we expect that it will continue to contact the Staff to address such situation.

Finally, we grant Columbia's request to clarify that NCSC continues to have the authority to use the facilities of affiliated third parties as are necessary or convenient to facilitate the provision of services authorized in this proceeding. As noted by the Company, the costs associated with the services provided by NCSC employees to the Company, including those NCSC employees occupying affiliates' office space, will continue to be reflected in Columbia's Annual Report of Affiliate Transactions. In addition, the Company will be required to demonstrate that those services are cost beneficial, in accordance with Ordering Paragraph (6) of the Order Granting Approval. Moreover, as recognized by Columbia, the provision of Corporate Services by NCSC through relationships with affiliates, other than the type of office space arrangements discussed herein, would require a separate application for approval as provided for in Ordering Paragraph (4) of the Order Granting Approval.

Accordingly, IT IS ORDERED THAT:

(1) Columbia's Petition for Reconsideration and Request for Suspension of Order Granting Approval is granted in part, and denied in part, as provided for in this Order on Reconsideration.

(2) Ordering Paragraph (1) of the September 30, 2004, Order Granting Approval is hereby stricken.

(3) Pursuant to § 56-77 of the Code of Virginia, Columbia Gas of Virginia, Inc., is hereby granted approval to enter into the above-referenced New Agreement with NiSource Corporate Services Company as described herein and in the September 30, 2004, Order Granting Approval, excluding the category of Miscellaneous Services, consistent with the findings herein and in the September 30, 2004, Order Granting Approval.

<sup>1</sup> Application of Virginia Gas Pipeline Company, Virginia Gas Distribution Company, Virginia Gas Storage Company, and AGL Services Company. For approval of services agreements under Chapter 4 of Title 56 of the Code of Virginia, Order Granting Approval, Case No. PUE-2004-00108 (Nov. 10, 2004). See also Application of Roanoke Gas Company and Commonwealth Public Service Corporation. For approval of transactions under Chapters 4 and 5 of Title 56 of the Code of Virginia, Order Granting Approval, Case No. PUA-1998-00035 (Jan. 19, 1999) (approving only specific categories of service included in an affiliate agreement for a natural gas company and rejecting non-specific categories described as "other" services).

(4) NiSource Corporate Services Company continues to have the authority to use the facilities of affiliated third parties as are necessary or convenient to facilitate the provision of services authorized in this proceeding, consistent with the findings herein.

(5) There appearing nothing M e r to be done in this matter, it is hereby dismissed.

**CASE NO. PUE-2004-00073  
AUGUST 3, 2004**

APPLICATION OF  
COLUMBIA GAS OF VIRGINIA, INC.

For approval of firm transportation service, firm storage service, storage service transportation, and liquefied natural gas storage service agreements pursuant to Chapter 4 of Title 56 of the Code of Virginia

**ORDER GRANTING APPROVAL**

On June 14, 2004, Columbia Gas of Virginia, Inc. ("CGV" or the "Applicant"), filed an application with the State Corporation Commission (the "Commission") under Chapter 4 of Title 56 (the "Affiliates Act") of the Code of Virginia (the "Code") requesting approval of five service agreements (the "Agreements"), four with Columbia Gas Transmission Corporation ("Columbia Transmission") and one with Columbia Gulf Transmission Corporation ("Columbia Gulf").

CGV is a natural gas distribution company serving approximately 215,000 customers in central Virginia, southside Virginia, Piedmont Virginia, and most of the Shenandoah Valley, as well as portions of Northern and Southwest Virginia. CGV is a wholly owned subsidiary of the Columbia Energy Group, which is a wholly owned subsidiary of NiSource, Inc. ("NiSource").

Columbia Transmission is an interstate natural gas company with natural gas pipelines stretching from the Gulf Coast through the Midwest to New England. Columbia Gulf is also an interstate natural gas pipeline company. Columbia Transmission's and Columbia Gulfs services and operations, including their rates and charges, are regulated by the Federal Energy Regulatory Commission ("FERC"). Columbia Transmission and Columbia Gulf are wholly owned subsidiaries of the Columbia Energy Group.

NiSource is an energy holding company whose subsidiaries provide natural gas, electricity, and other products and services to approximately 3.7 million customers located within a corridor that runs from the Gulf Coast through the Midwest to New England. Effective November 1, 2001, NiSource became a registered holding company under the Public Utility Holding Company Act of 1935. For the fiscal year ending 2003, NiSource reported gross revenues of \$6.25 billion, total assets of \$16.6 billion, and 8,614 employees.

Since CGV, Columbia Transmission, and Columbia Gulf share the same senior parent company, NiSource, the companies are considered affiliated interests under § 56-76 of the Code. As such, any contract or arrangement between the companies to provide or receive services must be approved by the Commission pursuant to the Affiliates Act.

The five Agreements have already been executed pursuant to the Commission's July 18, 1996, Order in Case No. PUA-1995.00025 wherein the Commission approved CGV's Policy for Executing Revised or New Transportation Agreements with Affiliates (the "Policy Order"). The Policy Order allows CGV to enter into gas supply-related agreements with Columbia Transmission and Columbia Gulf before obtaining Commission approval with the understanding that the proper specifics of the agreements will be provided to the Commission at a later date. In its April 13, 2004, Order in Case No. PUE-2004-00013, the Commission modified the Policy Order to require CGV to provide notice to the Commission as soon as a supply-related agreement related to the Policy Order becomes binding, and to file for Chapter 4 approval of the agreement within 45 days after its execution. CGV fulfilled both requirements in this case.

Agreement #1 is a Firm Transportation Service Agreement (the "FTS Agreement") between CGV and Columbia Transmission that was executed June 11, 2004. The FTS Agreement, which extends for fifteen years from November 1, 2004, to October 31, 2019, provides CGV with 61,252 dekatherms per day ("Dths/day") of city-gate capacity.

Agreement #2 is a Firm Storage Service Agreement (the "FSS Agreement") between CGV and Columbia Transmission that was executed June 11, 2004. The FSS Agreement, which extends from November 1, 2004, through March 31, 2020, provides CGV with 103,059 dekatherms ("Dths") of daily upstream capacity and 5.8 million Dths of total seasonal upstream capacity.

Agreement #3 is a Storage Service Transportation Agreement (the "SST Agreement") between CGV and Columbia Transmission that was executed June 11, 2004. The SST Agreement, which extends from November 1, 2004, through March 31, 2020, provides CGV with 103,059 Dths/day of city-gate capacity.

Agreement #4 is actually a contract extension of the pre-existing Liquefied Natural Gas ("LNG") Storage Service Agreement (the "LSS Agreement") between CGV and Columbia Transmission. The contract extension, which takes effect November 1, 2004, and continues through October 31, 2019, provides CGV with 32,110 Dths/day of city-gate capacity and 312,450 Dths of total seasonal upstream capacity.

Agreement #5 is a Firm Transportation Service Agreement (the "FTS-1 Agreement") between CGV and Columbia Gulf. The FTS-1 Agreement, which extends from November 1, 2004, through October 31, 2019, provides CGV with 55,830 Dths of daily upstream capacity.

The five Agreements are priced at FERC-approved tariff rates. Since CGV agreed to pay maximum rates for a period exceeding the five-year minimum term, Columbia Transmission and Columbia Gulf did not post the capacity for bid. The Agreements also contain a right of first refusal provision.

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The five Agreements replace five existing CGV capacity agreements for the same volumes that have been in effect since November 1, 1989, and expire October 31, 2004. Hence, the new Agreements represent "replacement capacity" rather than new capacity for CGV. Collectively, the Agreements account for approximately 196,421 Dths/day of city-gate capacity, 158,889 Dths of daily upstream capacity, and 6,147,615 Dths of total seasonal upstream capacity. The city-gate replacement capacity represents approximately 52% of CGV's total capacity of 377,335 Dths/day. Minus this capacity, CGV could cover only 53% of its projected firm customer demand of 340,000 Dths/day for the 2004/2005 winter. Based on projected firm demand growth of 1.8% annually, CGV's current capacity (including the replacement capacity) should meet its firm customer needs through 2009/2010.

The Columbia Transmission FTS, SST, and LSS Agreements provide city-gate replacement capacity to three CGV markets. The Columbia Transmission FSS Agreement supplies the upstream capacity for the SST Agreement. The Agreements supply 51,320 Dths/day of capacity to the Gainesville/Manassas area, 43,563 Dths/day of capacity to the Lynchburg/Staunton area, and 101,538 Dths/day of capacity to the Petersburg/Portsmouth area.

The Applicant provided exhibits comparing the costs of different capacity alternatives for each market area. CGV indicates that the alternatives are only provided for cost comparison purposes.

For the Gainesville/Manassas area, CGV compared the Columbia Transmission replacement capacity with six capacity alternatives. The replacement capacity's annual pipeline demand cost of \$3.95 million was 49% less than the next lowest cost alternative.

For the Lynchburg/Staunton area, CGV compared the Columbia Transmission replacement capacity with four capacity alternatives. The replacement capacity's annual pipeline demand cost of \$3.35 million was 60% less than the next lowest cost alternative.

For the Petersburg/Portsmouth area, CGV compared the Columbia Transmission replacement capacity with four capacity alternatives. The replacement capacity's annual pipeline demand cost of \$7.81 million was 60% less than the next lowest cost alternative.

The LSS Agreement's LNG storage service is provided from Columbia Transmission's LNG facility located in Chesapeake, Virginia. The stored LNG supplements natural gas supplies provided to the Petersburg/Portsmouth area during the winter operating period (November through March). The LSS Agreement accounts for nearly 32% of the Petersburg/Portsmouth area's replacement capacity. The Applicant represents that it is a very valuable, low cost peak day resource for a severely capacity-constrained portion of the state.

The Applicant represents that the Columbia Transmission Agreements offer substantial capacity cost advantages and the lowest facility costs. The Columbia Transmission Agreements also allow CGV to utilize Columbia Transmission's no notice balancing service. CGV further notes that its widespread service territory covers part or all of 52 of the 95 counties in Virginia. Columbia Transmission serves CGV firm customer demand at 74 points of delivery. Other gas suppliers serve CGV at only 18 points of delivery. Hence, CGV represents that the Columbia Transmission Agreements are necessary to continue serving customers behind all 74 delivery points.

The Columbia Transmission Agreements require additional gas supplies to be delivered from the Gulf Coast to CGV's distribution system in Appalachia. The FTS-1 Agreement with Columbia Gulf meets that need. CGV compared the costs of its upstream replacement capacity of 55,830 Dths/day with two alternatives and determined that its annual pipeline demand cost of \$2.11 million was 22% less than the next lowest cost alternative.

NOW THE COMMISSION, upon consideration of the application and representations of the Applicant and having been advised by its Staff, is of the opinion and finds that the FTS, FSS, SST, US, and FTS-1 Agreements are in the public interest and should be approved. The Agreements are essential to CGV's operations as a Virginia public service corporation. These five Agreements supply approximately 52% of CGV's total capacity, allowing it to meet its current residential, commercial, and industrial firm demand at least cost while providing sufficient reserve capacity to meet projected demand growth for the next five years.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to § 56-77 of the Code of Virginia, Columbia Gas of Virginia, Inc., is hereby granted approval to enter into the above-referenced firm transportation service, firm storage service, storage service transportation, and liquefied natural gas storage service agreements with Columbia Gas Transmission Corporation and Columbia Gulf Transmission Corporation as described herein.
- 2) Commission approval shall be required for any changes in the terms and conditions of the FTS, FSS, SST, LSS, and FTS-1 Agreements approved herein, including any successors or assigns.
- 3) 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.
- 4) The approval granted herein shall not be deemed to include any approvals other than for the transactions contained in the FTS, FSS, SST, LSS, and FTS-1 Agreements approved herein.
- 5) The approval granted herein shall have no ratemaking implications for annual informational filings or future rate proceedings.
- 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) CGV shall include the transactions covered under the FTS, FSS, SST, LSS, and FTS-1 Agreements approved herein in its Annual Report of Affiliate Transactions submitted to the Commission's Director of Public Utility Accounting on or before May 1 of each year, which deadline may be extended administratively by the Director of Public Utility Accounting.



8) If Annual Informational and/or General Rate Case Filings are not based on a calendar year, then CGV shall include the affiliate information contained in the Annual Report of Affiliate Transactions in such filings.

9) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2004-00074  
OCTOBER 12, 2004**

APPLICATION OF  
VIRGINIA-AMERICAN WATER COMPANY  
and  
AMERICAN WATER CAPITAL CORP.

For continuing authority to participate in a financial services agreement with an affiliate

**ORDER GRANTING AUTHORITY**

On July 16, 2004, Virginia-American Water Company ("Virginia-American" or "the Company") and American Water Capital Corp. ("AWCC"), (collectively, "Applicants") jointly completed an application with the State Corporation Commission ("Commission") under Chapter 4 of Title 56 of the Code of Virginia (§§ 56-76 *et seq.*). In the application, Applicants propose to continue participating in the Financial Services Agreement ("FSA") originally approved by the Commission in Case No. PUA-2000-00038<sup>1</sup>.

The financial services provided by AWCC under the FSA include lending funds on both a short-term and long-term basis<sup>2</sup> and providing cash management through nightly "cash sweeps" and investment of excess cash. The interest rate applicable to either short-term borrowings from or short-term lending to AWCC will be the effective cost of funds in the market. According to the Company, 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. Applicants represent that interest savings under the FSA have benefited ratepayers over the past four years.

Virginia-American and AWCC are each a wholly-owned subsidiary of American Water Works Company, Inc ("American"). American is a wholly-owned subsidiary of Thames Water Aqua US Holdings, which is owned by Thames Water Aqua Holdings GmbH ("Thames Holdings"). The acquisition of American by Thames Holdings was approved by Commission Order dated April 4, 2002 in Case No. PUA-2001-00082. Thames Holdings is a wholly-owned subsidiary of RWE Aktiengesellschaft ("RWE").

According to our Staff's Action Brief, it appears that Virginia-American's short-term borrowings violated § 56-65.1 of Title 56 of the Code of Virginia by exceeding twelve percent of total capitalization. We initially approved the FSA being considered herein in Case No. PUA-2000-00038.

THE COMMISSION, upon consideration of the application and having been advised by its Staff, is of the opinion and finds that participation in the FSA is in the public interest. However, since it appears that Virginia-American has violated § 56-65.1 of the Code of Virginia in Case No. PUA-2000-00038, we will limit participation in the FSA through December 31, 2007.

Accordingly, IT IS ORDERED THAT:

1) Applicants are hereby authorized to participate in the Financial Services Agreement under the terms and conditions and for the purposes as detailed in its application, from the date of this Order through December 31, 2007.

2) Prior to any changes in terms and conditions of the Financial Services Agreement, Virginia-American shall obtain additional approval from this Commission.

3) On or before March 1 of 2005, 2006, 2007, and 2008, Applicants shall file an annual schedule of the short-term borrowing and lending activity during the previous calendar year. The 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; and an annual schedule of the allocation of all line of credit fees.

3) The authority granted herein shall have no implications for ratemaking purposes.

4) 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.

5) 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.

6) Virginia-American shall file for separate authority under Chapter 3 to have aggregate short-term borrowings in excess of twelve percent of total capitalization.

<sup>1</sup> By Orders dated June 23, 2000, June 28, 2002, and July 1, 2004, Applicants were granted authority to enter into a financial services agreement through August 30, 2004 in Case No. PUA-2000-00038.

<sup>2</sup> Virginia-American was authorized to issue \$20 million of long-term debt under the FSA in Application of Virginia-American Water Company, For authority to issue debt securities to an affiliate, Case No. PUE-2004-00019, order dated March 29, 2004.

7) Should Applicants seek to extend the authority for Virginia-American to participate in the FSA beyond December 31, 2007, Applicants shall file an application requesting such authority no later than November 1, 2007.

8) This matter shall be continued subject to the continuing review, audit and appropriate directive of the Commission.

**CASE NO. PUE-2004-00075  
AUGUST 6, 2004**

APPLICATION OF  
ATMOS ENERGY CORPORATION

For authority to incur short-term debt"

**ORDER GRANTING AUTHORITY**

On June 18, 2004, Atmos Energy Corporation ("Atmos" or "Applicant" or the "Company") filed with the State Corporation Commission ("Commission") an application for authority to issue up to \$2.318 billion from September 1, 2004, through December 31, 2005, pursuant to Chapter 3 of Title 56 of the Code of Virginia ("Code"). This level of short-term debt is in excess of 12% of total capitalization as defined in Section 56-65.1 of the Code. Applicant has paid the requisite fee of \$250.

By Order dated December 24, 2003, in Case No. PUE-2003-00541, the Commission authorized Atmos to borrow up to \$393 million in short-term debt. The \$393 million in short term debt consists of three credit facilities that carry interest rates ranging from LIBOR plus 75 basis points, to the Fed Funds rate plus 50 basis points. The proceeds were to be used to maintain its construction budget, to acquire additional assets, to redeem maturing long-term securities, to provide working capital to provide for maximum peak day gas purchases, and for other general corporate purposes. According to the Company's June 18th application, the increase of \$1.925 billion in its short term debt limit is intended to allow it to acquire TXU Gas, a wholly owned subsidiary of TXU Corporation.

Atmos intends to acquire TXU Gas for a cash purchase price of \$1.925 billion. The Company anticipates that the purchase of TXU Gas will be funded through the issuance of \$1.68 billion in short-term debt and the issuance of \$245 million in common equity. According to the application, if the Company is unable to complete the planned equity issuance prior to closing, the purchase of TXU Gas will be funded 100% with short-term debt<sup>1</sup>.

The short-term debt is expected to be borrowed under a 364-day credit facility through a private placement with a syndicate of financial institutions that will include, among others Merrill Lynch Capital Corporation. Merrill Lynch has already provided a financing commitment for the entire amount of the facility. The interest rate on the short-term debt is expected to range from 2.75% to 3.25%, based on LIBOR plus 1.0% to 1.5%. Interest will be paid monthly, or in the case of commercial paper issuances, interest will be paid in accordance with the terms of the commercial paper issued.

The Company states in its application that approval of the application is in the public interest because the TXU Gas purchase will result in a combination of two companies that have complementary strengths. The combined company with its increased size will have improved operating efficiencies and enhanced financial strength. Further, the Company states that Atmos' gas distribution system in Virginia will not be directly impacted by the TXU Gas purchase, although Atmos' improved efficiencies and enhanced franchised strength should inure to the benefit of its Virginia customers after the completion of the transaction and the integration of TXU Gas into the Company.

On July 27, 2004, Atmos filed a response to a draft Action Brief that the Staff had previously sent to the Company. The draft Action Brief set forth Staffs concerns regarding the potential for the proposed acquisition to harm the Company's Virginia ratepayers and provided the Company an opportunity to address Staffs concerns. The Company's response to Staffs draft Action Brief set forth three proposed conditions to the approval of the authority requested in this Application. Subsequent to the Company's response, Staff and Atmos have agreed to a fourth condition. These four conditions appear in Staffs contemporaneously filed Action Brief. These conditions are designed to mitigate any negative impact that may otherwise affect the Company's Virginia ratepayers.

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 believe that the four conditions agreed to by the Staff and the Company reasonably insulate the Company's Virginia ratepayers from potential harmful impacts that may result from the Company's acquisition of TXU Gas.

ACCORDINGLY, IT IS ORDERED THAT:

- 1) Applicant is hereby authorized to issue up to \$2.318 billion in short-term debt from September 1, 2004, through December 31, 2005 under the terms and conditions and for the purposes set forth in the application.
- 2) For all ratemaking purposes in any proceeding in which an historic test year ends prior to January 1, 2007, Atmos shall use the capital structure component weightings as they actually exist as of June 30, 2004, a date that precedes any effect on Atmos' capital structure as a result of its acquisition of TXU Gas Company.
- 3) The cost of short-term and long-term debt to be utilized for ratemaking purposes in any proceeding in which an historic test year is utilized that ends prior to January 1, 2007 shall be the lesser of the actual average interest rate of short-term and long-term debt, respectively, in that test year or the 13-month actual average interest rate of short-term or long-term debt in the test year ended June 30, 2004.

<sup>1</sup> Our Staff has advised us in its Action Brief filed contemporaneously with this Order, that Atmos announced on July 19, 2004, that it had issued 9,939,393 shares of common stock, at a price of \$24.75, to raise approximately \$236.2 million in net proceeds before legal, accounting and other offering costs.

- 4) The return on equity to be utilized for ratemaking purposes in a proceeding in which an historic test year is utilized that ends prior to January 1, 2007 shall include the financial risk and component weighting based on the capital structure used in that proceeding pursuant to the conditions approved herein and any increased debt leverage in Atmos' actual capital structure for that test year shall not be considered in determining such return allowed on common equity.
- 5) The Company will take all necessary steps to ensure that its acquisition of TXU Gas will not have any negative effects on the Company's Virginia customers' rates or service or the costs allocated to Virginia. Any increases in allocated costs to Virginia after the acquisition of TXU Gas shall be fully explained in subsequent Annual Informational Filings or other rate proceedings.
- 6) Applicant shall file within 60 days of the end of each calendar quarter commencing on December 31, 2004, a report regarding short-term debt financing to include the date, amount, interest rate of each draw-down, interest coverage ratios calculated in accordance with Applicant's indenture agreement, the use of the proceeds, the average monthly balances, the monthly maximum amount outstanding, the associated costs, and a balance sheet reflecting actions taken as well as a report describing the source, amount, date, interest rate, and the schedule of repayment for each affiliate loan/borrowing.
- 7) The authority granted herein shall not preclude the Commission from applying the provisions of § 56-78 and § 56-80 of the Code of Virginia hereafter.
- 8) The Commission reserves the right pursuant to § 56-79 of the Code of Virginia 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) The authority granted herein shall have no implications for ratemaking purposes except as set forth in this Order in Paragraphs 2 through 5.
- 10) This matter shall remain under the continued review, audit and appropriate directive of the Commission.

**CASE NO. PUE-2004-00076  
OCTOBER 18, 2004**

JOINT PETITION OF  
CAPTAIN'S COVE UTILITY COMPANY, INC.,  
FIRST CHARTER LAND ASSOCIATES,  
ROBERT E. WARFIELD, HAROLD P. GLICK,  
and  
ROGER A. YOUNG

For approval to acquire the capital stock of Captain's Cove Utility Company, Inc., pursuant to Chapter 5 of Title 56 of the Code of Virginia

**ORDER GRANTING APPROVAL**

On June 22, 2004, Captain's Cove Utility Company, Inc. (the "Utility"), First Charter Land Associates ("1st Partnership"), and Robert E. Warfield, Harold P. Glick and Roger A. Young (the "Purchasers") (collectively the "Petitioners") filed a joint petition with the State Corporation Commission (the "Commission") requesting approval for 1st Partnership to transfer the capital stock of the Utility to the Purchasers at no cost pursuant to Chapter 5 of Title 56 (the "Utility Transfers Act") of the Code of Virginia (the "Code").

The Utility is a Virginia public service corporation formed on November 23, 1992, that provides water and sewer service to homeowners in the Captain's Cove Subdivision (the "Subdivision") in Accomack County, Virginia. The Subdivision has approximately 4,800 lots, most of which are undeveloped. The Utility provides water service to all of the residences and sewer service to those residences with lots that cannot support a septic system.

1st Partnership is a Virginia limited partnership that owns the Utility. 1st Partnership is 0.5% owned by First Charter Land Corporation, Inc. ("1st Corporation"), the general partner, and 99.5% owned by Calvin Burns ("Mr. Burns"), the limited partner. Mr. Burns owns 100% of 1st Corporation, which formerly owned and developed the Subdivision.

The Purchasers own 97.5% of Captain's Cove Group, LLC ("the Group"), which is a Maryland limited liability company that recently purchased the Subdivision.

On July 16, 2003, 1st Corporation executed an agreement (the "Option Agreement") with G&W Realty, L.L.C. ("G&W"), which granted G&W the option to purchase 1st Corporation's interest in the Subdivision. This ownership interest included the Utility, more than 1,500 residential lots, commercial and multi-family property, a right to purchase an adjacent farm, other properties, and various contracts, licenses, permits, and tangible and intangible personal property. G&W subsequently assigned its rights under the Option Agreement to the Purchasers. On February 10, 2004, the Purchasers, through the Group, exercised the Option Agreement and bought 1st Corporation's interest in the Subdivision, excluding the Utility, for \$7.5 million.

The Petitioners represent that, with the Purchasers' acquisition of the Subdivision, "1st Corporation, 1st [Partnership], and [Mr.] Burns effectively have no ongoing "vested" interest in the future of the [S]ubdivision." The Purchasers plan to continue developing the Subdivision. In order to do so, the Group has begun engineering to extend roads to the undeveloped lots, and the Purchasers seek to acquire the Utility in order to extend water and sewer service as needed to these lots so that they can be developed and sold.

The Petitioners represent that, in the Subdivision, 1,680 customers have water available to their lots and 423 customers have sewer available. The Utility currently provides water service to 419 residential and eight commercial connections, and it provides sewer service to 176 residential and eight commercial connections.

The Utility's wastewater treatment plant, which can treat up to 100,000 gallons of sewerage per day, is located on 5.71 acres, includes multiple vacuum pumping stations, and has 40,680 linear feet of piping. The Utility's water plant includes approximately 20 dug wells on 18 well lots covering 5.76 acres, one active 205 gallon per minute ("GPM") well and pumphouse, two active 60 GPM wells and pumphouses, a 200,000 gallon storage tank, six pumps, and 137,840 linear feet of piping.

The Petitioners represent that the Utility is subject to regulation by the Commission, the Virginia Department of Environmental Quality, and the Virginia Department of Health. According to the Petitioners, there have been no regulatory actions related to the Utility in the past 24 months.

The Petitioners represent that they informed the Utility's customers of the proposed acquisition of the Utility by the Purchasers in November 2003, and again in June 2004. According to the Petitioners, no objections were voiced.

The Purchasers represent that they plan to retain the Utility's current employees and add new staff as the Subdivision expands. The Purchasers represent that capital expenditures subsequent to the transfer have not been quantified but will involve the extension of water and sewer service, in phases, to the undeveloped areas of the Subdivision. According to the Purchasers, there are no current plans to change customers' rates and tariffs.

NOW THE COMMISSION, upon consideration of the joint petition and representations of Petitioners and having been advised by its Staff, is of the opinion and finds that the proposed transfer of the capital stock of the Utility to the Purchasers at no cost 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 of the Code of Virginia, approval is hereby granted for First Charter Land Associates to transfer the capital stock of Captain's Cove Utility Company, Inc., to Robert E. Warfield, Harold P. Glick, and Roger A. Young at no cost as described herein.
- 2) Within sixty (60) days of completing the transaction, subject to administrative extension by the Commission's Director of Public Utility Accounting, Captain's Cove Utility Company, Inc., shall file a Report of Action with the Commission. Included in the Report of Action shall be the date of the transfer and any legal document, settlement sheet, or accounting entries recording the transfer.
- 3) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2004-00079  
SEPTEMBER 8, 2004**

APPLICATION OF  
VIRGINIA-AMERICAN WATER COMPANY,  
UNITED WATER VIRGINIA, INC.,  
and  
AMERICAN WATER RESOURCES, INC.

For authority to enter into an Agreement for Support Services pursuant to Chapter 4 of Title 56 of the Code of Virginia

**ORDER GRANTING AUTHORITY**

On June 29, 2004, Virginia-American Water Company ("Virginia-American"), United Water Virginia, Inc. ("United Water"), and American Water Resources, Inc. ("AWR") (collectively the "Applicants"), filed an application with the State Corporation Commission (the "Commission") seeking authority to enter into an Agreement for Support Services pursuant to Chapter 4 of Title 56 (the "Affiliates Act") of the Code of Virginia (the "Code").

Virginia-American is a Virginia public service corporation ("PSC") headquartered in Alexandria, Virginia, that has a certificate of public convenience and necessity ("CPCN) to provide public water service to the cities and surrounding areas of Hopewell and Alexandria, and to parts of Prince William County. Virginia-American is a wholly-owned subsidiary of American Water Works Company, Inc. ("AWWC").

United Water is a Virginia PSC headquartered in Alexandria, Virginia, that has a CPCN to provide water service to parts of Westmoreland, Northumberland, Lancaster, King William and Essex counties. United Water is a wholly-owned subsidiary of Virginia-American. Virginia-American and United Water are collectively known as the "Utilities."

AWR is a Virginia corporation headquartered in Voorhees, New Jersey, that provides water and wastewater related products and services. AWR is a wholly-owned subsidiary of AWWC.

Since the Applicants share the same senior parent company, AWWC, they are considered affiliated interests under § 56-76 of the Code of Virginia (the "Code"). As such, any contract or arrangement between the Applicants requires Commission approval prior to entering into such contract or arrangement pursuant to the Affiliates Act.

The Applicants are seeking authority to enter into an Agreement for Support Services (the "Agreement") between Virginia-American, United Water, and AWR. The Agreement permits the Utilities to support a Water Line Protection Program and a Sewer Line Protection Program (the "Programs") provided by AWR to the Utilities' residential customers by distributing promotional materials, coordinating repair services, and providing billing and collection services ("Support Services") for AWR. The Applicants represent that the Support Services to be provided by the Utilities to AWR under the Agreement are necessary to implement the Programs.

Under the Programs, AWR promises customers that, in the event of a covered problem in the customer's water or sewer line, it will obtain the required permits and arrange for the necessary line repairs, including basic site restoration, up to a stated program limit. The Applicants represent that Water Program coverage is provided for the cost of repairing leaks to a customer's service line caused by normal wear and tear up to a maximum limit of \$4,000 per occurrence, including a limit of \$500 for sidewalk repair in a public easement. Under the Sewer Program, coverage is provided for the cost to clear or repair a blockage of a customer's sewer service line caused by normal wear and tear up to a maximum limit of \$4,000 per occurrence. A separate additional maximum limit covers costs, if applicable, for any cutting, excavating and repairing of public sidewalks or public roads. For any repair costs above the stated program limit, the customer will be notified before the work is performed, and AWR will send the customer an invoice for the excess amount.

To obtain coverage under the Programs, AWR requires customers to be residential customers of record of the Utilities and owners of the residence to which the water/sewer line is attached. In addition, the water/sewer line must be in working order and free of leaks, clogs, and blockages prior to the customers' enrollment date in the Programs. The Applicants represent that the initial annual fee will be \$60 for the Water Program and \$108 for the Sewer program, payable over a 12-month period via separate line charges on their monthly water bills. AWR reserves the right to change the Programs' fees upon 30 days written notice to the customer. In addition, AWR will charge customers under the Sewer Program a \$50 service fee each time AWR dispatches a contractor to the customer's home to investigate, clear, and/or repair a blockage of the sewer line.

Since AWR provides only contractor oversight and related administrative duties and does not perform the Programs' repair service itself, AWR maintains a repair contractor network for each state where it offers the Water and Sewer Programs. The repair contractors, which are independent and unaffiliated with AWWC, must meet certain quality standards to participate in the Programs.

Under the proposed Agreement, the first Support Service provided by the Utilities involves assisting AWR in distributing informational and promotional materials regarding the Programs to the Utilities' customers. This includes permitting AWR to insert Program material in the regular utility service billings periodically mailed to the Utilities' customers. The Agreement requires the billing inserts to be made acceptable to the Utilities in form and content and provided to the Utilities in sufficient quantities at an appropriate time so that the distribution and delivery of the Utilities' bills are not disrupted.

The second Support Service provided by the Utilities involves supplying to AWR repair service coordination for the Water Program. Under the Agreement, if a Utility employee discovers a leak in the water line of a Utility customer that is enrolled in the Water Program, the Utility employee is to directly or indirectly notify AWR of the problem by means of a toll-free telephone number. AWR will then engage a qualified contractor to provide any applicable services covered under the Program to the Utility customer. The Utility's responsibility after notifying AWR will be limited to the traditional PSC duties and practices related to the customer's service and bill.

At this time, the Utilities do not provide public sewer service. Therefore, the Utilities are not currently obligated under the Agreement to provide repair service coordination under the Sewer Program. Should the Utilities ever own and/or operate any public sewer systems, then the Agreement allows the Utilities to begin supplying repair service coordination to AWR for the Sewer Program.

For the third Support Service, the Utilities supply AWR with billing and collection services for the Programs. AWR will provide the Utilities with a list of customers who have enrolled in one or both Programs and have chosen to include their Program charges on their Utility bill. The Utilities will modify their bill to include the Program charges, and they will arrange to forward the monthly collections of Program payments to AWR within 15 days after the end of each calendar month. Unless the customer otherwise designates, all customer payments will first be credited to pay for Utility and Utility-related service, and the remainder will be remitted to AWR as payment for the Programs. The Utilities will not interrupt or cut off service to customers for non-payment of amounts owed to AWR, and AWR shall be responsible for all collection efforts for non-payment of Program fees.

The Agreement also contains a clause that allows the Utilities to perform other Support Services for AWR. Under this clause, the Utilities may distribute for AWR customer surveys intended to poll Program customers regarding their satisfaction and/or concerns with the AWR Programs. The Applicants represent that the clause is also intended to cover as yet unspecified other services that are incidental and related to the Programs.

Under the Agreement, AWR agrees to pay the Utilities the greater of 115% of fully distributed cost or market for the above-referenced Support Services. The Agreement has a one-year term that automatically renews for one-year periods unless either party provides 60 days written notice of termination. The Agreement also contains an assignment clause.

NOW THE COMMISSION, upon consideration of the application and representations of the Applicants and having been advised by its Staff, is of the opinion and finds that, subject to certain conditions, the Agreement for Support Services is in the public interest and should be approved.

The Applicants represent that the Programs are intended to meet a specific customer need. Currently, residential customers are responsible for paying the total cost of any repairs to the customer-owned portion of the water and/or sewer lines serving their home. The customer-owned portion of the water and sewer lines normally extend from the meter or street curb to the house. The Applicants represent that the Programs provide residential customers with a cost-effective means of repairing customer-owned water service lines that leak or break and/or sewer service lines that become clogged or blocked due to normal wear and tear. The Applicants represent that the Support Services to be provided by the Utilities to AWR under the Agreement are necessary to implement the Programs. We agree.

However, we have several concerns with the application as presented. First, the Applicants have not determined whether AWR needs to be licensed as an insurance company to provide the Programs in the Commonwealth of Virginia. AWR is currently discussing this matter with the Bureau of Insurance.

Second, we note that there is ambiguity in the Agreement regarding the compensation that AWR will pay to the Utilities. While the Applicants represent that AWR will pay the higher of 115% of fully distributed cost or market for all Support Services provided by the Utilities, Section 4.1 of the Agreement contains the clause "Unless otherwise provided herein." In addition, the last sentence in Section 6.1.1, which states that "AWR shall bear all of the costs associated, directly or indirectly, with the inclusion of informational and promotional materials in Utility bill mailings, including but not limited to programming and processing costs and any increase in postage," could be interpreted to permit incremental costing rather than fully distributed costing.

We are also concerned that Section 6.1.4 of the Agreement covering other services is open-ended and could allow the addition of new affiliate services without Commission scrutiny. Finally, since the proposed Programs are new to Virginia, we do not have actual data available for us to evaluate the response to the Programs and the effectiveness of the Agreement. Therefore, we find that our approval must be conditioned to mitigate these concerns.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to § 56-77 of the Code of Virginia, Virginia-American Water Company and United Water Virginia, Inc., are hereby granted authority to enter into the above-referenced Agreement for Support Services with American Water Resources, Inc.
- 2) The authority granted herein is conditioned upon AWR obtaining the appropriate licensing or regulatory approvals, if any, necessary to offer and operate the Programs within the Commonwealth of Virginia. Applicants shall promptly notify the Staff of any such licenses or approvals obtained by AWR.
- 3) Section 4.1 of the Agreement shall be amended by removing the clause: "Unless otherwise provided herein."
- 4) Section 6.1.1 of the Agreement shall be amended by removing the following sentence:
 

AWR shall bear all of the costs associated, directly or indirectly, with the inclusion of informational and promotional materials in Utility bill mailings, including but not limited to programming and processing costs and any increase in postage.
- 5) Section 6.1.4 of the Agreement covering other services shall be amended to state that:
 

The Utility shall perform such other and further administrative services as may be incidental and related to the Water and Sewer Programs and agreed to in a service order in the general form attached hereto as Exhibit 1, if executed by the parties during the Term hereof. All transactions that occur pursuant to this section shall be separately reported in the Utility's Annual Report of Affiliate Transactions (the "Affiliate Report") filed with the Commission.
- 6) An executed Agreement containing the amendments described above shall be filed with the Commission within 30 days of the date of the Order herein.
- 7) The authority granted herein for the Agreement is limited to five years from the date of the Order Granting Authority herein. Any further provision of services under the Agreement shall require subsequent Commission approval.
- 8) Commission approval shall be required for any changes in the terms and conditions of the Agreement approved herein, including any successors or assigns.
- 9) 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.
- 10) The authority granted herein shall not be deemed to include any authority other than for the specific transactions contained in the Agreement approved herein.
- 11) The authority granted herein shall have no ratemaking implications for annual informational filings or future rate proceedings.
- 12) 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.
- 13) Virginia-American and United Water shall report the transactions covered under the Agreement authorized herein in a schedule to be included in their Annual Reports of Affiliate Transactions submitted to the Commission's Director of Public Utility Accounting on April 1st and May 1st, respectively, of each year, which deadlines may be extended administratively by the Director of Public Utility Accounting. In addition to information already required, the schedule will summarize the transactions under this Agreement by Program, service description, account, and dollar amount. The schedule will also list the number of customers in each Program and provide a summary of any customer complaints concerning the Programs. The Utilities will report in a separate schedule any transactions that occur pursuant to Section 6.1.4 of the Agreement by Program, service description, account, and dollar amount.
- 14) If Annual Informational and/or General Rate Case Filings are not based on a calendar year, then Virginia-American and United Water shall include the affiliate information contained in the Annual Report of Affiliate Transactions in such filings.
- 15) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2004-00081  
JULY 26, 2004**

APPLICATION OF  
VALLEY RIDGE WATER COMPANY

For approval of a transfer of assets

**ORDER GRANTING APPROVAL**

On July 13, 2004, Valley Ridge Water Company ("Valley Ridge") filed an application with the State Corporation Commission ("Commission") requesting approval pursuant to Chapter 5 of Title 56 of the Code of Virginia ("Code") to transfer certain utility assets to the County of Alleghany, Virginia ("Alleghany").

Valley Ridge is located in Alleghany County, Virginia, and currently serves approximately 175 customers including Alleghany High School, Jackson River Technical College, Gambro Health, and two medical offices.

Valley Ridge supplies its customers from a well owned by Alleghany. The Virginia Department of Health has determined that the water from the well is not potable and since November of 2003, Valley Ridge customers have had to boil their water before consuming it.

Valley Ridge proposes to sell the water system to Alleghany for \$125,000, which includes the water system, installed water meters, the springs, a motor for the pump, and a probe for all the water meters. The Alleghany County Water and Sewer Commission approved the purchase on June 4, 2004. The Alleghany County Board of Supervisors approved the proposed acquisition on June 15, 2004.

Valley Ridge represents that Alleghany is in a position to provide potable water to customers. The majority of customers have indicated their agreement for Alleghany to acquire the water system.

THE COMMISSION, upon consideration of the application and representations of Valley Ridge and having been advised by its Staff, is of the opinion and finds that the above-described transfer of utility assets 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 §§ 56-89 and 56-90 of the Code of Virginia, Valley Ridge Water Company is hereby granted approval to sell to Alleghany County the water system serving customers of Valley Ridge as described herein for a total sales price of \$125,000.00.
- (2) The approval granted herein shall not be deemed to include any approvals other than for the transfer of utility assets as described herein.
- (3) Valley Ridge shall submit a report of the action taken pursuant to the approval granted herein within thirty (30) days of the transaction taking place, which deadline may be extended administratively by the Commission's Director of Public Utility Accounting. Such report shall include the date the sale took place and the actual sales price.
- (4) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2004-00082  
OCTOBER 22, 2004**

APPLICATION OF  
UTILITY RESOURCE SOLUTIONS, L.P.

For a license to conduct business as a natural gas competitive service provider

**ORDER GRANTING LICENSE**

On September 7, 2004, Utility Resource Solutions, L.P. ("URS" or "the Company"), filed an application with the Virginia State Corporation Commission ("Commission") for a license to provide competitive natural gas service. The Company intends to serve all classes of customers throughout the service territories of Washington Gas Light Company and Columbia Gas of Virginia. 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, 20 VAC 5-312-10 et seq. ("Retail Access Rules").

On September 14, 2004, the Commission issued an Order for Notice and Comment docketing the application and requiring that notice of the Order be served on appropriate persons. The Order also required the Commission's Staff to analyze the reasonableness of the Company's application and present its findings in a Staff Report. No comments from the public on URS's application were received.

The Staff filed its Report on October 5, 2004, concerning URS's fitness to conduct business as a competitive service provider for natural gas. In its Report, Staff summarized URS's proposal and evaluated its financial condition and technical fitness. The Staff recommended that URS be granted a license to conduct business as a natural gas competitive service provider for residential, commercial, and industrial customers throughout the service territories of Washington Gas Light Company and Columbia Gas of Virginia subject to an additional condition. The Staff determined that the Company currently has sufficient financial resources to support its expansion into Virginia. Since the Company is relatively new and its financial position can change rapidly, the Staff recommended that URS be required to file a copy of its annual financial statements with the Division of Economics and Finance

simultaneously with its annual report submission as required by the Retail Access Rules, 20 VAC 5-312-20 Q. The Company filed no comments in response to the Staff Report.

NOW UPON CONSIDERATION of the application and Staff's Report, the Commission is of the opinion and finds that URS's request should be granted.

Accordingly, IT IS ORDERED THAT:

(1) URS is hereby granted License No. G-20 for the provision of competitive natural gas service to residential, commercial and industrial retail customers in the retail access program throughout the service territories of Washington Gas Light Company and Columbia Gas of Virginia. This license to act as a competitive service provider is granted subject to the provisions of the Retail Access Rules, this Order, and applicable statutes.

(2) This license is not valid authority for the provision of any product or service not identified within the license itself.

(3) URS is required to file a copy of its annual financial statements with the Division of Economics and Finance simultaneously with its annual-report submission as required by the Retail Access Rules, 20 VAC 5-312-20 Q.

(4) Failure of URS to comply with the Retail Access Rules, the provisions of this Order, other State Corporation Commission orders and rules, or other applicable state or federal laws may result in an enforcement action by the Commission including, without limitation, the revocation, suspension, or modification of the license granted herein, the refusal to renew such license, the imposition of appropriate fines and penalties, or such other additional actions as may be necessary to protect the public interest.

(5) This matter shall remain open pending the receipt of any reports required by the Retail Access Rules, as well as any subsequent amendments or modifications to the license granted herein.

**CASE NO. PUE-2004-00082  
NOVEMBER 3, 2004**

APPLICATION OF  
UTILITY RESOURCE SOLUTIONS, L.P.

For a license to conduct business as a natural gas competitive service provider

**CORRECTING ORDER NUNC PRO TUNC**

On October 22, 2004, the State Corporation Commission ("Commission") entered an Order Granting License (hereafter "October 22, 2004, Order") involving Utility Resource Solutions, L.P.

By reason of typographical error, the October 22, 2004, Order reflects an incorrect Case Number. The Commission hereby, nunc pro tunc, amends the case number of the order in this case, issued on October 22, 2004, from PUE-2004-00087 to PUE-2004-00082.

**CASE NO. PUE-2004-00083  
OCTOBER 8, 2004**

APPLICATION OF  
VIRGINIA ELECTRIC AND POWER COMPANY

For approval of special rates and terms and conditions for electric service pursuant to Virginia Code § 56-235.2 and for expedited consideration of the application

**FINAL ORDER**

On July 8, 2004, Virginia Electric and Power Company ("Virginia Power" or the "Company") filed an application in both public and confidential versions with the State Corporation Commission ("Commission") pursuant to Virginia Code § 56-235.2. This application requests the Commission to approve special rates and terms and conditions of electric service ("Special Rate") for Chaparral (Virginia) Inc. ("Chaparral" or the "Customer"). The Company requested that the Commission act on its application on an expedited basis.

According to the Company's application, the Commission granted Chaparral's request to terminate service under an earlier special rate contract and to take electric service under Virginia Power's Rate Schedule 10 - Large General Service, with certain modifications, in Case No. PUE-2003-00176.<sup>1</sup> The captioned application maintains that the Rate Schedule 10 rates Chaparral pays for electric service are higher than Chaparral can profitably manage and that Chaparral represents its economic viability hinges upon the ability to lower this input cost immediately. Virginia Power describes its proposed special rate as including rate tiers based on fixed prices to permit rate predictability and stability for the majority of hours Chaparral will operate. These proposed rates, according to the Company, are designed to capture seasonal and time of day cost differences, providing price signals to Chaparral to respond accordingly. Additionally, Virginia Power represents that the fuel component of the proposed Special Rate will remain unchanged from that currently used

<sup>1</sup> Application of Chaparral (Virginia) Inc., For early termination of special contract and related findings, Case No. PUE-2003-00176, 2003 S.C.C. Ann. Rep. 499.



for Schedule 10 customers. It contends that because of the interruptible nature of the electric service to be provided to Chaparral, the proposed Special Rate will not jeopardize the continued reliability of utility service.

On July 21, 2004, the Commission entered a Protective Order. That Order prescribes the procedures to be used in filing and gaining access to information and documents designated as confidential, proprietary, or commercially sensitive.

On July 23, 2004, the Commission entered a procedural order in the captioned matter. In that Order, the Commission invited interested parties to comment and request a hearing on the application and directed the Staff to investigate the application and file a report with the Commission that set out the Staff's recommendations. The July 23, 2004, Order directed Virginia Power to mail the notice prescribed in Ordering Paragraph (9) to its Rate Schedule 10 - Large Power Service and Rate Schedule GS-4, Large General Service - Primary Voltage, customers on or before August 13, 2004. Ordering Paragraph (10) of the July 23, 2004, Order Prescribing Notice and Inviting Comments and Requests for Hearing ("Order") directed the Company to serve that Order on the Chairman of the Board of Supervisors of Dinwiddie County and the County Administrator of Dinwiddie County. The Commission directed Virginia Power to file its proof of the notice and service directed by the Order on or before September 10, 2004.

On August 4, 2004, and August 12, 2004, the Company filed its proof of the mailing and service of the notice required by the July 23, 2004, Order.

On August 20, 2004, Chaparral, by counsel, filed its notice of Participation and Comments ("Comments") in the captioned matter. In its Comments, Chaparral advised, among other things, that the subject special rates and terms and conditions substantially improve Chaparral's economic situation and yield a power rate that will afford this customer of Virginia Power a reasonable opportunity to compete. Chaparral asserted that its economic viability depends upon timely approval of the captioned application. It noted that the special rates and terms and conditions that are the subject of this case were specifically designed for Chaparral's operations. Chaparral requested that the Commission approve Chaparral's and Virginia Power's proposed special rates and terms and conditions on an expedited basis. Chaparral did not request a hearing in the case.

On September 10, 2004, the Staff of the Commission ("Staff") filed its Report in both public and confidential versions in the captioned matter. In its Report, the Staff concluded that Virginia Power's application, as modified, met the criteria established by § 56-235.2 of the Code of Virginia, as well as the criteria set out in the Commission's Guidelines for Filing an Application to Provide Electric and Gas Service under a Special Rate, Contract or Incentive, 20 VAC 5-310-10 ("Guidelines"). Staff noted that any contract approved under § 56-235.2 and the Guidelines must meet three criteria: (1) it must protect the public interest; (2) it must not unreasonably prejudice or disadvantage any customer or class of customers; (3) it must not jeopardize the continuation of reliable electric service.

The Staff Report noted that under the proposed contract, Chaparral will receive service as an interruptible customer, with rates for on-peak and off-peak service that are subject to Virginia Power's fuel factor. According to the Staff, Chaparral's load is separated into a firm (base) demand component and an interruptible demand component. Any load in excess of the specified firm demand is subject to interruption as provided in the contract. Curtailments of load in excess of the firm load are limited by terms of the contract based on three defined Curtailment Tiers. The Tier curtailments are limited to a maximum duration for each curtailment and a total number of curtailment hours during a twelve month period. The proposed rates for both base and interruptible service are fixed charges with the exception of the "alternative" rate permitted for Tier 2 Curtailments, providing greater stability in power costs for Chaparral. Tier 2 Curtailments include a provision for a negotiated "alternative" rate should Chaparral request it, and Virginia Power permits Chaparral to continue operations during a Tier 2 curtailment.

Staff noted a concern at page 8 of its Report relating to the "alternative" rate that could be negotiated during a Tier 2 curtailment because there were no limiting parameters or conditions accompanying the determination of the alternative rate. Staff noted that Virginia Power had offered to amend Section V.B of the Special Rates Terms and Conditions, to include specific limitations on the pricing of the alternative rate. Staff related that Chaparral did not object to these further revisions.

The amendment proposed by Virginia Power and accepted by Staff at pages 8-9 of the Staff Report, provided a fixed range within which the alternative rate would be developed. This alternative rate provides that if Virginia Power determines that it will not sell at the Tier 2 Peak Energy Price, Chaparral may request service during the curtailment at a negotiated rate greater than the Tier 2 Peak Energy Price, but bounded as identified on page 9 of the Staff's Report.

Staff concluded that if Virginia Power's application was granted with this amendment to the alternative rate, the Company's system reliability should not be jeopardized, and the request did not appear to pose any unreasonable disadvantage to any other customer or class of customers. Staff noted that Chaparral's continued presence in the area, its continued support for the regional workforce development, and other activities have a beneficial effect. The Staff reported that the proposed treatment of fuel costs for Chaparral was identical to fuel treatment for customers on Virginia Power's Rate Schedule 10. Based on the results of its evaluation, Staff did not oppose Virginia Power's request to offer Chaparral a special contract with the modifications discussed in the Staff Report for the alternative rate. Staff also recommended that Chaparral's service under Schedule 10 be terminated and that the fuel costs for Chaparral's service be given the same treatment as available to customers served on Virginia Power's Schedule 10.

On September 21, 2004, the Company, by counsel, filed its Response to the Staff Report. In its Response, the Company noted its willingness to amend Section V.B of its Special Rates Terms and Conditions to include specific limitations on the pricing of the alternative rates. Virginia Power represented that Chaparral did not object to these further revisions, and the Company further committed to filing a revised Special Rates Terms and Conditions in a compliance filing upon final disposition of the proceeding.

Virginia Power requested that the Commission dispense with a hearing on the application. The Company also advised that Chaparral had authorized it to state on Chaparral's behalf that Chaparral did not request a hearing. Virginia Power renewed its request that the Commission act on its application on an expedited basis and grant the Company authority to enter into Special Rates Terms and Conditions with Chaparral.

NOW THE COMMISSION, upon consideration of the Company's application, the pleadings, the record herein, and the applicable statutes, is of the opinion and finds that Virginia Power should be authorized to offer Chaparral electric service under the Special Rate with the modifications to the alternate portion of that rate described at pages 8-9 of the Staff Report, effective as of the date of the Order. Inasmuch as all the parties to the case have agreed to the provisions of the Staff Report and have waived their right to a hearing, we will not convene a hearing in this matter.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

As noted in the Staff Report, there appears to be no economic impact of this Special Rate upon existing customers. The contract will not jeopardize the continuation of reliable utility service. Facilities to serve Chaparral are already operational. Chaparral's load, operations, and consumption levels are included in Virginia Power's current operating plans. The interruptible nature of the service to be provided permits Virginia Power to curtail service to Chaparral in emergency situations to specified minimum levels of service within a prescribed timeframe.

The Company has submitted cost of service data demonstrating that the revenue from the proposed contract is sufficient to cover all costs of serving Chaparral, as well as providing a return on Virginia Power's investment. The expected reduction received from Chaparral under the special rate will not impact firm service rates as a result of the rate caps imposed by the Virginia Electric Utility Restructuring Act, Chapter 23 (§ 56-576 *et seq.*) of Title 56 of the Code of Virginia, through December 31, 2010. Any concerns regarding the alternative rate pricing in this Special Rate appear to be addressed by the limits on the alternative Tier 2 maximum rate and the limits discussed for this rate at pages 8-9 of the Staff Report.

Accordingly, IT IS ORDERED THAT:

(1) Consistent with the findings made herein, Virginia Power may offer Chaparral the special rates and terms and conditions set out in its July 8, 2004, application, as modified by the recommended changes in the alternative rate pricing proposed by Virginia Power and accepted by the Staff at pages 8-9 of the Staff Report, effective for service rendered on and after the date of this Order.

(2) Virginia Power shall forthwith file its revised special rate and terms and conditions, together with the modifications thereto, with the Division of Energy Regulation.

(3) There being nothing further to be done in this matter, the case shall be dismissed from the Commission's docket of active proceedings, and the papers filed herein shall be lodged in the Commission's files for ended causes.

**CASE NO. PUE-2004-00084  
SEPTEMBER 15, 2004**

JOINT PETITION OF  
DAVID G. PETRUS,  
BYRON LAMBERT,  
and  
HIGHLAND LAKE WATERWORKS, INC.

For approval of transfer of control pursuant to Chapter 5 of Title 56 of the Code of Virginia

**ORDER GRANTING AUTHORITY**

On July 9, 2004, David G. Petrus ("Mr. Petrus"), Byron Lambert ("Mr. Lambert"), and Highland Lake Waterworks, Inc. ("Highland") (collectively, the "Petitioners"), filed a joint petition with the State Corporation Commission ("Commission"), which was deemed complete upon submission of a verified signature on July 21, 2004. In that joint petition, Mr. Petrus seeks authority to acquire, and Mr. Lambert seeks authority to dispose of, all stock and control of a small water company, Highland, pursuant to the provisions of Chapter 5 of Title 56 of the Code of Virginia ("Code").

Highland is a certificated small water company pursuant to § 56-265.13:3 of the Code and provides water service to 121 customers in the Highland Lakes subdivision in Franklin County, Virginia. Mr. Petrus, who proposes to acquire Highland, is the President and owner of Petrus Environmental, which owns and operates numerous water systems throughout the Commonwealth of Virginia and the United States.

Pursuant to the Stock Purchase Agreement ("Agreement") between Mr. Petrus and Mr. Lambert, Mr. Petrus proposes to purchase, and Mr. Lambert proposes to sell to Mr. Petrus, all of the stock in Highland, and Mr. Petrus will operate Highland as a separate small water system. Pursuant to the Agreement, Mr. Petrus will pay Mr. Lambert \$30,000 in cash for the stock of Highland, which includes all the inventory and assets of Highland, as identified in Exhibits A and B of the Agreement.

The Petitioners state that adequate service at just and reasonable rates will not be impaired or jeopardized by the proposed sale and that there is no anticipated impact on regulated rates and service, capital structure or access to capital and financial markets, as a result of the transaction. The Petitioners also state that the customers will benefit from the system being operated by an experienced water system operator and from economies of scale from operating numerous water systems. Further, the Petitioners represent that Mr. Petrus will provide Highland access to substantial operating and financial resources, which would be unavailable under current ownership.

THE COMMISSION, upon consideration of the joint petition and representations of the Petitioners and having been advised by its Staff, is of the opinion and finds that the above-described 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, Mr. Lambert is hereby granted authority to sell, and Mr. Petrus is granted authority to purchase, all of the stock and control of Highland, as described herein.

(2) The authority granted herein shall not be deemed to include any approvals other than for the specific transaction as described herein in ordering paragraph (1).

(3) The authority granted herein shall have no rate making implications.

(4) The Petitioners shall file a report of the action taken pursuant to the authority granted herein within thirty (30) days of the transaction taking place, which deadline may be extended administratively by the Commission's Director of Public Utility Accounting. Such report shall include the date the sale took place, the actual sales price, and the actual journal entries that record the stock sale.

(5) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2004-00086  
AUGUST 11, 2004**

APPLICATION OF  
WASHINGTON GAS LIGHT COMPANY

For authority to enter into interest rate swap agreements

**ORDER GRANTING AUTHORITY**

On July 14, 2004, Washington Gas Light Company ("WGL" or "Applicant") filed an application with the State Corporation Commission ("Commission") for authority under Chapter 3 (§ 56-55 *et seq.*) of Title 56 of the Code of Virginia to enter into interest rate swap agreements or other financial derivatives ("Agreements") for its outstanding debt securities. The Applicant paid the requisite fee of \$250.

Specifically, WGL requests authority to enter into Agreements that could be executed for existing outstanding debt obligations or for future debt securities following their issuance. The request would limit the aggregate notional amount of the Agreements to no more \$100 million outstanding at any one time, through December 31, 2005. In addition, the Applicant requests that the Commission retroactively grant authority for a swap agreement, initiated on April 15, 2004, and closed out on July 20, 2004, related to a \$50 million medium term note ("MTN") and to other agreements related to any of its MTNs outstanding during the period of its current financing authority.

The Applicant indicates that the requested authority will assist WGL's management in meeting its long-term capital requirements and maintaining a sound capital structure at a reasonable cost. Each transaction will possess all of the following characteristics: 1) will be initiated following the issuance of the Company's debt security; 2) will be comparable to the amount of the associated debt security; 3) will not exceed the maturity date of the associated debt security; and 4) will be initiated only during the effective period of this Order. The aggregate notional amount of all Agreements will not exceed \$100 million at any one time.

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, in part, will not be detrimental to the public interest.

We note that the Commission has considered broad derivative approval in Case No. PUF-2000-00017.<sup>1</sup> In that case the Commission authorized transactions similar to those proposed by WGL with several conditions including: 1) that no counterparties to agreements shall have credit ratings of less than investment grade; and 2) that the Commission may revoke and/or modify the authority granted at any point in the future if it believes such revocation and/or modification is in the public interest.

We will require that WGL enter into the Agreements with counterparties having credit ratings of at least investment grade. We also reserve the ability to revoke and/or modify the authority granted herein at any point in the future if such revocation and/or modification is in the public interest.

The Commission can not grant retroactive authority to WGL as requested by the application. WGL must obtain Commission authority prior to entering into security-based derivative transactions.

Accordingly, IT IS ORDERED THAT:

(1) The Applicant is hereby authorized to enter prospectively into interest rate swap agreements or other such transactions from time to time in notional amounts not to exceed \$100 million in the aggregate from the date of this Order through December 31, 2005, under the terms and conditions and for the purposes set forth in the application, as modified below.

(2) The Applicant's request for retroactive authority as described in the application is denied.

(3) The maturity of any interest rate swap agreement or other such transaction entered into under the authority granted by this Order shall not exceed the longest maturity of any of the Applicant's outstanding debt securities.

(4) The Applicant shall not enter into any agreement involving counterparties having credit ratings of less than investment grade.

(5) The Applicant shall file with the Commission a copy of the International Swap Dealers Association Master Agreement, together with all schedules and attachments/exhibits to the schedules, within 10 days of entering into any swap agreement or other such transaction.

(6) The Applicant shall file a final Report of Action on or before February 28, 2006, detailing all interest rate swap agreements or other such transactions entered into under the authority granted herein, and include a schedule showing the notional amount of each transaction, the counter party to the transaction, the initial transaction interest rates of each transaction, and the net payments to/from the Applicant under each transaction agreement.

<sup>1</sup> Application of Kentucky Utilities d/b/a Old Dominion Power, For authority to use and assume obligations associated with financial derivative instruments, Case No. PUF-2000-00017, Orders dated June 23, 2000 and December 17, 2002.

- (7) Approval of the application shall have no implications for ratemaking purposes.
- (8) Should the Applicant request additional time to exercise the authority granted herein beyond December 31, 2005, such request for any extension of time shall be filed no later than November 5, 2005.
- (9) The Commission may revoke and/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.
- (10) This matter shall be continued, subject to the continuing review, audit, and appropriate directive of the Commission.

**CASE NO. PUE-2004-00087  
AUGUST 27, 2004**

APPLICATION OF  
CAROLINA INVESTMENTS D/B/A ADVANTAGE ENERGY

For a permanent license to conduct business as an electric and natural gas aggregator

**ORDER GRANTING LICENSE**

On July 26, 2004, Carolina Investments Incorporated d/b/a Advantage Energy ("Carolina Investments" or "the Company"), completed an application with the State Corporation Commission ("Commission") for a license to provide electric and natural gas aggregation service 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 seeks authority to serve residential, commercial, and industrial customers throughout the Commonwealth of Virginia. The Company attested that it would abide by all applicable regulations of the Commission as required by 20 VAC 5-312-40B.

On July 28, 2004, the Commission issued an Order for Notice and Comment establishing the case, requiring that notice of the application be served upon appropriate persons, providing for the receipt of comments from the public, and requiring the Commission's Staff to analyze the reasonableness of Carolina Investments' application and to present its findings in a Staff Report. The Company filed proof of publication of its notice on August 10, 2004. No comments from the public on Carolina Investments' application were received.

The Staff filed its Report on August 19, 2004, concerning Carolina Investments' fitness to conduct business as an electric and natural gas aggregator. In its Report, the Staff summarized Carolina Investments' proposal and evaluated its financial condition and technical fitness. The Staff recommended that Carolina Investments be granted a license to conduct business as an electric and natural gas aggregator for residential, commercial, and industrial customers throughout the Commonwealth of Virginia.

NOW UPON CONSIDERATION of the application and the Staff Report, the Commission finds that Carolina Investments' application to provide electric and natural gas aggregation service should be granted, subject to the conditions set forth below.

Accordingly, IT IS ORDERED THAT:

- (1) Carolina Investments Incorporated is hereby granted license No. A-19 to provide competitive electric and natural gas aggregation service to residential commercial and industrial customers throughout the Commonwealth of Virginia. This license to act as an aggregator 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-2004-00088  
SEPTEMBER 13, 2004**

APPLICATION OF  
APPALACHIAN POWER COMPANY

For authority to participate in an inter-company money pool

**ORDER GRANTING AUTHORITY**

On July 16, 2004, Appalachian Power Company ("Apco" or "the Company") filed an application under Chapter 4 of Title 56 of the Code of Virginia. In its application, Apco requests approval to changes in the American Electric Power Company, Inc. ("AEP") inter-company money pool ("AEP Money Pool"), now called the AEP Utility Money Pool<sup>1</sup>.

<sup>1</sup> The following is a list of the direct or indirect public utility subsidiaries of AEP which constitutes the borrowers under the AEP Utility Money Pool: AEP Generating Company, AEP Texas Central Company, AEP Texas North Company, Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Public Service Company Oklahoma, Southwestern Electric Power Company, Wheeling Power Company, AEP Service Corporation, Blackhawk Coal Company, Cedar Coal Company, Central

Apco received prior approval to participate in the AEP Money Pool by authority granted in Case No. PUF-2000-000282<sup>2</sup>. Pursuant to that authority, any changes to terms or conditions of the AEP Money Pool required prior approval. The Company also states that in 2002, AEP formed the AEP Nonutility Money Pool. The AEP Nonutility Money Pool is completely separate from, and has no transactions with, the AEP Utility Money Pool. Both money pools have been authorized by the Securities and Exchange Commission.

Several changes have occurred in the operations of the AEP Utility Money Pool for which approval is being sought herein. AEP recently formed a financing subsidiary, AEP Utility Funding, LLC ("AEP UF") as an additional funding source for the AEP Utility Money Pool. AEP UF may obtain funds from external sources or from AEP or AEP Utilities (formerly CSW Corp.). It is anticipated that AEP UF will successfully establish an external commercial paper program supported by the public utility participants with possibly a higher credit rating than the current program has.

Public utility participants in the AEP Utility Money Pool must maintain comparable debt rating to AEP UF, as well as maintain requisite backup facilities with one or more financial institutions. Apco would be liable for loans it obtains from AEP UF, but will not be liable for the borrowings of any other affiliate under the AEP Utility Money Pool. AEP UF will not lend to AEP or AEP Utilities, and AEP UF will not fund the AEP Nonutility Money Pool.

THE COMMISSION, upon consideration of the application and having been advised by its Staff, is of the opinion and finds that approval of the proposed changes to the AEP Utility Money Pool is in the public interest and should be approved.

Accordingly, IT IS ORDERED THAT:

- 1) Appalachian Power Company is hereby authorized to participate in the AEP Utility Money Pool under the terms and conditions and for the purposes as detailed in the application.
- 2) Prior to any further changes in terms and conditions of the AEP Utility Money Pool, Appalachian Power Company shall file for authority to continue to participate in the AEP Utility Money Pool.
- 3) The authority granted herein shall have no implications for ratemaking purposes.
- 4) 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.
- 5) 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.
- 6) Apco shall file for separate authority to have aggregate borrowings of short-term debt in excess of twelve percent of total capitalization.
- 7) There being nothing further to be done in this matter, this case is hereby dismissed.

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Appalachian Coal Company, Central Coal Company, Colomet, Inc., Conesville Coal Preparation Company, Dolet Hills Lignite Company LLC, Franklin Real Estate Company, Indiana Franklin Real Estate Company, Simco, Inc., Southern Appalachian Coal Company.

<sup>2</sup> Application to participate in an intercompany money pool, Case No. PUF-2000-00028, Final order dated October 24, 2000.

### **CASE NOS. PUE-2004-00089 and PUE-2004-00091 NOVEMBER 19, 2004**

APPLICATION OF  
VIRGINIA ELECTRIC AND POWER COMPANY D/B/A DOMINION VIRGINIA POWER

For Approval of Acquisition of Generating Facility Assets Under Chapter 5 of Title 56 of the Code of Virginia and for a Certificate to Operate Generating Facilities Pursuant to Virginia Code § 56-580 D or § 56-265.2 A

APPLICATION OF  
VIRGINIA ELECTRIC AND POWER COMPANY D/B/A DOMINION VIRGINIA POWER

For Expedited Approval of Authority to Assume Debt Securities Under Chapter 3 of Title 56 of the Code of Virginia

#### **FINAL ORDER**

On July 21, 2004, Virginia Electric and Power Company d/b/a Dominion Virginia Power ("DVP" or "Company") filed in Case No. PUE-2004-00089 a Petition and Application ("Transfer Petition") seeking approval by the State Corporation Commission ("Commission") for the Company's acquisition of a generating facility pursuant to Chapter 5 of Title 56 of the Code of Virginia. The Company also applied for a certificate to operate generating facilities pursuant to Code of Virginia § 56-580 D or § 56-265.2 A; requested waiver of 20 VAC 5-301-10, *et seq.*, of the Rules Governing the Use of Bidding Programs to Purchase Electricity From Other Power Suppliers; and requested expedited review of its Transfer Petition. The Company also filed a Motion for Protective Order to assure the confidential treatment of confidential information.

The subject of the Transfer Petition is an 80 MW wood-burning electric generating facility ("Generating Facility") located in the Town of Hurt in Pittsylvania County, Virginia. The Generating Facility is presently owned by Multitrade of Pittsylvania County, L.P., which operates it pursuant to a long-

term purchase power contract with DVP; the Generating Facility is presently interconnected to the Company's system at the Company-owned Hurt substation.

A companion application was also filed by DVP on July 21, 2004, and docketed as PUE-2004-00091 ("Chapter 3 Application"). This Application for Expedited Approval of Authority to Assume Debt Securities Under Chapter 3 of Title 56 of the Code of Virginia is a result of the transaction arising out of DVP's application in PUE-2004-00089. DVP filed a supplement to its Chapter 3 Application on July 22, 2004. The Company's Chapter 3 Application seeks the authority for DVP to assume the debt securities related to its acquisition of the Generating Facility.

On August 13, 2004, we issued our Order Establishing Cases and Extending Time for Review, extending the review period for these cases to one hundred twenty (120) days.

On September 8, 2004, we issued our Order for Notice and Comment. On September 24, 2004, DVP filed its proof of publication and also certified that service had been made on the Mayor of the Town of Hurt and the Chairman of the Board of Supervisors of Pittsylvania County.

On November 1, 2004, the Commission Staff filed its Report ("Report"). The Staff, in its Report, examined the six general areas of analysis previously identified by this Commission for review of certification applications under § 56-265.2 A. These six areas are: (1) reliability, (2) competition, (3) rates, (4) environment, (5) economic development, and (6) other public interest.

Applying the six factors identified above, the Staff concluded that the Company's ownership and operation of the Facility: (1) will have no material adverse effect upon the reliability of electric service provided by any regulated public utility; (2) will not have an adverse impact on the goals of furthering economic competition; (3) should have no material adverse base rate or fuel impact; (4) should not result in any adverse change in the Facility's current environmental impact; and (5) will result in little or no effect on the level of local and regional economic activity.

With respect to the public interest aspects of this application (the sixth factor identified above), the Staff Report concluded that the Company's Transfer Petition is consistent with the Restructuring Act and the General Assembly's intent for utilities to reduce costs and to improve efficiency during the transition period of capped rates and wires charges.

The Staff Report also addressed the applicability of the bidding rules that establish minimum criteria for any bidding program designed by any electric utility to purchase capacity or energy from other providers. As noted in the Report, this Commission Order adopting those rules recognized the need for exemptions from them so as not to impede utilities' execution of transactions beneficial to utilities and their customers. The Staff supports a waiver of these rules in this particular case. The rationale Staff offers for its position is that the benefits to be derived from this transaction are specific to the acquisition of the Facility and cannot be accommodated through a competitive bidding process.

Thus, the Staff concluded that with respect to the Company's application for a certificate to operate the Facility, the application satisfies the requirements of § 56-265.2 A, and that DVP's ownership and operation of the Facility is consistent with the public interest<sup>1</sup> and will have no material adverse effect upon the reliability of electric service or just and reasonable rates. Accordingly, the Staff has recommended that the Commission grant the Company's request for a certificate pursuant to § 56-265.2 A.

Related to that recommendation, the Staff has also recommended that the Commission approve the application as satisfying the requirements of the Transfers Act. As noted in the Staff's report, approval is also needed under the Transfers Act for the Company to acquire the Facility. The Facility meets the definition of "utility assets" under the Transfers Act, and, therefore, DVP requires approval under § 56-89 of that act to acquire the Facility.<sup>2</sup>

In support of its recommendation to approve DVP's application under the Transfers Act, the Staff notes in its Report that DVP will record the aggregate assets acquired and liabilities assumed at their estimated fair market values as of the acquisition date. Also, after DVP's purchase of the Facility, the Facility will continue to be used to provide service to DVP's customers. However, such service will not be tied to costs associated with the PPOA. The Company estimates that the elimination of the PPOA will result in approximately \$4 million in average annual savings, on a system basis, during the years beginning mid-2007-2010.

The Staff Report also addressed the potential effect the proposed transaction will have on the valuation and assessment of the Facility for local property tax purposes. The Report stated that (based on feedback the Staff received in Company responses to Staff interrogatories) the Company has not decided whether it will seek an adjustment in the assessed value of the Facility based on its appraised fair market value, which is yet to be determined. Consequently, the Company cannot predict at this time whether the proposed transaction will have any effect on local taxes.

The Staff recommended approval of the proposed acquisition under the Transfers Act because it appears that such acquisition by DVP will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates.

In conjunction with that recommendation, the Staff recommends that DVP book the transaction in accordance with the Uniform System of Accounts for Electric Utilities, Part 101, Electric Plant Instructions 5 and that a report of action be filed with the Commission within 30 days of the transaction taking place. Additionally, the Staff recommends that such report of action include the date of transfer, the price paid by DVP for the Facility, the appraised value as determined by the appraisal commissioned by the Company, and the actual accounting entries reflecting the transaction.

Finally, the Staff Report addressed DVP's Chapter 3 Application in which DVP seeks authority from this Commission to assume the debt securities of Multitrade as part of its proposed purchase of the Facility. The total amount of debt proposed to be assumed is up to \$78.6 million, consisting of five bond issuances issued as part of Multitrade's financing plan for development of the plant.

<sup>1</sup> The statutory standard of review guiding this Commission's certification under § 56-265.2 A is that "the public convenience and necessity require the exercise of such privilege."

<sup>2</sup> The standard by which such Transfers Act applications must be measured is set forth in § 56-90, *i.e.*, that "adequate service to the public at just and reasonable rates will not be impaired or jeopardized."

Currently, the bonds are secured by a lien on, and a security interest in, the Facility and the PPOA along with other documents. According to the Staff Report, the Company is seeking bondholder consents to modify the security interest and restrictive covenants, including the termination of the PPOA, and to provide for the debt service obligations to become direct obligations of the Company.

The Staff notes in its Report, that while the weighted average cost of debt being assumed (7.542%) appears to be reasonable, the rate is higher than what DVP could currently obtain in the capital market on debt issued by the Company with similar terms and conditions.

Nevertheless, the Staff concludes that the assumption of debt is in the public interest and should be approved. The Staff reaches this conclusion because, by purchasing this Facility and canceling the PPOA, DVP's avoided cash flows should more than off-set increased cash flows associated with the higher cost debt. In short, the Staff concludes that the proposed transaction will result in a net positive increase in cash flow for DVP over what would have been the remaining life of the PPOA, absent its cancellation.

On November 2, 2004, DVP, by its counsel sent a letter to the Commission advising that the Company would offer no comments on the Staff Report.

NOW THE COMMISSION, having considered the applications, the Staff's Report concerning both, and the applicable law, is of the opinion and finds as follows:

We conclude that the Company's ownership and operation of the Facility will likely: (1) have no material adverse effect upon the reliability of electric service provided by any regulated public utility; (2) have no adverse impact on the goals of furthering economic competition; (3) have no material adverse base rate or fuel impact; (4) result in no change in the Facility's current environmental impact; and (5) have little or no effect on the level of local and regional economic activity. We further conclude that DVP's proposed acquisition is in the public interest (the sixth factor) since it will likely strengthen the Company financially through the termination of above market capacity payments under the PPOA between Multitrade and the Company.

Underscoring our findings, we would note that the entire output of the Facility is currently under contract to DVP until June 14, 2019, and the Facility is already interconnected to the Company's system at the Hurt Substation. Consequently, we concur with the Staff's conclusions that direct ownership by DVP (i) may actually increase reliability; (ii) should have little, if any, practical impact on the level of Company market power; (iii) is likely to have an immaterial ratepayer impact; (iv) should have little or no effect on the level of local and regional economic activity;<sup>3</sup> and (v) is consistent with the Restructuring Act and the General Assembly's intent for utilities to reduce costs and improve their efficiency during the transition period of capped rates and wires charges.

While we did not require a Department of Environmental Quality review (as would be required if this application had been reviewed under § 56-580 D), we note (as did the Staff) that DVP represents that Multitrade has obtained and maintains all necessary environmental permits for a Facility that has been operational since 1994. Moreover, since there is no anticipated additional construction or new land disturbances, the Company indicated that there are no site or visual disturbances that require resolution.

In sum, we find that the Company's purchase of the Facility will maintain the status quo in that the entire output of the Facility will remain available for use by the Company to serve its customers. Under the Company's direct ownership, the Facility will be available at lower cost to the Company and its customers than under the existing PPOA. Consequently, we conclude that a certificate to acquire and operate this Facility under § 56-265.2 A of the Code of Virginia is in the public interest and should be granted.

We also find, for the reasons stated in the Report, that the Bidding Rules are not applicable to this proceeding.

With respect to review of this application under the Transfers Act, and consistent with our findings under § 56-265.2 A of the Code of Virginia, we find that DVP's proposed acquisition of this Facility will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates. We find, therefore, that the approval requested by DVP under the Transfers Act should be granted.

With respect to the Chapter 3 approvals required in conjunction with this transaction (and separately docketed under Case No. PUE-2004-00091), we find, for the reasons set forth in the Staff Report, that DVP's assumption of debt is in the public interest and should be approved. As set forth in the Staff Report, by purchasing this Facility and canceling the PPOA, DVP's avoided cash flows should more than off-set increased cash flows associated with the higher cost debt. Thus, as the Staff concluded, the proposed transaction should result in a net positive increase in cash flow for DVP over the remaining life of the PPOA.

Finally, we would note that a related issue that we raised in our September 8, 2004, Order, and that may arise in the future concerns the assessment of the value of the Facility property subject to local property tax. The Staff addressed this valuation issue briefly in the Staff Report, but noted that the Company has not decided whether it will seek adjustment in the assessed value of the Facility.<sup>4</sup>

Our approval of the transaction subject of the Applications herein should not be interpreted by the Company or others as an endorsement of the fair market value of the Facility as determined by the Company's appraisers. The Commission will enter its orders of assessment of the value of property for tax year 2004 in the near future. If the Company disagrees with our assessment of the value of Facility property subject to local taxation, it may seek a review and correction of the assessed value of the Facility pursuant to § 58.1-2670 of the Code of Virginia.

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<sup>3</sup> The only exception to this could be an impact on the future assessed value of the Facility related to this transaction and its impact on local property tax liability.

<sup>4</sup> In that vein, however, we will adopt the Staff's recommendation that DVP (i) book its acquisition of the Facility, approved herein, in accordance with the Uniform System of Accounts for Electric Utilities, Part 101, Electric Plant Instructions 5, and (ii) file a report of action with the Commission within 30 days of the transaction taking place. The report of action will include the date of transfer, the price paid by DVP for the Facility, the appraised value as determined by an appraisal commissioned by the Company, and the actual accounting entries reflecting the transaction.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Accordingly, IT IS ORDERED THAT:

- (1) This Commission having found that the public convenience and necessity require the acquisition by DVP of the subject Facility for use in public utility service, the Company is hereby granted a certificate therefor, pursuant to § 56-265.2 A of the Code of Virginia.
- (2) The Commission's Division of Energy Regulation is hereby directed to issue Certificate No. ET-174 to Virginia Electric and Power Company. By this Certificate of Public Convenience and Necessity (No. ET-174), Virginia Electric and Power Company is hereby authorized under § 56-265.2 A of the Code of Virginia to own and operate the subject Facility referenced above and described in its Application, the same being an existing electrical power generation facility located in the town of Hurt in Pittsylvania County, Virginia.
- (3) Pursuant to the Utility Transfers Act, Chapter 5 (§ 56-88, *et seq.*) of Title 56 of the Code of Virginia, the Company is hereby granted the authority to acquire the Facility referenced above and described in its application.
- (4) DVP shall book its acquisition of the Facility, approved herein, in accordance with the Uniform System of Accounts for Electric Utilities, Part 101, Electric Plant Instructions 5 and a report of action shall be filed with the Commission within 30 days of the transaction taking place, subject to administrative extension by the Commission's Directory of Public Utility Accounting, all as recommended in the Staff Report.
- (5) The report of action directed by Ordering Paragraph (4) herein, shall include the date of transfer, the price paid by DVP for the Facility, the appraised value as determined by an appraisal commissioned by the Company, and the actual accounting entries reflecting the transaction.
- (6) DVP's assumption of debt proposed and described in its Chapter 3 Application is hereby approved, as proposed and described in such Application, is approved as well.
- (7) The approvals granted herein shall not be deemed to include any approvals other than those specifically identified herein.
- (8) The approvals granted herein shall have no ratemaking implications for Annual Informational Filings or future rate proceedings.
- (9) There being nothing further to come before the Commission in this proceeding, these cases shall be removed from the dockets herein and the papers transferred to the file for ended causes.

**CASE NO. PUE-2004-00090  
OCTOBER 29, 2004**

APPLICATION OF  
VIRGINIA ELECTRIC AND POWER COMPANY

For approval of acquisition of partnership interests under Chapter 5 of Title 56 of the Code of Virginia, for a certificate to operate generating facilities pursuant to § 56-580 D or § 56-265.2 A of the Code of Virginia, for expedited consideration, and for such other relief as may be necessary

**FINAL ORDER**

On July 21, 2004, Virginia Electric and Power Company ("DVP" or "Company") filed with the State Corporation Commission ("Commission") a Petition and Application ("Application") seeking (i) approval under Chapter 5 (§ 56-88 *et seq.*) of Title 56 of the Code of Virginia (the "Utility Transfers Act") to acquire all partnership interests in Commonwealth Atlantic Limited Partnership ("CALP"), a Virginia limited partnership that owns and operates an electric generating facility located in Chesapeake, Virginia, and (ii) a certificate of public convenience and necessity authorizing the Company to operate the generating facility pursuant to § 56-580 D or § 56-265.2 A of the Code of Virginia ("Virginia Code"). The Application was docketed as Case No. PUE-2004-00090.

The subject of the Application is a 312 MW peaking facility (the "Generating Facility" or "Facility") located in Chesapeake, Virginia. The Facility is currently owned and operated by CALP, and CALP sells capacity and energy from the Facility to DVP pursuant to a Power Purchase and Operating Agreement ("PPOA") which expires in 2017. The Facility is comprised of three identical dual-fuel (natural gas and No. 2 fuel oil) Westinghouse 501D5 combustion turbine units, each with a rating of 129.627 MVA at a 90% power factor. Each unit also includes a circuit breaker, a step-up transformer, an inlet air silencer, and an exhaust stack. The Facility is interconnected to the Company's system at a Company-owned 230kV transmission line within the Company's Elizabeth River Substation adjacent to the Facility.

The Company proposes to acquire the Facility by purchasing all the outstanding partnership interests in CALP from Chickahominy River Energy Corp. ("CREC"), a Virginia corporation that owns a 50.05% interest in CALP, and James River Energy Corp. ("JREC"), a Virginia corporation that owns the remaining 49.95% interest in the partnership. The Company has entered into Partnership Interest Purchase Agreements with CREC and JREC to purchase all outstanding partnership interests in CALP, which will result in the Company owning 100% of CALP and the Generating Facility. Simply stated, under the proposed transaction, DVP will acquire the Generating Facility through its acquisition of the partnership interests in the two companies who, collectively, own 100% of CALP.

According to the Application, DVP intends to coordinate the closing of the two Partnership Interest Purchase Agreements simultaneously. After the transaction is closed, the Company will own all partnership interests in CALP and will be able to cancel the existing PPOA between CALP and DVP, thereby allowing the Company to avoid paying above market costs for capacity. After consummating the transaction, DVP plans to immediately file a certificate of cancellation to terminate CALP's legal existence as a partnership with the Commission and distribute and assign CALP's assets and liabilities to



DVP.<sup>1</sup> According to DVP, if and when the Application is approved and the transaction consummated, the Generating Facility will be owned and operated by DVP as a part of the Company's generation system.

In addition to the transactional approvals sought therein, the Application raised several additional issues for the Commission's consideration and action. First, a Motion for Protective Order was filed on July 21, 2004, concerning transactional data that the Company deems confidential or commercially sensitive. Secondly, the Company requested that the Commission find that the Commission's Rules Governing the Use of Bidding Programs to Purchase Electricity from Other Power Suppliers, 20 VAC 5-301-10, *et seq.*, have no application in the instant matter or, in the alternative, grant the Company a waiver from the bidding rules. Finally, the Company requested that its Application for a certificate of public convenience and necessity be reviewed and issued under § 56-580 D rather than § 56-265.2 A of the Virginia Code.

On August 24, 2004, the Commission entered an Order for Notice and Comment ("August 24 Order") that docketed the Application; directed the Company to provide public notice of its Application; invited interested persons to submit written comments or requests for hearing on the Application; granted interested persons the opportunity to participate as parties in this case by filing notices of participation; allowed interested persons to file responses to the Company's Motion for Protective Order; and directed the Commission Staff to investigate the Application and file a Report containing the Staff's findings and recommendations.

The August 24 Order also held that the Application for a certificate of public convenience and necessity would be considered and evaluated under § 56-265.2 A of the Virginia Code rather than § 56-580 D as requested by the Company. As we have held in proceedings similar to the present Application, we do not find it necessary or appropriate to certificate previously constructed facilities under § 56-580 D of the Virginia Code.<sup>2</sup>

An ancillary issue that was addressed briefly in the August 24 Order concerns the valuation and assessment of the Facility for local tax purposes in connection with the cancellation of the PPOA. The Application does not provide an in-depth discussion of how the acquisition of the Facility will be treated by DVP for accounting purposes, generally, or whether it is contemplated that the value of the Generating Facility will be substantially changed for assessment purposes when the PPOA is cancelled. We noted in our August 24 Order that while paragraph 29 of the Application states that, under DVP's proposed ownership of the plant, the Facility will continue to contribute to the local tax base, the Application does not indicate whether that contribution might be modified as a direct result of DVP's acquisition of the Facility and cancellation of the PPOA.

Finally, with respect to the transactional approvals necessary under the Utility Transfers Act, we noted in our August 24 Order that the sixty-day (60) review period in § 56-88.1 of the Virginia Code does not apply to the proposed transaction because CALP's rates and services are not regulated by the Commission, and thus any transfer of control over CALP to DVP is not subject to approval under § 56-88.1 of the Virginia Code. Instead, we held that the proposed transfer and acquisition of the partnership interests by DVP would be reviewed under § 56-89 of the Virginia Code because DVP would be acquiring a Facility that meets the definition of "utility assets," and because transfers of such assets must be approved under the Utility Transfers Act. Further, while § 56-89 of the Virginia Code does not have a time limit for review, we indicated in our August 24 Order that the Application would be considered and ruled upon in an expeditious manner after appropriate input from the public and Commission Staff.

On September 13, 2004, the Commission entered a Protective Order establishing procedures for the handling and dissemination of confidential information in this proceeding. On September 14, 2004, the Company, by counsel, filed with the Clerk of the Commission proof of the newspaper publication and proof of service required by the August 24 Order For Notice and Comment.

No written comments, notices of participation, or requests for hearing have been filed in this matter. Accordingly, the only participants in this matter are the Applicant and the Commission Staff.

#### **Staff Report**

##### **Certification review under § 56-265.2 A of the Virginia Code**

On October 13, 2004, the Commission Staff filed its Report ("Staff Report" or "Report"). The Staff Report noted that in Case No. PUE-2004-00052, the Commission applied the same six criteria for its review of applications for certificates under § 56-265.2 A as it does for certificates requested under § 56-580 D of the Virginia Code. These six criteria are: (1) reliability, (2) competition, (3) rates, (4) environment, (5) economic development, and (6) other public interest. The Staff further noted that environmental review by the Department of Environmental Quality ("DEQ") is not required in this case because this Application is not being considered under § 56-580 D of the Virginia Code.

Applying the six criteria identified above, the Staff concluded that the Company's ownership and operation of the Facility: (1) will not have any notable adverse reliability impacts on the Company's transmission or distribution systems, or on like systems of neighboring regulated utilities; (2) will not have any immediate or material adverse impact on the goals of furthering economic competition; (3) will not materially impact base rates, but will produce a very small and slightly positive impact on fuel expense; (4) will result in no change in the Facility's current environmental impact; and (5) will result in little or no effect on the level of local and regional economic activity.

<sup>1</sup> According to the Application, DVP intends to pay off the bank debt owed by CALP at the time of closing. Accordingly, DVP's agreement to assume and pay off CALP's outstanding bank loans or other liabilities does not appear to require Commission approval under Chapter 3, Title 56 of the Code of Virginia, as the transaction is presently structured.

<sup>2</sup> See *Joint Petition and Application of Virginia Electric and Power Company, UAE Mecklenburg Cogeneration L.P., and United American Energy Corp., For approval or disposition and acquisition of stock under Chapter 5 of Title 56 of the Code of Virginia, for a certificate to operate generating facilities pursuant to Virginia Code § 56-580 D, for expedited consideration, and for such other relief as may be necessary*, Case No. PUE-2004-00052, SCC Doc. No. 344588, (Final Order, August 13, 2004); *Application of Virginia Electric and Power Company, For approval and acquisition of generating facility assets under Chapter 5 of Title 56 of the Code of Virginia and for a certificate to operate generating facilities pursuant to Virginia Code § 56-580 D or § 56-265.2 A*, Case No. PUE-2004-00089, SCC Doc. No. 345572 (Order for Notice and Comment, September 8, 2004).

With respect to the public interest aspects of the Application (the sixth criteria identified above), the Staff Report states as follows:

[t]he Company's proposal will strengthen the Company financially through the termination of above market capacity payments under the PPOA [between CALP and the Company]. The Staff believes the Company's proposal is consistent with the Restructuring Act and the General Assembly's intent for utilities to reduce cost and improve their efficiency during the transition period of capped rates and wires charges.

The Staff Report also addressed the applicability of the bidding rules that establish minimum criteria for any bidding program designed by an electric utility to purchase capacity or energy from other providers. As noted in the Staff Report, the Commission Order adopting those rules recognized the need for exemptions from them so as not to impede utilities' execution of transactions beneficial to utilities and their customers. The Staff supports a waiver of those rules in this particular case. The rationale Staff offers for its position is that the benefits to be derived from this transaction are specific to the acquisition of the Facility and cannot be accommodated through a competitive bidding program.

Thus, the Staff concluded that with respect to the Company's Application for a certificate to operate the Facility, the Application satisfies the requirements of § 56-265.2 A of the Virginia Code, and that DVP's ownership and operation of the Facility is consistent with the public interest<sup>3</sup> and will have no material adverse effect upon the reliability of electric service at just and reasonable rates. Accordingly, the Staff recommended that the Commission grant the Company's request for a certificate pursuant to § 56-265.2 A of the Virginia Code.

#### **DVP's Utility Transfers Act Application**

Related to the Staff's recommendation to grant DVP a certificate to acquire and operate the Facility, the Staff also recommended that the Commission approve the Application as satisfying the requirements of the Utility Transfers Act. As noted in the Staff Report, approval is also needed under the Utility Transfers Act for the Company to acquire the Facility. The Staff notes that while CALP is not considered a public utility subject to § 56-88.1 of the Virginia Code (and therefore this entity does not require this Commission's approval under the Utility Transfers Act to dispose of utility assets or transfer ownership in them in the manner proposed herein), the Facility meets the definition of "utility assets" under the Utility Transfers Act and, therefore, DVP requires approval under § 56-89 of that Act to acquire the Facility.<sup>4</sup>

In support of its recommendation to approve DVP's Application under the Utility Transfers Act, the Staff notes that the purchase price of the Facility is comparable to the price that the Facility would bring if purchased by a third party in the marketplace. When CREC executed a Partnership Interest and Purchase Agreement with a third party to sell its partnership interests in CALP, the Company exercised its right of first refusal under the PPOA and agreed to purchase the partnership interests under substantially the same terms and conditions as the third party. Thereafter, DVP and JREC entered into a Partnership Interest and Purchase Agreement wherein JREC agreed to sell its interest in the Facility on terms and conditions substantially equivalent to those in the agreement between DVP and CREC. Accordingly, the purchase price of the Facility appears to be comparable to the price the Facility would bring in the marketplace if sold to a third party unrelated to DVP.

Additionally, DVP will record the aggregate assets acquired and liabilities assumed at their estimated fair market values as of the acquisition date. Finally, after the transaction is consummated, the Facility will continue to be used to provide service to DVP's customers. However, such service will not be tied to the costs associated with the PPOA. The Company estimates that the elimination of the PPOA will result in approximately \$470,000 in average annual fuel factor savings, on a system basis, during the years 2007-2010.

The Staff Report also addresses the potential effect the proposed transaction will have on the valuation and assessment of the Facility for local property tax purposes. The Report stated that (based on feedback the Staff received in Company responses to Staff interrogatories) the Company has not decided whether it will seek an adjustment in the assessed value of the Facility based on its appraised fair market value, which is yet to be determined. Consequently, the Company cannot predict at this time whether the proposed transaction will have any effect on local taxes.

The Staff concluded its Report by recommending approval of the proposed acquisition under the Utility Transfers Act because it appears that such acquisition by DVP will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates.

In conjunction with that recommendation, the Staff recommends that DVP book the transaction in accordance with the Uniform System of Accounts for Electric Utilities, Part 101, Electric Plant Instructions 5 and that a report of action be filed within thirty (30) days of the transaction taking place. Additionally, the Staff recommends that such report of action include the date of the transfer, the price paid by DVP for the Facility, the appraised value as determined by the appraisal commissioned by the Company, and the actual accounting entries reflecting the transaction.

On October 13, 2004, the Company filed a letter stating that the Company had reviewed the Staff Report and would not be filing any comments to the Staff Report. In light of the Staff Report recommending approval of the Application and the absence of any opposition to the Application by other interested persons, the Company requested expedited consideration and approval of its Application.

NOW THE COMMISSION, having considered the Application, the Staff Report, and the applicable law, is of the opinion and finds that the proposed transaction should be approved under the Utility Transfers Act and that a certificate of public convenience and necessity should be issued to the Company authorizing it to operate the Facility.

First of all, we will accept the Staff's suggestion that, while we conduct our certification review under § 56-265.2 A of the Virginia Code, we nevertheless take into consideration the six criteria we have previously identified for use in our analysis of projects falling under § 56-580 D of the Virginia Code. We have used these six criteria to consider similar applications seeking authority to acquire utility assets<sup>5</sup>, and we find it appropriate to evaluate the

<sup>3</sup> The statutory standard of review guiding this Commission's certification under § 56-265.2 A is that "the public convenience and necessity require the exercise of such privilege."

<sup>4</sup> The standard by which such Utility Transfers Act applications must be evaluated is set forth in § 56-90; *i.e.*, that "adequate service to the public at just and reasonable rates will not be impaired or jeopardized."

<sup>5</sup> Case No. PUE-2004-00052, *supra.*, (Final Order, August 13, 2004).

current Application using the same criteria. These criteria will be helpful to us as we consider whether the public convenience and necessity require this Commission's issuance of a certificate to DVP pursuant to § 56-265.2 A of the Virginia Code, in conjunction with the Company's proposed acquisition of utility assets for use in public utility service.

We conclude that the Company's ownership and operation of the Facility will likely: (1) have no material adverse effect upon the reliability of electric service provided by any regulated public utility; (2) have no adverse impact on the goals of furthering economic competition; (3) have no material adverse base rate or fuel impact; (4) result in no change in the Facility's current environmental impact; and (5) have little or no effect on the level of local and regional economic activity. We further conclude that DVP's proposed acquisition is in the public interest (the sixth criteria) since it will likely strengthen the Company financially through the termination of above market capacity payments under the PPOA between CALP and the Company.

Underscoring our findings, we would note that a significant amount of the output of the Facility is currently under contract to DVP through the year 2017, and the Facility is already interconnected to the Company's system at the Elizabeth River Substation. Consequently, we concur with the Staff's conclusions that direct ownership by DVP: (i) may actually increase reliability; (ii) should have little, if any, practical impact on the level of Company market power for the foreseeable future; (iii) is likely to have an immaterial ratepayer impact; (iv) should have little or no effect on the level of local and regional economic activity;<sup>6</sup> and (v) is consistent with the Restructuring Act and the General Assembly's intent for utilities to reduce costs and improve their efficiency during the transition period of capped rates and wires charges.

While we did not require a DEQ environmental review (as would be required if this Application had been reviewed under § 56-580 D of the Virginia Code), we note that DVP represents that CALP has obtained and maintains all necessary environmental permits for the Facility since it commenced commercial operations in 1992. Moreover, since there is no anticipated additional construction or new land disturbances, the Staff indicated that there are no site or visual disturbances that require resolution.

In sum, we find that the Company's acquisition of the Facility will maintain the status quo in that the output of the Facility will remain available for use by the Company to serve its customers. Under the Company's direct ownership, the Facility will be available at a lower cost to the Company and its customers than under the existing PPOA. Consequently, we conclude that a certificate to acquire and operate the Facility under § 56-265.2 A of the Virginia Code is in the public interest and should be granted.

We also find, for the reasons stated in the Staff Report, that the bidding rules are not applicable to this proceeding.

With respect to our review of this Application under the Utility Transfers Act, and consistent with our findings under § 56-265.2 A of the Virginia Code, we find that DVP's proposed acquisition of the Facility will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates. Accordingly, we find that the approval requested by DVP to acquire the Facility under the Utility Transfers Act should be granted.

Finally, we would note that a related issue raised in our August 24 Order, and that may arise in the future, concerns the assessment of the value of the Facility property subject to local property tax. The Staff addressed this valuation issue briefly in the Staff Report, but noted that the Company has not decided whether it will seek adjustment in the assessed value of the Facility.<sup>7</sup>

Our approval of the transaction that is the subject of the Application herein should not be interpreted by the Company or others as an endorsement of the fair market value of the Facility as determined by the Company's appraisers. The Commission will continue to issue its orders of assessment on the value of real and personal property of public service corporations as required by Chapter 26 of Title 58.1 of the Virginia Code. If the Company disagrees with our assessment of the value of the Facility subject to local taxation, it may seek a review and correction of the assessed value of the Facility pursuant to § 58.1-2670 of the Virginia Code.

Accordingly, IT IS ORDERED THAT:

(1) This Commission having found that the public convenience and necessity require the acquisition by DVP of the subject Facility for use in public utility service, the Company is hereby granted a certificate of public convenience and necessity to acquire and operate the Facility, pursuant to § 56-265.2 A of the Virginia Code.

(2) The Commission's Division of Energy Regulation is hereby directed to issue Certificate No. ET-173 to Virginia Electric and Power Company. By this Certificate of Public Convenience and Necessity (No. ET -173), Virginia Electric and Power Company is hereby authorized under § 56-265.2 A of the Virginia Code to own and operate the subject Facility referenced above and described in its Application, the same being an existing electrical power generation facility located in Chesapeake, Virginia.

(3) Pursuant to the Utility Transfers Act, Chapter 5 (§ 56-88, *et seq.*) of Title 56 of the Virginia Code, the Company is hereby granted authority to acquire the Facility referenced above and described in its Application.

(4) DVP shall book its acquisition of the Facility, approved herein, in accordance with the Uniform System of Accounts for Electric Utilities, Part 101, Electric Plant Instructions 5, and a report of action shall be filed with the Commission within thirty (30) days of the transaction taking place, all as recommended in the Staff Report, subject to administrative extension by the Commission's Director of Public Utility Accounting.

(5) The approvals granted herein shall not be deemed to include any approvals other than the acquisition of the Facility and a certificate granted to DVP to acquire and operate the Facility.

<sup>6</sup> The only exception to this could be an impact on the future assessed value of the Facility related to this transaction and its impact on local property tax liability.

<sup>7</sup> In that vein, however, we will adopt the Staff's recommendations that DVP (i) book its acquisition of the Facility, approved herein, in accordance with the Uniform System of Accounts for Electric Utilities, Part 101, Electric Plant Instructions 5, and (ii) file a report of action with the Commission within thirty (30) days of the transaction taking place. The report of action will include the date of transfer, the price paid by DVP for the Facility, the appraised value as determined by an appraisal commissioned by the Company, and the actual accounting entries reflecting the transaction.

(6) The approval granted herein shall have no ratemaking implications.

(7) The report of action directed by Ordering Paragraph (4) above shall include the date of transfer, the price paid by DVP for the Facility, the appraised value as determined by an appraisal commissioned by the Company, and the actual accounting entries reflecting the transaction.

(8) There being nothing further to come before the Commission in this proceeding, this case shall be removed from the docket of active proceedings and the papers herein transferred to the file for ended causes.

**CASE NO. PUE-2004-00092  
AUGUST 13, 2004**

APPLICATION OF  
ATMOS ENERGY CORPORATION

For authority to issue long-term debt and common stock

**ORDER GRANTING AUTHORITY**

On July 23, 2004, Atmos Energy Corporation ("Atmos" or "the Company") filed with the State Corporation Commission ("Commission") an application for authority to issue up to \$2.2 billion in long-term debt and/or common stock pursuant to Chapter 3 of Title 56 of the Code of Virginia ("Code"). Applicant has paid the requisite fee of \$250.

The \$2.2 billion in securities will be issued pursuant to a Universal Shelf Registration to be filed with the Securities and Exchange Commission for debt securities and common stock. The Universal Shelf Registration will allow Atmos to offer, from time to time, debt securities and shares of common stock, without par value, at prices and terms to be determined at the time of sale. The securities may be issued in one or more series of issuances. The securities may be sold to or through underwriters, dealers or agents, or directly to one or more purchasers. The proceeds will be used primarily to permanently fund Atmos' acquisition of TXU Gas Company ("TXU").<sup>1</sup> Any remaining proceeds will be used to refund short-term and long-term debt obligations, for the acquisition or construction of additional properties, as well as improvements in the Company's existing utility plant, and for other general corporate purposes.

In its application, Atmos represents that it currently can not state how the \$2.2 billion in securities will be divided between debt and equity financing, but notes that its goal is to keep its debt capitalization ratio within a range of 50-60% with a reduction to 50-55% within five years. Atmos further states that it does not plan to implement the Universal Shelf Registration in a manner that would materially change such target ranges. According to the Company, the Universal Shelf Registration will allow Atmos to arrange expeditiously for permanent financing for the TXU acquisition and will afford it flexibility to respond to favorable market conditions. As such, approval of the application will be beneficial to Atmos and its customers. Atmos argues that the TXU acquisition will result in improved operating efficiencies and enhanced financial strength to Atmos, which will inure to the benefit of Virginia customers.

NOW THE COMMISSION, upon consideration of the matter, is of the opinion and finds that approval of the application will not be detrimental to the public interest. In our Order Granting Authority in Case No. PUE-2004-00075, we conditioned our approval of the Company's request to issue short-term debt to be used to finance the TXU acquisition on an interim basis. The conditions, agreed to by our Staff and Atmos, reasonably insulate the Company's Virginia ratepayers from any potential harmful impacts that may result from the Company's acquisition of TXU. We believe those condition should also be placed on our approval in this application. Additionally we believe it is appropriate to place a time limit on the authority granted in this docket.

ACCORDINGLY, IT IS ORDERED THAT:

1) Atmos is authorized to issue up to \$2.2 billion in any combination of long-term debt and common stock though December 31, 2006, under the terms and conditions and for the purposes as stated in the application.

2) For all ratemaking purposes in any proceeding in which an historic test year ends prior to January 1, 2007, Atmos shall use the capital structure component weightings as they actually exist as of June 30, 2004, a date that precedes any effect on Atmos' capital structure as a result of its acquisition of TXU Gas Company.

3) The cost of short-term and long-term debt to be utilized for ratemaking purposes in any proceeding in which an historic test year is utilized that ends prior to January 1, 2007 shall be the lesser of the actual average interest rate of short-term and long-term debt, respectively, in that test year or the 13-month actual average interest rate of short-term or long-term debt in the test year ended June 30, 2004.

4) The return on equity to be utilized for ratemaking purposes in a proceeding in which an historic test year is utilized that ends prior to January 1, 2007 shall include the financial risk and component weighting based on the capital structure used in that proceeding pursuant to the conditions approved herein and any increased debt leverage in Atmos' actual capital structure for that test year shall not be considered in determining such return allowed on common equity.

<sup>1</sup> By order dated August 6, 2004, in Case No. PUE-2004-00075, the Commission authorized Atmos to increase its existing short-term debt limit by \$1.925 billion, to \$2.318 billion. The \$1.925 billion in incremental short-term debt was to be used to initially fund Atmos' acquisition of TXU. The purchase is expected to close in the fourth quarter of 2004, and the purchase price is \$1.925 billion in cash.

5) The Company will take all necessary steps to ensure that its acquisition of TXU Gas will not have any negative effects on the Company's Virginia customers' rates or service or the costs allocated to Virginia. Any increases in allocated costs to Virginia after the acquisition of TXU shall be fully explained in subsequent Annual Informational Filings or other rate proceedings.

6) The authority granted herein shall have no ratemaking implications for ratemaking purposes except as set forth in Ordering Paragraphs 2 through 5 herein.

7) Within thirty (45) days of the date of each issuance of any securities issued pursuant to the authority granted herein, the Company shall a Report of Action which shall include, as appropriate, the type(s) of securities issued, the date(s) issued, the amount of the issuance, the applicable interest rate, the maturity date, sales price, shares issued, net proceeds to the Company, an itemized list of actual expenses to date associated with the securities issuances, an explanation as to what the proceeds were used for, and a balance sheet reflecting the actions taken. Such report shall also include a cost-benefit analysis for any securities issued for the purpose of refunding outstanding securities prior to maturity.

8) This matter shall remain open for the continued review, audit, and any further appropriate directive of the Commission.

**CASE NO. PUE-2004-00093  
OCTOBER 18, 2004**

JOINT APPLICATION OF  
DALE SERVICE CORPORATION,  
and  
INTERSTATE MANAGEMENT, INC., FOR AND ON BEHALF OF  
THE TRUSTEES OF THE IRENE V. HYLTON CHARITABLE LEAD TRUST

For approval of a lease agreement pursuant to Chapter 4 of Title 56 of the Code of Virginia

**ORDER GRANTING APPROVAL**

On July 23, 2004, Dale Service Corporation ("Dale Service") and Interstate Management, Inc. ("Interstate"), which is acting as agent for and on behalf of the trustees of the Irene V. Hylton Charitable Lead Trust (the "Hylton Trust") (collectively the "Applicants"), filed an application (the "Application") with the State Corporation Commission (the "Commission") requesting approval of a lease agreement (the "Lease Agreement") pursuant to Chapter 4 of the Title 56 (the "Affiliates Act") of the Code of Virginia (the "Code").

Dale Service is a Class A Virginia public service corporation that provides wastewater treatment services to approximately 18,500 customers in Dale City and Prince William County, Virginia. Incorporated in 1965, Dale Service is a Class C corporation for tax purposes with 30 employees. Dale Service was initially owned by Cecil D. Hylton. Upon his demise in 1989, the stock passed to his estate. In 1992, the executors of Mr. Hylton's estate transferred Dale Service's stock to the Cecil D. Hylton Marital Trust for the benefit of Irene V. Hylton. Upon Mrs. Hylton's demise in 1996, Dale Service's stock was transferred to the Second Children's Charitable Trust, which exists for the benefit of Cecil D. Hylton's children and is managed and administered by Conrad C. Hylton, George A. Halfpup, and Malcom W. Cook.

Interstate, which is located at 5533 Mapledale Plaza (the "Mapledale Plaza") in Dale City, Virginia, manages shopping centers owned by the Hylton Trust. Interstate was incorporated in 1996 and is a Subchapter S corporation. Interstate is owned by Conrad C. Hylton, Cecilia Hylton, and Cecil D. Hylton, Jr.

The Hylton Trust, which is located at 5533 Mapledale Plaza in Dale City, Virginia, owns the shopping centers that are managed by Interstate. The Hylton Trust is a charitable trust that was established in 1996 upon the demise of Irene V. Hylton. The beneficiaries of the Hylton Trust are Conrad C. Hylton, Cecilia Hylton, and Cecil D. Hylton, Jr.

Since Dale Service, Interstate, and the Hylton Trust share common ownership, the Applicants are considered affiliated interests under § 56-76 of the Code. As such, any contract or arrangement between the Applicants to provide or receive services must be approved by the Commission pursuant to the Affiliates Act prior to the Applicants entering into such contract or arrangement.

Dale Service and Interstate, which is acting as agent on behalf of the Hylton Trust, are requesting approval of the Lease Agreement whereby Dale Service will lease 2,431 square feet ("SF") of space (the "Premises") located at 5609 Mapledale Plaza, Woodbridge, Virginia, from the Hylton Trust.

The purpose of the Lease Agreement is to allow Dale Service to relocate and expand its corporate headquarters, which is currently located at 5565 Mapledale Plaza within the same shopping center as the Premises. The Premises will have more than twice as much room as Dale Service's current location (2,431 SF versus 1,000 SF). The Lease Agreement states that the Premises will be used solely for the purpose of operating an office to service the customers of Dale Service. Specifically, the Applicants represent that the Premises will be used as a customer service center and storage area for all company and customer-related files.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The proposed base rent payments, which are to be paid in advance on the first day of each month, are shown below.

<u>Lease Year</u>	<u>Base Rent</u>	<u>Monthly Payment</u>	<u>Annual Payment</u>
Year 1	\$12.00 PSF	\$2,431.00	\$29,172.00
Year 2	\$13.00 PSF	\$2,633.58	\$31,602.96
Year 3	\$14.00 PSF	\$2,836.17	\$34,034.04
Year 4	\$15.00 PSF	\$3,038.75	\$36,465.00
Year 5	\$16.00 PSF	\$3,241.33	\$38,895.96

PSF =per square foot

Dale Service will also pay a pro rata share (1.5% based on square footage) of the taxes on the New Office as additional rent. The additional rent, which is to be paid monthly to an escrow account, is \$1.05 PSF or \$2,552.55 per year.

Dale Service will also be directly responsible for all utility charges incurred while using the leased space. All accounts for utility service will be established in its name. Dale Service will pay a pro rata share of the trash/dumpster service provided to the Plaza by the Hylton Trust, which will include a 10% administrative fee.

Dale Service will also pay a proportionate share of the Plaza's Common Area costs, which include any and all expenditures incurred to operate and maintain the Common Area, including the cost of all service contracts and consultant's fees; gardening and landscaping; repairs; preventive maintenance; repainting (including restriping of parking lot and accessways); equipment rentals; lighting, lighting repair and maintenance; snow and ice removal; removal and disposal of trash, rubbish, garbage and other refuse; repair and/or replacement of asphalt and concrete; on-site sewer and water lines; electrical lines, telephone lines, and various types of equipment servicing the property; police and security as deemed appropriate by the Hylton Trust; traffic control and all costs associated with compensation and benefits paid to personnel to implement, supervise and accomplish the foregoing, including an administrative charge equal to 17% of the total of such Common Area costs. The additional rent, which is based on Dale Service's 1.5% share of the Plaza's square footage, will be \$1.35 PSF or \$3,281.88 for year one of the Lease Agreement. Should Dale Service's pro-rata share of Common Area costs increase during the term of the Lease Agreement, the Hylton Trust will recalculate Dale Service's common area rental charge and send notice to Dale Service of the increase on or before February 1 of each calendar year.

Dale Service will also pay a pro rata share of the Hylton Trust's cost of insuring all of the buildings in the Plaza. The additional rent, which is based on Dale Service's 1.5% share of the Plaza's square footage, will be combined with Dale Service's taxes and paid monthly to an escrow account.

Dale Service will also pay any incremental increases in fire insurance premiums that the Hylton Trust incurs as a result of merchandise sold by Dale Service on the Premises.

Should Dale Service fail to pay its base rent by the tenth day of the month, it will be assessed a late rental charge equal to 10% of the unpaid balance. Should Dale Service fail to make other Lease Agreement payments due to the Hylton Trust, including but not limited to real estate tax and insurance, Dale Service will be assessed a 10% service charge on the unpaid balance.

The lease will commence on the date the Lease Agreement has been signed by two duly authorized representatives of the Hylton Trust and will expire five full years after the commencement date. There is no provision for renewal of the Lease Agreement.

The Applicants represent that the terms and conditions of the Lease Agreement are substantially similar to the prior agreements approved by the Commission in Case Nos. PUA-1995-00019 and PUA-2000-00031.

NOW THE COMMISSION, upon consideration of the Application and other representations of the Applicants and having been advised by its Staff, is of the opinion and finds that, subject to certain conditions, the Lease Agreement is in the public interest and should be approved pursuant to the Affiliates Act.

The Applicants represent that the Lease Agreement offers both tangible and intangible benefits to Dale Service and its customers. In general, we agree with the Applicants' representations. The Premises provides Dale Service with additional space to consolidate its customer records while maintaining a known and convenient location for its customers. Also, the Premises has a lower rate per square foot than Dale Service's prior location, and the Premises' first year rental rate appears to satisfy the Commission's policy of requiring regulated utilities to pay the lower of cost or market when obtaining services from an unregulated affiliate.<sup>1</sup>

However, the Lease Agreement contains annual rent escalators that culminate in a base rent payment in year five that exceeds the year one payment by 33%. We find that it is premature to determine how the escalating rent payments will compare to the Premises' cost and market rates in the future. Further, we find that this is not the appropriate proceeding to make such a determination. Rather, the determination of whether the future rent payments continue to be at the lower of cost or market should be considered in proceedings, such as annual informational filings or rate cases, which specifically address the reasonableness of Dale Service's cost of service.

Therefore, while we approve the proposed Lease Agreement, the reasonableness of the escalating rent payments should be addressed in future annual informational filings or rate proceedings. We will require Dale Service to maintain certain data to allow for an assessment of the reasonableness of the future rent payments. Specifically, Dale Service should develop and maintain records that support an annual calculation of the Hylton Trust's fully distributed cost of owning and leasing the Premises to Dale Service and a schedule of updated comparable rental rates such as provided in Attachment B, Exhibit 1 to the Application, which should list comparable properties by property name, square footage available, the base rent rate, and any additional rates that are charged. Such records should be included in Dale Service's future annual informational filings and rate case applications. Dale Service should bear the burden of proving, in any annual informational filing or rate proceeding, that it paid the lower of cost or market under the Lease Agreement.

<sup>1</sup> *Application of GTE South Incorporated, For revisions to its local exchange, access and intraLATA long distance rates*, 1997 S.C.C. Ann. Rep. 218, aff'd sub. Nom. *GTE South Incorporated v. AT&T*, 259 Va. 338 (2000).

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to § 56-77 of the Code of Virginia, Dale Service Corporation is hereby granted approval to enter into the above-referenced Lease Agreement with Interstate Management, Inc., acting as agent for and on behalf of the trustees of the Irene V. Hylton Charitable Lead Trust, consistent with the findings above.
- 2) The approval granted herein is limited to five years from the date of the execution of the Lease Agreement.
- 3) Dale Service shall develop and maintain records to demonstrate that the Lease Agreement with Interstate and the Hylton Trust remains cost beneficial to Virginia ratepayers through the term of the Lease Agreement. Such records shall support an annual calculation of the Hylton Trust's fully distributed cost of owning and leasing the Premises to Dale Service and a schedule of updated comparable rental rates such as provided in Attachment B, Exhibit 1 to the Application, which shall list comparable properties by property name, square footage available, the base rent rate, and any additional rates that are charged. Such records shall be included in Dale Service's future annual informational filings and rate case applications filed with the Commission.
- 4) Dale Service 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 Lease Agreement.
- 5) Commission approval shall be required for any changes in the terms and conditions of the Lease Agreement approved herein, including any 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 of Virginia hereafter.
- 7) The approval granted herein shall not be deemed to include any approvals other than for the specific Lease Agreement approved herein.
- 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) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUE-2004-00094  
OCTOBER 22, 2004**

APPLICATION OF  
COLUMBIA GAS OF VIRGINIA, INC.

For approval of a Schedule ITS-2 Service Agreement pursuant to Chapter 4 of Title 56 of the Code of Virginia

**ORDER GRANTING APPROVAL**

On July 27, 2004, Columbia Gas of Virginia, Inc. ("CGV" or the "Applicant"), filed an application with the State Corporation Commission (the "Commission") under Chapter 4 of Title 56 (the "Affiliates Act") of the Code of Virginia (the "Code") requesting approval of an interruptible transportation service agreement (the New ITS-2 Agreement") with Columbia Gulf Transmission Corporation ("Columbia Gulf").

CGV is a natural gas distribution company serving approximately 21 5,000 customers in central Virginia, southside Virginia, Piedmont Virginia, and most of the Shenandoah Valley, as well as portions of Northern and Southwest Virginia. CGV is a wholly owned subsidiary of the Columbia Energy Group, which is a wholly owned subsidiary of NiSource, Inc. ("NiSource").

Columbia Gulf, a Delaware corporation, is an interstate natural gas pipeline company that gathers natural gas produced from multiple Gulf Coast sites and transports it from Rayne, Louisiana ("Rayne"), to Ceredo-Kenova, West Virginia, via three pipelines that transport up to 2 billion cubic feet ("BCF") of natural gas per day. Columbia Gulf's services and operations, including its rates and charges, are regulated by the Federal Energy Regulatory Commission ("FERC"). Columbia Gulf is a wholly owned subsidiary of the Columbia Energy Group.

NiSource is an energy holding company whose subsidiaries provide natural gas, electricity, and other products and services to approximately 3.7 million customers located within a corridor that runs from the Gulf Coast through the Midwest to New England. Effective November 1, 2001, NiSource became a registered holding company under the Public Utility Holding Company Act of 1935. For the fiscal year ending 2003, NiSource reported gross revenues of \$6.25 billion, total assets of \$16.6 billion, and 8,614 employees.

Since CGV and Columbia Gulf share the same senior parent company, NiSource, the companies are considered affiliated interests under § 56-76 of the Code. As such, any contract or arrangement between the companies to provide or receive services must be approved by the Commission pursuant to the Affiliates Act.

The New ITS-2 Agreement has already been executed pursuant to the Commission's July 18, 1996, Order in Case No. PUA-1995-00025 (the "Gas Supply Order") wherein the Commission approved CGV's Policy for Executing Revised or New Transportation Agreements with Affiliates (the "Gas Supply Policy"). The Gas Supply Policy allows CGV to enter into gas supply-related agreements with Columbia Transmission and Columbia Gulf before obtaining Commission approval with the understanding that the proper specifics of the agreements will be provided to the Commission at a later date. In its April 13, 2004, Order in Case No. PUE-2004-00013, the Commission modified the Gas Supply Order to require CGV to provide notice to the Commission as soon as a gas supply-related agreement related to the Gas Supply Policy becomes binding, and to file for Chapter 4 approval of the agreement within 45 days after its execution. CGV fulfilled both requirements in this case.

Under the New ITS-2 Agreement, also known as Service Agreement No. 79085, CGV has contracted with Columbia Gulf to obtain up to 40,000 dekatherms ("Dths") of interruptible transportation service (the "ITS-2 Service") on the portion of the Columbia Gulf system described as the "Lateral System." The New ITS-2 Agreement replaces Service Agreement No. 39009 (the "Old ITS-2 Agreement"), which the Commission previously approved in the Gas Supply Order.

The New ITS-2 Agreement was executed on June 15, 2004, and commenced on July 1, 2004, and continues in full force and effect from month-to-month thereafter unless terminated by either party upon 30 days written notice to the other prior to the end of the initial term granted or any anniversary date thereafter. CGV and Columbia Gulf agree to avail themselves of the FERC's pre-granted abandonment authority upon termination of the New ITS-2 Agreement, subject to any right of first refusal CGV may have under the FERC's Regulations and Columbia Gulfs Tariff.

Under the New ITS-2 Agreement, CGV agrees to pay a rate, including the base rate and an annual charge adjustment, of between \$0.0038 and \$0.0387 per dekatherm as listed in Columbia Gulfs FERC Gas Tariff issued July 1, 2004, and effective August 1, 2004. Columbia Gulf may agree to discount its rate to CGV below the maximum rate, but not less than the minimum rate. The discounted rate may apply to: (a) specified contract demand or commodity quantities; (b) specified quantities above or below a certain level or all quantities if quantities exceed a certain level; (c) quantities during specified time periods; (d) quantities at specified points, locations, or other defined geographical areas that a specified discount rate will apply in a specified relationship to the quantities actually transported; and (e) production and/or reserves committed by Columbia Gulf.

The Applicant represents that the sole purpose for replacing the Old ITS-2 Agreement with the New ITS-2 Agreement is to bring the New ITS-2 Agreement under the provisions of Subpart G of 18 Code of Federal Regulations ("CFR") Part 284 (§§ 284.221 *et seq.*) of the FERC's regulations rather than Subpart B of 18 CFR Part 284 (§§ 284.101 *et seq.*). Subpart B Service can be limited to certain physical points constructed using Natural Gas Policy Act ("NGPA") Section 311 authorization, and CGV under a Subpart B contract has to certify that it is transporting "on behalf of" certain entities, pursuant to 18 CFR Section 284.102. However, CGV is not aware of any facilities constructed for service to CGV that are under NGPA Section 311. Therefore, CGV is seeking the Subpart G service, which is not subject to any restriction. The Applicant represents that Subpart G service has become the standard for CGV and the industry, and that the replacement of the Old ITS-2 Agreement with the New ITS-2 Agreement is essentially administrative "clean up" work.

The Applicant represents that the primary purpose of the ITS-2 Service is to provide CGV with the flexibility to purchase gas upstream of CGV's 55,830 Dth firm transportation service agreement (the "FTS-1 Agreement") with Columbia Gulf. The FTS-1 Agreement, through its link to Columbia Gas Transmission ("TCO"), serves as one of CGV's most important sources of gas supply, serving CGV firm customer demand at 74 points of delivery.

CGV obtains a portion of its total gas supply from Columbia Gulfs production area in the Gulf of Mexico. Part of CGV's Columbia Gulf purchases take place on the lateral system, which is the network of pipelines south of Rayne that gather gas from the Gulf Coast production areas. The lateral system has multiple gas purchase locations including the onshore pool, which is the primary liquid trading point from Columbia Gulfs production area in the Gulf. CGV's other Columbia Gulf purchases take place at Rayne, which is where the lateral system meets Columbia Gulf's interstate pipeline system. CGV has firm transportation capacity contracts with Columbia Gulf to transport gas from Rayne to Leach, Kentucky, and with TCO to transport gas from Leach, Kentucky, to CGV's system.

The Applicant represents that the ITS-2 Service provides CGV with the flexibility to purchase gas either on the lateral system or at Rayne, which greatly enhances CGV's ability to find liquid points of trade from which to obtain a better overall price. Without the ITS-2 Service capacity, CGV would be forced to purchase all of its Columbia Gulf sourced supply at the single mainline point of Rayne.

CGV represents that the only realistic alternative for transporting gas to CGV's primary receipt point at Rayne is firm transportation service on Columbia Gulf pursuant to Rate Schedule FTS-2 ("FTS-2 Service"). However, FTS-2 Service includes both firm and commodity charges while the ITS-2 Service has only a commodity charge. CGV represents that it only employs the ITS-2 service when it is the least cost alternative. To date, CGV has found the ITS-2 Service to be very reliable.

NOW THE COMMISSION, upon consideration of the application and representations of the Applicant and having been advised by its Staff, is of the opinion and finds that the New ITS-2 Agreement is in the public interest and should be approved.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to § 56-77 of the Code of Virginia, Columbia Gas of Virginia, Inc., is hereby granted approval to enter into the above-referenced interruptible transportation service agreement, or the New ITS-2 Agreement, with Columbia Gulf Transmission Corporation as described herein.
- 2) Commission approval shall be required for any changes in the terms and conditions of the New ITS-2 Agreement approved herein, including any successors or assigns.
- 3) 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.
- 4) The approval granted herein shall not be deemed to include any approvals other than for the transactions contained in the New ITS-2 Agreement approved herein.
- 5) The approval granted herein shall have no ratemaking implications for annual informational filings or future rate proceedings.
- 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) CGV shall include the transactions covered under the New ITS-2 Agreement approved herein in its Annual Report of Affiliate Transactions submitted to the Commission's Director of Public Utility Accounting on or before May 1 of each year, which deadline may be extended administratively by the Director of Public Utility Accounting.



8) If Annual Informational and/or General Rate Case Filings are not based on a calendar year, then CGV shall include the affiliate information contained in the Annual Report of Affiliate Transactions in such filings.

9) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2004-00095  
NOVEMBER 17, 2004**

APPLICATION OF  
APPALACHIAN POWER COMPANY

For consent to and approval of an Extension and Modification of an existing Inter-Company Power Agreement, Modification No. 1 to an Extension and Modification of an existing Inter-Company Power Agreement, and Termination of First Supplementary Transmission Agreement with Ohio Valley Electric Corporation and other affiliates pursuant to Title 56, Chapter 4 of the Code of Virginia

**ORDER GRANTING APPROVAL**

On July 29, 2004, Appalachian Power Company ("Appalachian" or "the Company") filed an application with the State Corporation Commission ("Commission") pursuant to Title 56, Chapter 4 of the Code of Virginia requesting consent to and approval of an extension and modification of an existing Inter-Company Power Agreement ("Amended Agreement") and Termination of First Supplementary Transmission Agreement ("Termination Agreement") with Ohio Valley Electric Corporation ("OVEC") and other affiliates.

On October 19, 2004, Appalachian filed a supplement to its application that consisted of Modification No. 1 to the Amended Agreement. On October 26, 2004, the Commission issued its Order Extending Time for Review in which the Commission reset the filing date for statutory purposes to October 19, 2004, the date of the supplemental filing, noting that Staff advised that there was no objection by the Company to restarting the review period.

As described in the application, OVEC is an Ohio corporation organized in 1952 primarily for the purpose of supplying electric energy to the United States Atomic Energy Commission ("AEC") at its Portsmouth, Ohio, gaseous diffusion uranium enrichment plant (the "Facility"). The AEC was abolished on January 19, 1975, and certain of its functions, including the procurement of electric power for the Facility, were transferred to, and vested in, the Administrator of the United States Energy Research and Development Administration ("ERDA"). On October 1, 1977, all of the functions of ERDA were transferred to the Secretary of the DOE. Until recently, OVEC supplied electric service to the Facility pursuant to the DOE Power Agreement. By letter dated September 29, 2000, the DOE notified OVEC of the DOE'S election to terminate the DOE Power Agreement as of April 30, 2003.

OVEC entered into an Inter-Company Power Agreement dated July 10, 1953 (the "Agreement"), with certain utility companies (the "Sponsoring Companies").<sup>1</sup> The Agreement governs, among other things, the obligations of the Sponsoring Companies to sell supplemental power to OVEC and the rights of the Sponsoring Companies to purchase surplus power from OVEC. The Agreement was intended to complement OVEC's supply of power and energy under the DOE Power Agreement. The Agreement grants the Sponsoring Companies certain rights to surplus energy not needed to serve the DOE's uranium enrichment plant. As a result of the DOE's termination of the DOE Power Agreement, the Sponsoring Companies currently are entitled to all net power and energy produced by OVEC's two generating stations. Each Sponsoring Company can reserve a specified percentage of available power and energy. The Agreement requires the Sponsoring Companies to pay all of OVEC's operating costs and expenses, net of monies collected from the DOE as a result of its prior purchases and other obligations under the DOE Power Agreement. The Commission approved the original Agreement as well as 15 subsequent modifications to the Agreement, the latest modification approved in Case No. PUE-2004-00071 by Order dated August 10, 2004.

In the application and the supplement thereto, the Company requests approval of the Amended Agreement, Modification No. 1 to the Amended Agreement, and the Termination Agreement. The Amended Agreement amends and restates in their entirety the terms and conditions of the Agreement and makes other changes intended to modernize and clarify the Agreement. The Amended Agreement extends the term of the Agreement through March 13, 2026. Modification No. 1 unbundles the transmission charges under the Amended Agreement in accordance with Federal Energy Regulatory Commission ("FERC") regulations. The Termination Agreement terminates as of March 13, 2006, the First Supplementary Transmission Agreement dated as of July 10, 1953, and as amended from time to time ("Transmission Agreement"). Appalachian also is requesting approval of the Amended Agreement, Modification No. 1, and the Termination Agreement from FERC.

Appalachian represents that it has used, and continues to use, OVEC power and energy to serve its internal load economically or to make off-system sales, the profits from which have been used to reduce its cost of service. The Company represents that continuing to operate under the Agreement as proposed in the Amended Agreement will ensure its continued use of OVEC power in this manner.

The primary changes to the Agreement as reflected in the Amended Agreement are the extension of the term for an additional 20 years from the current expiration date and the change in the calculation of energy charges and changes in the components of the demand charges to Appalachian and the other Sponsoring Companies.

Modification No. 1 unbundles the charge for transmission service in accordance with FERC regulations. The unbundling of the transmission charge will shift charges that would otherwise have been charged under the demand charge to the new transmission charge.

<sup>1</sup> Appalachian Power Company, Allegheny Energy Supply Company, L.L.C., The Cincinnati Gas & Electric Company, Columbus Southern Power Company, The Dayton Power and Light Company, FirstEnergy Generation Corporation, Indiana Michigan Power Company, Kentucky Utilities Company, Louisville Gas and Electric Company, Monongahela Power Company, Ohio Power Company, and Southern Indiana Gas and Electric Company are collectively referred to as the "Sponsoring Companies." To date, three of the corporate directors of Appalachian are also directors of OVEC, nine are directors of Columbus Southern Power Company, five are directors of Indiana Michigan Power Company, and nine are directors of Ohio Power Company. Therefore, OVEC, Columbus Southern Power Company, Indiana Michigan Power Company, and Ohio Power Company are affiliated interests of Appalachian pursuant to § 56-77 of the Code of Virginia.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Termination Agreement cancels the Transmission Agreement as of March 13, 2006. The Transmission Agreement provides for the reimbursement through fixed payments of the costs to certain of the Sponsoring Companies of the construction, operation, and maintenance of specified transmission facilities that were necessary to effect the transactions contemplated under the Agreement. As stated in the application, the most recent transmission facilities subject to the reimbursement provisions of the Transmission Agreement were built in 1976, and the fixed payments for reimbursement of costs associated with most of the transmission facilities under the Transmission Agreement have been in effect since the mid-1950s. In addition, those fixed payments were calculated on a straight-line basis assuming a termination at the end of the Agreement on March 12, 2006. Therefore, the Sponsoring Companies, including Appalachian, agreed to terminate the payments under the Transmission Agreement at the end of its current term on March 12, 2006, pursuant to the Termination Agreement.

NOW THE COMMISSION, upon consideration of the application and representations of the Company and having been advised by its Staff, is of the opinion and finds that the above-described Amended Agreement, Modification No. 1, and the Termination Agreement are in the public interest and should be approved provided that any power and energy purchases made by Appalachian from OVEC are priced at the lower of OVEC's cost or the market price of non-affiliated power. Appalachian should bear the burden to prove that, for any purchases made from OVEC, it paid the lower of OVEC's cost or the market price of non-affiliated power. Such records of cost and market comparisons should be available for Staff review upon request.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to § 56-77 of the Code of Virginia, Appalachian Power Company is hereby granted consent to and approval of the Amended Agreement, Modification No. 1 to the Amended Agreement, and the Termination Agreement as described herein, provided that any purchases made by Appalachian from OVEC under the Amended Agreement are at the lower of OVEC's cost or the market price of non-affiliated power.
- 2) Appalachian shall maintain records to be available to the Commission Staff upon request showing that, for any purchases made by Appalachian from OVEC pursuant to the Amended Agreement, Appalachian paid the lower of OVEC's cost or the market price for non-affiliated power.
- 3) The approval granted herein shall have no ratemaking implications for annual informational filings or future rate proceedings.
- 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 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.
- 6) The Company shall include the transactions reflected in the Amended Agreement and Modification No. 1 thereto in its Annual Report of Affiliate Transactions to be submitted to the Director of Public Utility Accounting of the Commission by no later than May 1 of each year for the preceding calendar year, subject to administrative extension by the Director of Public Utility Accounting.
- 7) If Annual Informational and/or General Rate Case Filings are not based on a calendar year, then Appalachian shall include the affiliate information contained in the Annual Report of Affiliate Transactions in such filings.
- 8) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2004-00095  
DECEMBER 6, 2004**

APPLICATION OF  
APPALACHIAN POWER COMPANY

For consent to and approval of an Extension and Modification of an existing Inter-Company Power Agreement, Modification No. 1 to an Extension and Modification of an existing Inter-Company Power Agreement, and Termination of First Supplementary Transmission Agreement with Ohio Valley Electric Corporation and other affiliates pursuant to Title 56, Chapter 4 of the Code of Virginia

**ORDER GRANTING RECONSIDERATION**

On November 17, 2004, the State Corporation Commission ("Commission") issued an Order Granting Approval ("Order") on the above-captioned Application filed by Appalachian Power Company ("Appalachian" or the "Company"). Appalachian was granted approval for its Amended and Restated Inter-Company Power Agreement ("Amended Agreement") with certain conditions and requirements.

On December 2, 2004, Appalachian filed a Petition for Reconsideration ("Petition"). Appalachian requests that the Commission suspend the effectiveness of the Order pending its reconsideration and either vacate the portion of Ordering Paragraph (1) that reads: "provided that any purchase made by Appalachian from OVEC under the Amended Agreement are at the lower of OVEC's cost or the market price of non-affiliated power." and vacate Ordering Paragraph (2) or determine in the alternative that the Commission does not have jurisdiction over the Amended Agreement and no longer requires Appalachian to request approval of the Amended Agreement or any future modifications thereto under the Affiliates Act.

NOW THE COMMISSION, having reviewed the Petition, grants the Petition for purposes of continuing our jurisdiction over this matter and considering such Petition.

Accordingly, IT IS ORDERED THAT:

- (1) The Petition for Reconsideration filed by Appalachian Power Company is hereby granted for purposes of continuing our jurisdiction over this proceeding.
- (2) The Order Granting Approval of November 17, 2004, is suspended.
- (3) This matter is continued pending further order of the Commission.

**CASE NO. PUE-2004-00095  
DECEMBER 23, 2004**

APPLICATION OF  
APPALACHIAN POWER COMPANY

For consent to and approval of an Extension and Modification of an existing Inter-Company Power Agreement, Modification No. 1 to an Extension and Modification of an existing Inter-Company Power Agreement, and Termination of First Supplementary Transmission Agreement with Ohio Valley Electric Corporation and other affiliates pursuant to Title 56, Chapter 4 of the Code of Virginia

**ORDER GRANTING IN PART PETITION FOR RECONSIDERATION**

On November 17, 2004, the State Corporation Commission ("Commission") issued an Order Granting Approval ("Order") on the above-captioned Application filed by Appalachian Power Company ("Appalachian" or the "Company"). Appalachian was granted approval for its Amended and Restated Inter-Company Power Agreement ("Amended Agreement") with certain conditions and requirements.

On December 2, 2004, Appalachian filed a Petition for Reconsideration ("Petition"). Appalachian requests that the Commission suspend the effectiveness of the Order pending its reconsideration and either vacate the portion of Ordering Paragraph (1) that reads: "provided that any purchases made by Appalachian from OVEC under the Amended Agreement are at the lower of OVEC's cost or the market price of non-affiliated power[]" ("lower of cost or market standard") and vacate Ordering Paragraph (2) or determine in the alternative that the Commission does not have jurisdiction over the Amended Agreement and no longer requires Appalachian to request approval of the Amended Agreement or any future modifications thereto under the Affiliates Act.

On December 6, 2004, an Order Granting Reconsideration was issued to suspend the Order and continue our jurisdiction over this proceeding. By our Order Granting Petition For Reconsideration issued today, the suspension is now terminated, consistent with our findings below.

NOW THE COMMISSION, upon consideration of the Petition and the record herein, is of the opinion and finds that the Commission should retain jurisdiction in this matter and that the Petition should be granted in part. The record indicates that the cost of OVEC's power to the Company is currently below the price of non-affiliated power available from the market and that nearly all of OVEC's power purchased by the Company has been assigned to off-system sales.<sup>1</sup> We only require that the lower of cost or market standard be met in the limited circumstance when the Company is using its OVEC power purchases to serve Virginia jurisdictional customers. Given the limited circumstances under which OVEC power is purchased to serve jurisdictional customers, we find that the relief sought in the Petition should be granted in part, subject to the Commission's ongoing jurisdiction over the Amended Agreement, as provided in our Order.

Accordingly, IT IS ORDERED THAT:

- (1) The Petition for Reconsideration is hereby granted in part, consistent with the findings above.
- (2) The Order of November 17, 2004, is hereby amended at Ordering Paragraph (1) to read in its entirety:

Pursuant to § 56-77 of the Code of Virginia, Appalachian Power Company is hereby granted consent to and approval of the Amended Agreement, Modification No. 1 to the Amended Agreement, and the Termination Agreement as described herein.

- (3) The Order of November 17, 2004, is further amended at Ordering Paragraph (2) to now read in its entirety:

Appalachian's power purchases from OVEC to serve Virginia jurisdictional customers shall comply with the lower of cost or market standard, consistent with the findings above.

- (4) The Order of November 17, 2004, is further amended at Ordering Paragraph (3) to now read in its entirety:

For cost recovery purposes during any rate proceeding, Appalachian shall bear the burden of proving that it paid the lower of OVEC's cost or the market price of non-affiliated power for such power purchased from OVEC to serve its Virginia jurisdictional customers. Appalachian shall maintain records to be available to the Commission Staff upon request showing that, for any purchases made by Appalachian from OVEC pursuant to the Amended Agreement to serve its Virginia jurisdictional customers, Appalachian paid the lower of OVEC's cost or the market price for non-affiliated power.

<sup>1</sup> Application, Exhibit C, Transaction Summary - Chapter 4, Q&A (4).

- (5) The remainder of the Order of November 17, 2004, shall remain in full force and effect, unless modified by order of the Commission.
- (6) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2004-00096  
DECEMBER 27, 2004**

JOINT PETITION OF  
APPALACHIAN POWER COMPANY  
and  
BASSETT FURNITURE INDUSTRIES, INC.

For authority to acquire and dispose of utility assets pursuant to the Utility Transfers Act and for issuance of a certificate of public convenience and necessity pursuant to §§ 56-265.2 and 56-265.3 of the Code of Virginia

**ORDER GRANTING APPROVAL**

On August 10, 2004, Appalachian Power Company ("Appalachian") and Bassett Furniture Industries, Inc. ("Bassett") (collectively, the "Joint Petitioners"), filed a Petition with the State Corporation Commission ("Commission") for authority to acquire and dispose of utility assets pursuant to the Utility Transfers Act, Chapter 5 (§ 56-88 *et seq.* of Title 56), for issuance of a certificate of public convenience and necessity pursuant to §§ 56-265.2 and 56-265.3 of the Code of Virginia ("Code"), and for any other required Commission approvals.

The Petition concerns certain electrical distribution facilities located in Henry County, Virginia ("Distribution Facilities"), which are currently owned and operated by Bassett and which Bassett has agreed to sell to Appalachian pursuant to an Asset Purchase Agreement ("Agreement") entered into on May 1, 2004. Approximately 250 customers are served by the Distribution Facilities. Appalachian intends to serve Bassett's former customers under Appalachian's capped retail rate schedules which, while not identical, are substantially the same as the rates currently charged by Bassett.

On September 16, 2004, the Commission issued an Order for Notice and Comment/Requests for Hearing. On October 26, 2004, Appalachian filed proof of service of a copy of the September 16, 2004, Order on each customer affected by the acquisition and the Chairman of the Henry County Board of Supervisors. No comments or requests for hearing were filed.

On November 30, 2004, the Commission Staff filed a report presenting the findings and recommendations resulting from its investigation of the Petition. The Staff states that the proposed transfer makes sense given the fact that the Distribution Facilities are surrounded by Appalachian's service territory and are connected to Appalachian's facilities. Appalachian also intends to make needed repairs which will result in improved service and reliability. In addition, most customers will see a decrease in their bills as Appalachian's rates are generally lower than Bassett's rates. The Staff 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, meets the standard of the Utility Transfers Act. The Staff believes that the proposed transfer is in the public interest and recommends that the Commission grant a certificate of public convenience and necessity to Appalachian pursuant to §§ 56-265.2 and 56-265.3 of the Code. The Staff further recommends that a report of action be filed with the Commission within 30 days of the transfer taking place.

NOW THE COMMISSION, upon consideration of the Petition, the representations of the Joint Petitioners, the Staff Report, and applicable law, 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. We find that the public interest requires that Appalachian's certificate of public convenience and necessity be amended to include the service territory formerly served by Bassett and to authorize Appalachian to provide electric utility service to customers within such service territory. We find, therefore, that the Petition should be approved.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the Utility Transfers Act, Bassett Furniture Industries, Inc., is hereby granted authority to dispose of its utility assets to Appalachian Power Company as described in the Petition.
- (2) Pursuant to the Utility Transfers Act, Appalachian Power Company is hereby granted authority to acquire the utility assets from Bassett Furniture Industries, Inc., as described in the Petition.
- (3) The authority granted herein shall have no implications regarding future rate or Annual Informational Filing proceedings for Appalachian Power Company.
- (4) Within 30 days of the transaction taking place, subject to administrative extension by the Commission's Director of Public Utility Accounting, Appalachian Power Company shall file a Report of Action with the Commission providing the date of the sale, the actual sales price, and the actual accounting entries to reflect the transaction.
- (5) Appalachian Power Company's certificate of public convenience and necessity shall be amended to include the service territory formerly served by Bassett and to authorize Appalachian Power Company to provide electric utility service to customers within such service territory.
- (6) Appalachian Power Company shall forthwith submit to the Division of Energy Regulation maps reflecting the revised service territory.
- (7) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUE-2004-00097  
OCTOBER 29, 2004**

JOINT PETITION AND APPLICATION OF  
AGL RESOURCES, INC.  
and  
NUI CORPORATION

For approval of a change in control through merger under Chapter 5 of Title 56 of the Code of Virginia, request for expedited consideration, and for such other relief as may be necessary under the law

**FINAL ORDER**

On August 16, 2004, AGL Resources Inc. ("AGLR") and NUI Corporation ("NUI") (collectively, "Applicants") completed a joint petition and application ("Application") with the State Corporation Commission ("Commission") requesting approval under Chapter 5 of Title 56 of the Code of Virginia (§ 56-88 *et seq.*) (the "Utility Transfers Act") of a proposed transaction under which AGLR will acquire NUI and gain control over NUI's wholly-owned subsidiaries operating in Virginia, namely, Virginia Gas Company ("VGC") and NUI Saltville Storage, Inc.<sup>1</sup> VGC, in turn, is the holding company for three companies subject to regulation by the Commission: Virginia Gas Pipeline Company ("VGPC"); Virginia Gas Distribution Company ("VGDC"); and Virginia Gas Storage Company ("VGSC") (collectively, the "VGC companies"). NUI Saltville Storage, Inc., is a 50% member of Saltville Gas Storage Company, LLC ("SSLLC"). Virginia Natural Gas, Inc. ("VNG"), is a subsidiary of AGLR.

The Application was filed as a result of an Agreement and Plan of Merger ("Merger Agreement") entered into between AGLR and NUI. AGLR will acquire control of NUI via a reverse triangular merger transaction ("Merger Transaction"). At closing, a newly created subsidiary of AGLR will merge with NUI, and AGLR will purchase all of NUI's outstanding common stock and assume NUI's outstanding debt. When the acquisition is completed, AGLR will become the upstream corporate parent of NUI, and AGLR will gain indirect control over NUI's regulated and unregulated subsidiaries operating in Virginia and in other states. The Application states that the proposed transaction will not impair or jeopardize adequate service at just and reasonable rates to Virginia customers.

The Applicants make several other requests in addition to seeking approval of the proposed transaction under the Utility Transfers Act. The Applicants request that the Commission accept the affidavit of Craig G. Matthews, NUI's President and Chief Executive Officer, stating that VGPC, VGDC, VGC, and SSLLC did not participate in any of the transactions involving NUI Energy Brokers ("NUIEB") that were implicated in the Liberty Audit and/or Stier Anderson Reports, which resulted in a Stipulation and Settlement to resolve all matters arising from an investigation conducted by the New Jersey Board of Public Utilities. The Applicants also request that the Commission agree not to pursue any investigation, audit, or other action based on the acceptance of Mr. Matthews' affidavit (hereinafter referred to as the "NUIEB Condition").

In addition, the Applicants request that the Commission authorize AGLR to treat NUI's pension asset as a regulatory asset after the transaction is closed. Under this request, AGLR would continue to amortize the pension asset consistent with the amortization period used for the pension asset prior to closing. According to the Applicants, this treatment will ensure that the total ratepayer obligation for the pension period cost for the outstanding pension asset amount is the same both before and after the transaction is closed.

The Applicants also request that the Commission not impose any conditions that have the effect of requiring AGLR to conduct business, or to govern the affairs of AGLR or any of its subsidiaries after closing, in a manner that is adverse to AGLR or those subsidiaries (hereinafter referred to as the "No Adverse Effect Condition").

Finally, the Applicants state that recent events surrounding NUI and NUI's overall financial condition warrant expedited approval of the Application and request that the Commission approve the proposed transaction on or before October 31, 2004.

On August 17, 2004, the Commission issued an Order for Notice and Comment that, among other things: docketed the Application as Case No. PUE-2004-00097; directed AGLR and NUI to provide public notice of the Application; afforded interested persons an opportunity to file comments and requests for hearing; and directed the Commission's Staff ("Staff") to investigate and to file a report on the Application. That Order also extended the Commission's review period for the Application for an additional thirty (30) days pursuant to the authority granted the Commission by § 56-88.1 of the Code of Virginia.

On September 2, 2004, the Virginia Industrial Gas Users' Association ("VIGUA") filed a notice of participation and request for hearing. VIGUA states that its members, as customers of VNG and Columbia Gas of Virginia, Inc., are interested in the outcome of this proceeding in part because of the possible impact that the proposed transaction could have on upstream pipeline capacity in Virginia. VIGUA asserts that one issue in this case is whether AGLR's acquisition of NUI and its Virginia affiliates would make a previously-proposed pipeline expansion project more or less likely to be built. VIGUA also states that there generally are no Virginia rules governing the relationships between natural gas local distribution companies ("LDCs") and their affiliates. VIGUA contends that the Commission could decide that such rules are necessary to govern the business relationships between natural gas LDCs and their marketing and pipeline affiliates, and that the Commission could require the Applicants to agree to certain rules or standards of conduct as a condition of any approval of the instant transaction. Finally, VIGUA requests that the Commission schedule an evidentiary hearing to address these issues, as well as other issues that may arise prior to the hearing.

On September 13, 2004, the Honorable Terry G. Kilgore, Member, House of Delegates, Commonwealth of Virginia, filed comments in support of the proposed merger. Delegate Kilgore states that, with AGLR as a parent company, VGSC, VGDC, VGPC, and SSLLC will have a host of growth opportunities available to them. Delegate Kilgore explains that these Virginia companies can greatly enhance the economy of Southwest Virginia through, among other things: (1) the development of the Early Grove storage facility in Scott County, which will have a significant economic impact; (2) the

<sup>1</sup> Under the proposed acquisition, AGLR also will acquire NUI Utilities, Inc. (which is comprised of the operations of three utility companies providing natural gas distribution service in New Jersey, Maryland, and Florida), and NUI Capital Corp.

attraction, and development, of electric generating facilities; and (3) retention of gas that is produced in the Commonwealth for use in the Commonwealth. Delegate Kilgore states that the proposed merger will be a tremendous economic development tool and will provide much needed growth in Southwest Virginia. Finally, Delegate Kilgore requests that the Commission approve the merger by October 31, 2004.

On September 14, 2004, the LENOWISCO Planning District Commission ("LENOWISCO") filed comments in support of the Application. LENOWISCO states that continued operation of NUI's Virginia subsidiaries is extremely important to Southwest Virginia. LENOWISCO urges the Commission to approve the merger to protect the Early Grove storage facilities in Scott County and other important economic projects from risk. LENOWISCO requests that the Commission approve the merger by October 31, 2004.

On September 17, 2004, the Virginia Coalfield Economic Development Authority ("VCEDA") filed comments in support of the proposed merger. VCEDA states that companies such as NUI's Virginia subsidiaries are very important to the economy of Southwest Virginia. For example, VCEDA explains that VGDC worked closely with Virginia's Secretary of Commerce and Trade to ensure that the Alcoa plant – which relies on VGDC and its related infrastructure – remained open and operational, employing approximately 200 local citizens. In addition, VCEDA states that it has included the recruitment of electrical generating facilities as part of its marketing plan for the purpose of further enhancing the region's economic base. VCEDA requests that the Commission approve the merger by October 31, 2004.

On September 20, 2004, the Smyth County Board of Supervisors filed a Resolution urging the Commission to approve the Application. The Resolution states that NUI's recent adverse business conditions and the strong financial resources, management and operational expertise, and commitment of AGLR demonstrate that the merger is necessary to preserve and improve the operation of VGDC, VGSC, and SSLLC. The Resolution also notes that AGLR was named Platts' 2003 Gas Company of the Year and requests that the Commission approve the merger by October 31, 2004.

On October 8, 2004, the Staff filed its report on the Application ("Staff Report"). The Staff concludes that approval of the proposed merger would not appear to be detrimental to the public interest with respect to the ability to attract capital at reasonable rates to finance adequate service. The Staff notes that the accelerated review process for the Application has limited the scope and depth of Staff's investigation. Based on the Commission's continuing authority to ensure reliable service at just and reasonable rates, the Staff does not oppose the proposed merger. However, the Staff recommends that the Commission condition its approval of the Merger Agreement and Merger Transaction as follows:

1) The Commission should direct the Applicants to formally represent to the Commission and to the Securities and Exchange Commission ("SEC") that the Commission's regulatory authority over the rates, services and affiliate arrangements of VNG, VGDC, VGPC, and VGSC will not be affected by the merger, and that AGLR and NUI agree to bear the full risk for any preemptive actions by the SEC.

2) The Commission approval should exclude, as currently worded, the Applicants' requested NUIEB Condition and No Adverse Effect Condition.

3) The Commission approval granted pursuant to the Merger Agreement and Merger Transaction should not extend to any subsequent affiliate financing or service arrangements. Such arrangements should require separate Commission approval under Chapters 3 and/or 4 of Title 56 of the Code of Virginia.

4) Separate Commission approval pursuant to Chapters 4 and 5 of Title 56 of the Code of Virginia is required for any merger, transfer, or disposal of the VGC companies, as applicable.

5) Separate Commission approval pursuant to Chapters 3 and 4 of Title 56 of the Code of Virginia should be required for any of the VGC companies to enter into hedging instrument transactions, as applicable.

6) Commission approval granted pursuant to the Merger Agreement and Merger Transaction should have no ratemaking implications. In particular, Commission approval should not guarantee recovery of any acquisition adjustment or any other costs directly or indirectly related to the Merger Agreement and Merger Transaction.

7) The Commission should direct VNG and the VGC companies to develop and maintain records for tracking all AGLR-NUI merger-related costs and savings from the inception of the merger, and to make such records available for Staff's review upon request. VNG and the VGC companies should include such records in future annual information filings ("AIFs") or rate case proceedings until such time as these issues are resolved.

8) The Commission should direct AGLR, NUI, VNG, and the VGC companies to provide Staff with semi-annual updates of any cost of service implications stemming from the merger, commencing six months after the date of the Order in this case and ending once all merger issues are settled. In addition, the Applicants should be required in the semi-annual updates to address any structural or organizational changes that are being contemplated.

9) The Commission should defer the Applicants' request for treatment of the NUI pension asset as a regulatory asset until such time as Staff can make a thorough investigation of the issue in the context of a post-merger AIF or rate case proceeding.

10) The Commission should direct AGLR and NUI to notify the Commission of any change in their federal tax election for the Merger Agreement and Merger Transaction. The notification should include a quantitative analysis of the cost of service effect that any tax election change will have on Virginia consumers.

11) The Commission should direct AGLR and NUI that:

a) The quality of service in VNG's, VGDC's, VGPC's, and VGSC's service territory will not deteriorate due to a lack of capital investment;

b) The quality of service in VNG's, VGDC's, VGPC's, and VGSC's service territory will not deteriorate due to a reduction in the number of employees providing services; and

c) AGLR and NUI will continue to maintain a high degree of cooperation with the Commission Staff and to take all actions necessary to ensure VNG's, VGDC's, VGPC's, and VGSC's timely response to Staff inquiries with regard to their provision of service in Virginia.

On October 13, 2004, the Applicants filed a response to the Staff Report ("Response"). First, the Applicants respond to the Staff's concerns regarding their two requested conditions. The Applicants state that they are not asking the Commission, with respect to the NUIEB Condition, to abrogate any constitutional and statutory duties imposed on the Commission. Rather, the Applicants assert that they "are merely asking that, based on the affidavit and all of the evidence before it, the Commission agree not to pursue any specific investigation, audit or other action regarding NUIEB's Virginia transactions in light of the absence of any evidence suggesting that Mr. Matthews' affidavit is untrue." Response at 5. With respect to the No Adverse Effect Condition, AGLR states that it is not "appropriate or necessary for the Commission to impose additional governance obligations that might duplicate, overlap, or run counter to the numerous and interrelated provisions of [the Public Utility Holding Company Act of 1935, as amended ("PUHCA)]." Response at 6. In this regard, the Applicants state that, if there are no conditions in the Commission's Final Order that would require AGLR to behave in a manner that will conflict with PUHCA standards, then the requested No Adverse Effect Condition will be satisfied.

Next, the Applicants concur with the Staff that the Merger Agreement and the Merger Transaction should have no ratemaking implications, and that the Commission's approval of the merger does not guarantee recovery of any transaction costs related to the merger. The Applicants confirm that, at this time, neither AGLR nor any of the VGC Companies have requested an acquisition adjustment as a result of the merger.

The Applicants have no objection to the Staff's request that "the VGC Companies keep records relating to costs arising from the AGLR -NUI merger, and they will include them in their future [AIFs], or allow Staff to inspect those records as needed." Response at 7. However, the Applicants state that the imposition of reporting requirements, or any other conditions, upon VNG in the context of this proceeding would be inappropriate because VNG is not a party to this proceeding, nor has the Staff ever requested that it be made a party.

The Applicants also argue that Staff's requested semi-annual cost of service updates are unnecessary. Rather, the Applicants state that the VGC companies will provide this information to the Commission in conjunction with their AIFs. However, the Applicants reiterate their position that VNG is not a party to this proceeding, and that the imposition of any requirements on VNG in this context is inappropriate. Finally, the Applicants state that they will provide the Staff with informal updates on structural and organizational changes on a semi-annual or as appropriate basis.

In response to the Staff's recommendation that the Commission defer the Applicants' request to treat the pension asset as a regulatory asset, the Response states that establishing the regulatory asset would result in a rate neutral position on a pre- and post-acquisition basis. The Applicants further explain that a regulatory asset equal to the net pension asset would be established at cost and amortized into period costs over the same life used prior to the acquisition. Furthermore, the Applicants explain that AGLR will allocate the associated costs to the appropriate subsidiary receiving the benefit and such cost will be included in that company's cost of service.

The Applicants agree to inform the Commission if and when they change their federal tax election for the merger. The Applicants also agree that the quality of service in the VGC companies' territories will not deteriorate due to a lack of capital investment, or due to a reduction in the number of employees providing services. In addition, the Applicants agree to maintain a high degree of cooperation with the Staff and to take all actions necessary to ensure the VGC companies' timely response to Staff inquiries with regard to their provision of service in Virginia. Further in this regard, the Applicants again note that VNG is not a party to this proceeding and contend that the merger should have no negative effects on VNG's quality of service or interaction with the Staff.

The Applicants also take exception to tracking merger-related savings, providing semi-annual cost of service updates, and preparing a quantitative analysis of cost of service if there are any changes in federal tax election.

Finally, the Applicants respond to VIGUA's notice of participation and request for hearing filed in this case. The Applicants state that VIGUA does not explain how a possible impact on upstream capacity should be an issue for the Commission in this proceeding. The Applicants also assert that the issues raised by VIGUA are abstract and too broad to be addressed in the limited context of a merger Application.

On October 18, 2004, VIGUA filed a withdrawal of its request for hearing, but requested that the Commission consider the two issues it raised in this proceeding. First, VIGUA states that the Commission should, at the very least and as a condition of the merger, require AGLR to submit an independent analysis pertaining to the costs and benefits of extending the NUI pipeline from Southwest Virginia to Tidewater Virginia. Second, VIGUA asserts that, as a condition of the merger, or on its own accord, the Commission could establish a new formal rulemaking proceeding to develop new affiliate rules which govern the business relationships between natural gas LDCs and their affiliates.

On October 22, 2004, the Applicants filed a Motion to Amend their Response. Specifically, the Applicants state that they agree with the Staff's recommendation that treatment of the pension asset should be deferred until a future rate proceeding for VGDC, VGPC, and VGSC, as appropriate.

NOW THE COMMISSION, having considered the pleadings and the applicable law, is of the opinion and finds as follows.

Section 56-90 of the Code of Virginia provides the standard for our review of the Application:

If and when the Commission, with or without hearing, shall be satisfied that adequate service to the public at just and reasonable rates will not be impaired or jeopardized by granting the prayer of the petition, the Commission shall make such order in the premises as it may deem proper and the circumstances require, and thereupon it shall be lawful to do the things provided for in such order....

We find that approval of the Merger Agreement and Merger Transaction, subject to the terms and conditions discussed below, will not impair or jeopardize adequate service to the public at just and reasonable rates. The terms and conditions discussed below address the Staff's recommendations, seriatim.

The Applicants shall formally represent to the Commission and to the SEC, within thirty (30) days from the date of this Final Order, that the Commission's regulatory authority over the rates, services and affiliate arrangements of VNG, VGDC, VGPC, and VGSC will not be affected by the merger, and that AGLR and NUI agree to bear the full risk for any preemptive actions by the SEC.

With respect to the Applicants' requested NUIEB Condition, we will not initiate an investigation of the transactions that NUIEB entered into with the VGC companies and NUI Saltville Storage, Inc. The Staff concludes that it is unlikely that Virginia ratepayers suffered any significant detriment from the NUIEB transactions. The Staff also asserts that the Commission cannot waive its statutory and constitutional duties to protect and promote the public interest. We agree. Indeed, the Applicants acknowledge that "they could not cause the Commission to ignore or waive its statutory and constitutional duties." Response at 3. Our finding herein does not constitute such a waiver. However, based on Mr. Matthews' affidavit and the Staff Report, we find that no basis has been established in this proceeding for an investigation, audit, or other action regarding the NUIEB transactions.

The Commission's approval herein of the Merger Agreement and Merger Transaction shall not extend to any subsequent affiliate financing or service arrangements. Such arrangements require separate Commission approval under Chapters 3 and/or 4 of Title 56 of the Code of Virginia. Separate Commission approval pursuant to Chapters 4 and 5 of Title 56 of the Code of Virginia also is required for any merger, transfer, or disposal of the VGC companies, as applicable. In addition, separate Commission approval pursuant to Chapters 3 and 4 of Title 56 of the Code of Virginia is required for any of the VGC companies to enter into hedging instrument transactions, as applicable.

The Commission's approval of the Merger Agreement and Merger Transaction shall have no ratemaking implications. For example, the Commission's approval shall not guarantee recovery of any acquisition adjustment or any other costs directly or indirectly related to the Merger Agreement and Merger Transaction.

We find that the VGC companies and VNG should identify cost changes resulting from the merger. While neither the VGC companies nor VNG is a party to this case, the rates and services of these public utilities may be impacted by the merger. Thus, the VGC companies and VNG shall identify, in their respective AIFs and in any rate case, the following items: (1) merger-related costs; (2) merger-related savings; and (3) merger-related cost of service changes.

AGLR, NUI, VNG, and the VGC companies shall provide the Commission's Director of Public Utility Accounting with written semi-annual updates on any structural or organizational changes. Such updates shall begin six months after the date of this Final Order and end at a time determined by the Director of Public Utility Accounting.

The Applicants do not oppose the Staff's recommendation to defer the Applicants' request to treat the pension asset as a regulatory asset until a post-merger AIF or rate case proceeding.<sup>2</sup> We adopt the Staff's recommendation in this regard.

AGLR and NUI shall notify the Commission of any change in their federal tax election for the Merger Agreement and Merger Transaction. The notification shall include a quantitative analysis of the cost of service effect that any tax election change will have on Virginia consumers.

AGLR and NUI are directed that: (1) the quality of service in the service territories of the VGC companies and VNG shall not deteriorate due to a lack of capital investment; (2) the quality of service in the service territories of the VGC companies and VNG shall not deteriorate due to a reduction in the number of employees providing services; and (3) AGLR and NUI shall continue to maintain a high degree of cooperation with the Staff and to take all actions necessary to ensure timely response to Staff inquiries with regard to the VGC companies' and VNG's provision of service in Virginia.

Finally, we find that the two issues raised by VIGUA are outside the scope of the matters that we will address in this merger application under Chapter 5 of Title 56 of the Code of Virginia.

Accordingly, IT IS ORDERED THAT:

- (1) The Applicants' October 22, 2004, Motion to Amend their Response is hereby granted.
- (2) Pursuant to §§ 56-88.1 and 56-90 of the Code of Virginia, the Merger Agreement and Merger Transaction are hereby approved, subject to the terms and conditions contained in this Final Order.
- (3) The Applicants shall file a report of the action taken pursuant to the approval granted herein within thirty (30) days of consummation of the Merger Transaction, subject to administrative extension by the Commission's Director of Public Utility Accounting.
- (4) This matter is dismissed.

<sup>2</sup> We grant the Applicants' October 22, 2004, Motion to Amend their Response on this matter.

**CASE NO. PUE-2004-00099  
SEPTEMBER 10, 2004**

APPLICATION OF  
KENTUCKY UTILITIES COMPANY

For authority to issue long-term debt

**ORDER GRANTING AUTHORITY**

On August 17, 2004, Kentucky Utilities Company ("Kentucky Utilities" or "the Company") filed with the State Corporation Commission ("Commission") an application for authority to issue up to \$50,000,000 in long-term debt pursuant to Chapter 3 of Title 56 of the Code of Virginia ("Code"). Applicant has paid the requisite fee of \$250.



Kentucky Utilities requests authority to: 1) issue and sell up to \$50,000,000 in First Mortgage Bonds; and 2) assume certain obligations in connection therewith, represented by Loan Agreement(s) with the County of Carroll, Kentucky in connection with the simultaneous issuance of new County of Carroll, Kentucky Environmental Facilities Revenue Bonds ("the Refunding Bond"), the proceeds of which will be loaned to Kentucky Utilities by the County of Carroll. The Company will use these proceeds to retire, prior to maturity, its outstanding County of Carroll, Kentucky, Collateralized Solid Waste Disposal Facilities Revenue Bonds, 1993 Series A, due December 1, 2023 ("Existing Revenue Bonds"). The Existing Revenue Bonds are secured by the Company's First Mortgage Bonds, Pollution Control Series No. 9, with a corresponding maturity. The proposed \$50,000,000 in First Mortgage Bonds will be used to secure and collateralize the proposed County of Carroll Refunding Bonds and would replace the Company's First Mortgage Bonds, Pollution Control Series No. 9.

The Refunding Bonds will be sold in one or more underwritten public offerings, negotiated sales, or private placement transactions with their price, maturity date(s), interest rate(s), redemption provisions and other terms and provisions determined on the basis of negotiations among the Company, the County of Carroll and the purchasers of the bonds. The Company may elect to issue the bonds with either fixed or variable interest rates.

If a variable rate(s) is selected, the interest rate(s) may fluctuate on a weekly, monthly or other basis as determined from time-to time by the Company. Any variable rate debt issued may also be subject to tender by the holders thereof for redemption or purchase. In order to provide funds to pay the purchase price of such tendered debt, Kentucky Utilities would enter into one or more remarketing agreements. If variable rate debt is issued, the Company may also enter into one or more liquidity facilities with a bank or banks to provide immediate available funds with which to make payments with respect to any debt that has been tendered for purchase and not remarketed. The Company would like the ability to convert any variable rate bonds at a later date to other interest rate modes, including fixed rate of interest.

According to the application, the Existing Revenue Bonds currently bear an interest rate of 5.75% per annum. Based on current interest rates the purpose of the proposed refinancing is to take advantage of currently prevailing, low interest rates and thereby reduce the Company's cost of debt over the life of the bonds. In connection with the issuance of the debt, the Company may also enter into one or more interest rate hedging agreements designed to allow Kentucky Utilities to actively manage and to limit its exposure to variable interest rates or to manage its overall borrowing costs on any proposed fixed rate debt.

NOW THE COMMISSION, upon consideration of the matter, is of the opinion and finds that approval of the application will not be detrimental to the public interest. However, with regard to the request to enter into interest rate hedging agreements in conjunction with the issuance of the new debt, we note that the Company was authorized broad authority to enter into these types of transactions by our Order Granting Authority and Order Extending Authority in Case No. PUE-2000-00017. Based on the reports of action filed in Case No. PUE-2000-00017, we believe the Company already has authority to enter into financial hedging transactions in conjunction with the issuance of the new debt in this instance case. Lastly, we believe it is appropriate to place a time limit on the authority granted in this docket.

ACCORDINGLY, IT IS ORDERED THAT:

- 1) Kentucky Utilities is authorized to issue and deliver the new First Mortgage Bonds in an aggregate principal amount not to exceed \$50,000,000 under the terms and conditions and for the purposes as stated in the application, except as modified herein, through December 31, 2006.
- 2) Kentucky Utilities is authorized to execute, deliver and perform the obligations of Kentucky Utilities under, inter alia, the loan agreement(s) with the County of Carroll, Kentucky, and under remarketing agreements, auction agreements, guaranty agreements, bond insurance agreements, credit agreements and facilities, and such other agreements and documents as set out in the application, and to perform the such transactions contemplated by all such agreements.
- 3) Within 60 days of the date of each issuance of any securities issued pursuant to the authority granted herein, the Company shall file a Report of Action which shall provide the date or dates of issuance, face amount of the issuance, the maturity date, the applicable interest rate, a summary of any provisions relating to variable interest rates, sinking fund schedule, redemption or call provisions, a detailed accounting of all related issuances expenses to date, and net proceeds to the Company.
- 4) This matter shall remain open for the continued review, audit, and any further appropriate directive of the Commission.

**CASE NO. PUE-2004-00100  
AUGUST 18, 2004**

APPLICATION OF  
AQUA VIRGINIA, INC. f/k/a LAKE MONTICELLO SERVICE COMPANY

For cancellation and reissuance of certificates of public convenience and necessity to reflect corporate name change

**ORDER**

On January 12, 2004, Lake Monticello Service Company, ("LMSC") changed its corporate name to Aqua Virginia, Inc. ("Aqua Virginia"). By letter dated August 12, 2004, Aqua Virginia requested the cancellation of certificates of public convenience and necessity previously issued to LMSC and re-issuance of the certificates in its new name. For good cause shown, the Commission will grant the request.

Accordingly, IT IS ORDERED THAT:

- (1) This matter should be docketed and assigned Case No. PUE-2004-00100.
- (2) Certificate No. W-176(b) is cancelled and shall be reissued as Certificate No. W-314 in the name of Aqua Virginia, Inc.

- (3) Certificate No. S-64(b) shall be cancelled and reissued as Certificate No. S-89 in the name of Aqua Virginia, Inc.
- (4) There being nothing further to come before the Commission, this matter is dismissed.

**CASE NO. PUE-2004-00101  
OCTOBER 8, 2004**

APPLICATION OF  
COMMONWEALTH ENERGY CORPORATION d/b/a ELECTRICAMERICA

For a license to conduct business as an electric competitive service provider

**ORDER GRANTING LICENSE**

On August 19, 2004, Commonwealth Energy Corporation d/b/a electricAmerica ("Commonwealth Energy" or "the Company") filed an application with the State Corporation Commission ("Commission") for a license to provide competitive electric service. This application seeks authority to serve residential, commercial, and industrial customers in retail access programs throughout the Commonwealth of Virginia. 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 August 25, 2004, the Commission issued an Order for Notice and Comment docketing the case, requiring that notice of the application be served upon appropriate persons, and providing for the receipt of comments from the public. The Commission further directed the Commission Staff to analyze the reasonableness of Commonwealth Energy's application and to present its findings in a Staff Report on or before September 17, 2004. The Commission permitted the Company to file any response it may have to the Staff Report on or before September 24, 2004.

The Company filed proof of publication of its notice on August 27, 2004. No comments from the public on Commonwealth Energy's application were received.

The Staff filed its Report on September 17, 2004, concerning Commonwealth Energy's fitness to conduct business as a competitive service provider for electricity. In its Report, the Staff summarized Commonwealth Energy's proposal and evaluated its financial condition and technical fitness. The Staff recommended that Commonwealth Energy be granted a license to conduct business as an electric competitive service provider for electric service for residential, commercial, and industrial customers throughout the Commonwealth of Virginia subject to one condition. The Staff determined that the Company currently has sufficient financial resources to support its expansion into Virginia. Since the Company is relatively new and its financial position can change rapidly, the Staff recommended that Commonwealth Energy be required to file a copy of its quarterly 10-Q reports with the Division of Economics & Finance within 30 days of its filing with the Securities & Exchange Commission.

By letter filed September 30, 2004, Commonwealth Energy filed a Motion to Accept Late Filed Comments on the Staff Report. In its comments, the Company indicates that the requirement to submit its quarterly 10-Q reports to Staff is reasonable. But the Company requests that such requirement not commence until 30 days prior to initiating marketing to Virginia electric customers. Commonwealth Energy also requests that it be allowed to petition the Commission in the future to discontinue the requirement to file its quarterly 10-Q reports when the Company has established business operations sufficient to satisfy the Commission that this requirement is no longer necessary.

NOW UPON CONSIDERATION of the application, the Staff Report, and the Company's motion and comments, and having been advised by Commission Staff of its position with regard to the Company's requests, the Commission finds that Commonwealth Energy's application to provide competitive electric service should be granted, subject to the conditions set forth below.

Accordingly, IT IS ORDERED THAT:

- (1) Commonwealth Energy Corporation is hereby granted license No. E-I4 to provide competitive electric service to residential, commercial, and industrial customers in retail access programs throughout the Commonwealth of Virginia. This license to act as a competitive service provider is granted subject to the provisions of the Retail Access Rules, this Order, and applicable statutes.
- (2) This license is not valid authority for the provision of any product or service not identified within the license itself.
- (3) The Company's motion is hereby granted and the late-filed comments are hereby accepted.
- (4) Commencing 30 days prior to initiating marketing to Virginia electric customers, the Company shall submit a copy of its quarterly 10-Q reports with the Division of Economics & Finance within 30 days of its filing with the Securities & Exchange Commission.
- (5) The Company may petition the Commission to discontinue the requirement set forth in Ordering Paragraph (4) above.
- (6) This case shall remain open for consideration of any subsequent amendments or modifications to this license.

**CASE NO. PUE-2004-00104  
NOVEMBER 15, 2004**

TOLL ROAD INVESTORS PARTNERSHIP II, L.P.

Dulles Greenway Schedule of Toll Rates: Time-of-Day or Congestion Rates

**ORDER**

In the Final Order of July 6, 2004, in Toll Road Investor Partnership II, L.P., Case No. PUE-2003-00230, at 2, 4, the Commission identified time-of-day or congestion pricing as a rate design matter that Toll Road Investors Partnership II, L.P. ("Toll Road Investors"), might consider. By letter of August 6, 2004, from Robert Alfred Gouldin, counsel to Toll Road Investors, to Ronald A. Gibson, Division of Public Utility Accounting, State Corporation Commission, the Partnership transmitted its Virginia S.C.C. Tariff No. 1, Fourth Revised Schedule, Supplement No. 4, and a study of traffic and revenue implications. Supplement No. 4, which bore an effective date of September 7, 2004, would establish tolls for Peak Hours and Off-Peak Hours. This correspondence was filed in Case No. PUE-2004-00104.

The Commission finds that no further action is required.

Accordingly, IT IS ORDERED THAT:

(1) Case No. PUE-2004-00104 be dismissed from the Commission's docket and be placed in closed status in the records maintained by the Clerk of the Commission.

(2) Any future revisions of the level of rates set out in Supplement 4, as authorized by the Final Order of July 6, 2004, in Toll Road Investor Partnership II, L.P., Case No. PUE-2003-00230, be filed in Case No. PUE-2004-00103.

**CASE NO. PUE-2004-00105  
OCTOBER 19, 2004**

APPLICATION OF  
AMERICAN POWERNET MANAGEMENT, LP

For licenses to conduct business as a competitive service provider and aggregator for electricity

**ORDER GRANTING LICENSE**

On September 2, 2004, American PowerNet Management, LP ("American PowerNet " or "the Company"), filed an application with the State Corporation Commission ("Commission") for licenses to conduct business as a competitive service provider and aggregator for electricity throughout the Commonwealth of Virginia. American PowerNet's request for authority is limited to providing service to commercial and industrial customers. 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 September 14, 2004, the Commission issued an Order for Notice and Comment establishing the case, requiring that notice of the application be served upon appropriate persons, providing for the receipt of comments from the public, and requiring the Commission's Staff to analyze the reasonableness of American PowerNet's application and to present its findings in a Staff Report. The Company filed proof of publication of its notice on September 20, 2004, along with an irrevocable standby letter of credit for \$10,000 as security for payment of any taxes or fines accrue to the Commonwealth of Virginia from its business operations. No comments from the public on the Company's application were received.

The Staff filed its Report on October 5, 2004, concerning American PowerNet's fitness to conduct business as both a competitive service provider and an aggregator of electricity. In its Report, the Staff summarized the Company's proposal and evaluated its financial condition and technical fitness. The Staff recommended that American PowerNet be granted licenses to conduct business a competitive service provider and as an aggregator of electricity throughout the Commonwealth of Virginia. No comments to the Staff Report were file by the Company or any other party by October 12, as specified in the Commission's Order for Notice and Comment.

NOW UPON CONSIDERATION of the application and the Staff Report, the Commission finds that American PowerNet's request for a license to provide service as a competitive service provider and as an aggregator electricity should be granted, subject to the conditions set forth below.

Accordingly, IT IS ORDERED THAT:

(1) American PowerNet is hereby granted License No. E-15 to provide competitive electric supply service to commercial and industrial customers throughout the Commonwealth of Virginia. 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) American PowerNet is hereby granted License No. A-21 to provide electric aggregation service to commercial and industrial customers throughout the Commonwealth of Virginia. This license to act as an aggregator is granted subject to the provisions of the Retail Access Rules, this Order, and other applicable statutes.

(3) This license is not valid authority for the provision of any product or service not identified within the license itself.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

(4) The issuance of the licenses granted herein is subject to the maintenance of a letter credit, or other financial security acceptable to the Commission, payable to the Commonwealth of Virginia in the amount of \$10,000.

(5) Failure of American PowerNet to maintain a valid \$10,000 letter of credit or performance bond on file with the Commission, or failure to comply with the Retail Access Rules, the provisions of this Order, other State Corporation Commission orders and rules, or other applicable state or federal laws may result in an enforcement action by the Commission that includes, without limitation, the revocation, suspension, or modification of the licenses granted herein, and refusal to renew such licenses, the imposition of appropriate fines and penalties, or such other additional actions as may be necessary to protect the public interest.

(6) This case shall remain open for consideration of any subsequent amendments or modifications to this license.

**CASE NO. PUE-2004-00106  
SEPTEMBER 15, 2004**

APPLICATION OF  
RAPPAHANNOCK ELECTRIC COOPERATIVE

For authority to issue long-term debt

**ORDER GRANTING AUTHORITY**

On September 2, 2004, Rappahannock Electric Cooperative ("Rappahannock" or "Applicant") filed an application with the State Corporation Commission ("Commission") under Chapter 3 (§ 56-55 et seq.) of Title 56 of the Code of Virginia requesting authority to incur long-term indebtedness with the National Rural Utilities Cooperative Finance Corporation ("CFC"). The Applicant paid the requisite fee of \$250.

Applicant requests authority to obtain financing from CFC in the amount of \$61,000,000, which may be drawn down over a period of five years under CFC's PowerVision loan program. The proceeds will be used to fund electric plant construction. The loan will be secured and each note drawn under the loan agreement will have a thirty year maturity. The notes will have a fixed rate.

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) The Applicant is hereby authorized to borrow up to \$61,000,000 from CFC, under the terms and conditions and for the purposes set forth in the application, through October 20, 2009.
- (2) Within thirty (30) days of the date of any advance of funds from CFC, Applicant shall file a Report of Action that shall include the amount of the advance, the interest rate selected, and the interest rate maturity.
- (3) Applicant shall seek Commission approval if it intends to convert to variable interest rates on the CFC notes.
- (4) Approval of the application shall have no implications for ratemaking purposes.
- (5) There being nothing further to be done, this matter is hereby dismissed.

**CASE NO. PUE-2004-00107  
NOVEMBER 30, 2004**

APPLICATION OF  
COLUMBIA GAS OF VIRGINIA, INC.

For approval of an Electronic Data Interchange Trading Partner Agreement pursuant to Chapter 4 of Title 56 of the Code of Virginia

**ORDER GRANTING APPROVAL**

On September 3, 2004, Columbia Gas of Virginia, Inc. ("CGV" or the "Applicant"), filed an application with the State Corporation Commission (the "Commission") under Chapter 4 of Title 56 (the "Affiliates Act") of the Code of Virginia (the "Code") requesting approval of an Electronic Data Interchange Trading Partner Agreement (the "EDI Agreement") with Columbia Gas Transmission Corporation ("Columbia Transmission"), Columbia Gulf Transmission Corporation ("Columbia Gulf"), and Crossroads Pipeline Company ("Crossroads").

CGV is a natural gas distribution company serving approximately 215,000 customers in central Virginia, southside Virginia, Piedmont Virginia, and most of the Shenandoah Valley, as well as portions of Northern and Southwest Virginia. CGV is a wholly owned subsidiary of the Columbia Energy Group, which is a wholly owned subsidiary of NiSource, Inc. ("NiSource").

Columbia Transmission, a Delaware corporation, is an interstate natural gas pipeline company that operates natural gas pipelines stretching from the Midwest to New England. Columbia Transmission's services and operations, including its rates and charges, are regulated by the Federal Energy Regulatory Commission ("FERC"). Columbia Transmission is a wholly owned subsidiary of the Columbia Energy Group.

Columbia Gulf, a Delaware corporation, is an interstate natural gas pipeline company that gathers natural gas produced from multiple Gulf Coast sites and transports it from Rayne, Louisiana, to Ceredo-Kenova, West Virginia, via three pipelines that transport up to two billion cubic feet of natural gas per day. Columbia Gulf's services and operations, including its rates and charges, are regulated by the FERC. Columbia Gulf is a wholly owned subsidiary of the Columbia Energy Group.

Crossroads, an Indiana corporation, is an interstate natural gas pipeline company that operates a 202-mile pipeline that begins near Chicago, Illinois, and extends to Cygnus, Ohio. Crossroads' services and operations, including its rates and charges, are regulated by the FERC. Crossroads is a wholly-owned subsidiary of NiSource.

NiSource is an energy holding company whose subsidiaries provide natural gas, electricity, and other products and services to approximately 3.7 million customers located within a corridor that runs from the Gulf Coast through the Midwest to New England. Effective November 1, 2001, NiSource became a registered holding company under the Public Utility Holding Company Act of 1935. For the fiscal year ending December 31, 2003, NiSource reported gross revenues of \$6.25 million, total assets of \$16.6 billion, and 8,614 employees.

Since CGV, Columbia Transmission, Columbia Gulf, and Crossroads share the same senior parent company, NiSource, the companies are considered affiliated interests under § 56-76 of the Code. As such, any contract or arrangement between the companies to provide or receive services must be approved by the Commission pursuant to the Affiliates Act.

The purpose of the EDI Agreement is to facilitate electronic transmissions between the EDI Parties concerning transactions related to natural gas transportation or sales conducted pursuant to underlying written agreements.<sup>1</sup> The EDI Agreement was executed on August 27, 2004, and commenced on September 1, 2004.

The EDI Agreement updates and replaces the Columbia Navigator Electronic Data Interchange Agreement (the "Navigator Agreement") dated November 2, 1990, which the Commission previously approved in its Order Granting Approval issued on July 18, 1996, in Case No. PUA-1995-00025 (the "Gas Supply Order"). In the Gas Supply Order, the Commission approved CGV's Policy for Executing Revised or New Transportation Agreements with Affiliates (the "Gas Supply Policy"). The Gas Supply Policy allows CGV to enter into gas supply-related agreements with Columbia Transmission and Columbia Gulf before obtaining Commission approval with the understanding that the proper specifics of the agreements will be provided to the Commission at a later date. In its April 13, 2004, Order in Case No. PUE-2004-00013, the Commission modified the Gas Supply Order to require CGV to provide notice to the Commission as soon as a gas supply-related agreement subject to the Gas Supply Policy becomes binding, and to file for Chapter 4 approval of the agreement within 45 days after its execution. CGV followed both of the Commission's directives in this case.

The FERC defines electronic data interchange ("EDI") as "a highly structured or formatted method of conducting computer-to-computer communication."<sup>2</sup> According to the Applicant, the EDI Agreement is essentially an electronic data interchange protocol ("EDI Protocol"). An EDI Protocol is a formal set of rules for transmitting data across a network in order to conduct electronic business transactions. According to CGV, the EDI Agreement does not provide for any payments among the parties. No goods will be exchanged and no services, other than conformance to the protocol, will be provided by any party.

The EDI Agreement provides that electronic transmissions can take place between the EDI Parties directly or through a third party service provider ("3rd Party Provider") with whom the EDI Party may contract. Each EDI Party shall be responsible for the costs of any 3rd Party Provider with whom it contracts.

The EDI Agreement also states that each EDI Party, at its own expense, shall provide and maintain the equipment, software, services and testing necessary to transmit any EDI-related communications.

The EDI Agreement states that each party shall use security procedures specified in the Gas Industry Standards Board ("GISB") standards. The North American Energy Standards Board ("NAESB"), which began operations on January 1, 2002, is the successor organization to the GISB.

The EDI Agreement states that it is solely for the benefit of, and shall be binding solely upon, the EDI Parties, their agents and their respective successors and permitted assigns. The EDI Agreement may not be assigned or transferred by any EDI Party without the prior written approval of the other EDI Party (ies). The EDI Agreement has no specific term. It remains in effect until terminated by either party with not less than 30 days prior written notice specifying the effective date of termination.

NOW THE COMMISSION, upon consideration of the application and representations of the Applicant and having been advised by its Staff, is of the opinion and finds that the EDI Agreement is in the public interest and should be approved subject to certain conditions.

The EDI Agreement provides a secure, efficient, and effective means for the EDI Parties to exchange data concerning wholesale gas pipeline transactions. The FERC mandates the use of EDI. In FERC Order 587-G, the FERC stated that "[natural gas] pipelines must permit shippers to conduct many of the important business transactions in the industry, such as nominations, flowing gas, invoicing, and capacity release, using datasets in ASC X12 EDI format." The ASC X12 format is officially coordinated by the American National Standards Institute.

We have two concerns. First, we find that CGV should file an addendum to the EDI Agreement to reflect any changes to security standard references that are necessary because the GISB has been succeeded by the NAESB. Second, we are concerned that the clause permitting the EDI Parties to make use of 3rd Party Providers could result in an arrangement with a NiSource affiliate that would escape Commission scrutiny. Therefore, we find that separate Commission approval should be required for any EDI-related arrangements between CGV and affiliated 3rd Party Providers.

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<sup>1</sup> Section 3.1 of the EDI Agreement.

<sup>2</sup> Per FERC Order 587-G.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to § 56-77 of the Code of Virginia, Columbia Gas of Virginia, Inc., is hereby granted approval to enter into the above-referenced Electronic Data Interchange Trading Partner Agreement with Columbia Gas Transmission Corporation, Columbia Gulf Transmission Corporation and Crossroads Pipeline Company, subject to certain conditions described herein.
- 2) CGV shall file with the Commission within sixty (60) days of the date of this Order, subject to administrative extension by the Commission's Director of Public Utility Accounting, an addendum to the EDI Agreement to reflect any changes to security standard references that are necessary because the GISB has been succeeded by the NAESB.
- 3) Separate Commission approval shall be required for any EDI-related arrangements between CGV and affiliated 3rd Party Providers.
- 4) Commission approval shall be required for any changes in the terms and conditions of the EDI Agreement approved herein, including any 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 of Virginia hereafter.
- 6) The approval granted herein shall have no ratemaking implications for annual informational filings or future rate proceedings.
- 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 the transactions covered under the EDI Agreement approved herein in its Annual Report of Affiliate Transactions submitted to the Commission's Director of Public Utility Accounting on or before May 1 of each year, which deadline may be extended administratively by the Director of Public Utility Accounting.
- 9) If Annual Informational and/or General Rate Case Filings are not based on a calendar year, then CGV shall include the affiliate information contained in the Annual Report of Affiliate Transactions in such filings.
- 10) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2004-00108  
NOVEMBER 10, 2004**

APPLICATION OF  
VIRGINIA GAS PIPELINE COMPANY,  
VIRGINIA GAS DISTRIBUTION COMPANY,  
VIRGINIA GAS STORAGE COMPANY  
and  
AGL SERVICES COMPANY

For approval of services agreements under Chapter 4 of Title 56 of the Code of Virginia

**ORDER GRANTING APPROVAL**

On September 7, 2004, Virginia Gas Distribution Company ("VGDC"), Virginia Gas Pipeline Company ("VGPC"), Virginia Gas Storage Company ("VGSC") and AGL Services Company ("AGL Services") (collectively the "Applicants") filed an application (the "Service Application") with the State Corporation Commission (the "Commission") under Chapter 4 of Title 56 (the "Affiliates Act") of the Code of Virginia (the "Code") requesting approval of separate yet identical services agreements (the "Services Agreements") wherein AGL Services agrees to supply centralized services ("Centralized Services") to VGDC, VGPC and VGSC (the "Virginia Gas Companies"). On September 8, 2004, the Applicants filed an errata sheet providing counsel's signature for the application. On September 22, 2004, the Commission issued an Order Docketing Applications and Establishing a Uniform Period for Commission Review, in which the Service Application and two related cases<sup>1</sup> were given a uniform review period through November 15, 2004, to facilitate the Commission's consideration of the three applications.

VGDC provides natural gas distribution service to approximately 300 customers located in Southwest Virginia. VGDC has certificates of public convenience and necessity ("CPCN(s)") to offer natural gas service to the counties of Russell, Buchanan, and Dickenson, a portion of Tazewell County, and the Town of Saltville. VGDC is a subsidiary of Virginia Gas Company ("VGC"), which is a wholly-owned subsidiary of NUI Corporation ("NUI").

<sup>1</sup> On July 14, 2004, AGL Resources, Inc. ("AGLR"), and NUI Corporation ("NUI") entered into an Agreement and Plan of Merger (the "Merger Agreement") wherein AGLR agreed to indirectly purchase all of the issued and outstanding shares of capital stock of NUI and assume all of its outstanding debt (the "Merger Transaction"). On August 10, 2004, AGLR and NUI filed a joint petition and application ("the Merger Petition") with the Commission for approval of the Merger Agreement pursuant to Chapter 5 of Title 56 (the "Utility Transfers Act") of the Code. The Merger Petition was docketed as Case No. PUE-2004-00097. On September 8, 2004, the Applicants and AGLR filed an application (the "S/T Debt Application") that requested authorization to issue short-term debt to affiliates. The S/T Debt Application was docketed as Case No. PUE-2004-00110. On October 29, 2004, the Commission issued a Final Order in Case No. PUE-2004-00097, approving the Merger Agreement and Merger Transaction subject to certain terms and conditions. On November 2, 2004, the Commission issued a Final Order in Case No. PUE-2004-00110, authorizing the short-term debt financing subject to certain terms and conditions.

VGPC provides pipeline transmission and underground natural gas storage services to customers in southwestern Virginia and eastern Tennessee. VGPC has CPCNs to construct, own, operate and maintain an underground natural gas storage facility in Smyth and Washington Counties, and to own, develop, construct and operate an intrastate gas transmission line in the counties of Smyth, Wythe, and Pulaski. VGPC is a subsidiary of VGC, which is a wholly-owned subsidiary of NUI.

VGSC provides underground natural gas storage service to customers in southwestern Virginia and eastern Tennessee. VGSC has a CPCN to operate the Early Grove storage field in Scott and Washington Counties. VGSC is a subsidiary of VGC, which is a wholly owned subsidiary of NUI.

AGL Services is a Georgia corporation located in Atlanta, Georgia, that provides centralized services to AGLR and its subsidiaries pursuant to the Public Utility Holding Company Act of 1935 ("PUHCA"). AGL Services has approximately 765 employees and is a wholly owned subsidiary of AGL Resources, Inc. ("AGLR").

AGLR, which is headquartered in Atlanta, Georgia, is a Georgia general business corporation and a registered energy holding company subject to regulation by the Securities and Exchange Commission ("SEC") pursuant to the PUHCA. AGLR has seven primary subsidiaries. Atlanta Gas Light Company, Virginia Natural Gas, Inc. ("VNG"), and Chattanooga Gas Company provide local natural gas distribution services to approximately 1.8 million end-use customers in Georgia, Virginia, and Tennessee. Georgia Natural Gas Company, through its 70% ownership of Southstar Energy Services LLC, provides natural gas retail marketing services, primarily in Georgia. AGL Investments, Inc. ("AGLI"), through its Sequent Energy Management, L.P. ("Sequent"), subsidiary, provides wholesale energy services that include natural gas asset management and optimization, producer services and wholesale marketing, and risk management activities. AGLI also owns AGL Networks, LLC, which operates telecommunications conduit and fiber infrastructure within select metropolitan areas. AGL Services provides centralized administrative services to AGLR's subsidiaries, and AGL Capital Corporation provides financing support to AGLR's subsidiaries. As of January 1, 2004, AGLR and its subsidiaries had 2,079 employees.

NUI, which is headquartered in Bedminster, New Jersey, is a diversified energy exempt holding company under the PUHCA. NUI has four primary subsidiaries, NUI Utilities, NUI Capital Corporation, VGC, and NUI Saltville. NUI Utilities owns three local distribution companies (Elizabethtown Gas Company, City Gas Company of Florida, and Elkton Gas) that serve approximately 366,000 residential, commercial and industrial customers in New Jersey, Maryland, and Florida. NUI Capital Corporation provides energy marketing and trading services through its wholly-owned subsidiary, NUI Energy Brokers ("NUIEB"). VGC, which is headquartered in Abingdon, Virginia, is the holding company for VGDC, VGPC, and VGSC (the "Virginia Gas Companies"). NUI Saltville provides natural gas storage service through its 50% ownership in Saltville Storage, a joint venture with Duke Energy that operates a salt cavern storage facility in Saltville, Virginia. The facility is expected to have approximately 4.9 billion cubic feet ("Bcf") of storage available upon completion of its first phase of construction. Saltville Storage is regulated by the Federal Energy Regulatory Commission ("FERC").

Since AGL Services and the Virginia Gas Companies, assuming the successful consummation of the Merger Agreement and Merger Transaction, will share the same senior parent company, AGLR, the companies will be considered affiliated interests under § 56-76 of the Code. As such, the companies must obtain approval from the Commission pursuant to the Affiliates Act prior to entering into any contract or arrangement between the companies to provide or receive services.

Under the Services Agreements, AGL Services will provide the Virginia Gas Companies with Centralized Services including rates and regulatory services; internal auditing services; strategic planning services; external relations services; capacity and gas supply administration and support services; legal and risk management services; marketing services; financial services; information system and technology services; executive services; investor relations services; customer service services; employee service services; engineering services; business support services, which include purchasing, facilities management, and fleet services; and other services.

The Services Agreements also allow AGL Services, after consulting with the Virginia Gas Companies, to engage the services of affiliated or non-affiliated experts, consultants, attorneys, and other parties in connection with the performance of any of the Centralized Services supplied under the Service Agreement. AGL Services can also serve as administrative agent, arranging and monitoring services provided by third parties to the Virginia Gas Companies, whether such services are billed directly to the Virginia Gas Companies or through AGL Services.

The Services Agreements state that all Centralized Services shall be rendered to the Virginia Gas Companies at actual cost. The Applicants represent that, to comply with the PUHCA, AGL Services is required to charge out all of its actual revenues and costs to AGLR and the AGLR subsidiaries that receive service from it. AGL Services' revenue and cost components include operating revenues, cost of sales, operating expenses, gain/loss on disposal of long-lived assets, other income, interest income/expense and income taxes. The operating expense component consists of costs related to payroll, fleet services, facilities, liquefied natural gas ("LNG") storage, distribution expense, customer account expense, marketing, legal, benefits and incentives, office administrative and supply, development and training, outside services, dues and subscriptions, travel and entertainment, equipment leases, miscellaneous operation expense, LNG storage maintenance, distribution maintenance expense, other maintenance expense, depreciation and amortization, taxes other than income, and capitalized and distributed expense. AGL Services represents that it charges interest expense to its client affiliates for the actual cost of its debt capital. However, AGL Services' costs do not include a return on equity component.

AGL Services employs an accounting system that enables costs to be identified by cost center, account number, or capital project ("Account Codes"). The primary inputs to the accounting system are payroll records, accounts payable transactions, and journal entries. To the extent practicable, AGL Services directly charges the specific AGLR subsidiary and the applicable Account Codes for the costs of the Centralized Services that it provides. The full cost of providing Centralized Services also includes certain indirect costs, e.g., departmental overheads, administrative and general costs, and taxes. Such indirect costs are associated with the Centralized Services performed in proportion to the directly assigned or distributed costs of the Centralized Services or other relevant cost allocations.

AGL Services charges, assigns, and allocates Centralized Services costs in the following manner. Costs accumulated in Account Codes for Centralized Services specifically performed for a single AGLR subsidiary will be directly charged to the client subsidiary. Costs accumulated in Account Codes for Centralized Services specifically performed for two or more AGLR subsidiaries will be assigned or allocated among the client subsidiaries using methodologies that are directly associated with the cost activity that is assigned or allocated. Costs accumulated in Account Codes for Centralized Services of a general nature that are applicable to all AGLR subsidiaries will be allocated among the client subsidiaries using one or more of 12 allocation methodologies.

The Services Agreements have no specific term. The Virginia Gas Companies may modify their selection of Centralized Services at any time during the fiscal year by giving AGL Services written notice 60 days in advance of such change. Either the Virginia Gas Companies or AGL Services may terminate the Services Agreements by providing the other party with written notice 60 days in advance of such termination. The Services Agreements are also subject to termination or modification at any time to the extent that their performance may conflict with the provisions of the PUHCA or with any rule, regulation, or order of the SEC adopted before or after the making of the Services Agreements.

The rationale for the proposed Services Agreements is that the Virginia Gas Companies are not staffed to operate as stand-alone companies. Currently, they rely on NUI to provide certain general corporate services. The Applicants represent that one of the benefits of the public utility holding company structure under the PUHCA is that the holding company's member companies can operate more efficiently by sharing the cost of centralized services through the formation of a service company. Public utility service companies operate under the concept that spreading costs for services among more than one user will reduce the cost of services for all users. By obtaining corporate services from a consolidated and centralized source, economies of scale and other business efficiencies can be achieved by, among other things, the elimination of duplicative personnel and facilities across the holding company's system. The Applicants anticipate that the pass down of centralized administrative services from NUI to the Virginia Gas Companies, which the Commission approved in Case No. PUE-2003-00129, will be terminated and replaced by Centralized Services provided by AGL Services, or by services performed by the Virginia Gas Companies themselves. An AGLR-NUI Transition Team is currently analyzing the work processes at the Virginia Gas Companies to determine the full nature and scope of the Virginia Gas Companies' need for Centralized Services.

NOW THE COMMISSION, upon consideration of the Service Application and other representations of the Applicants and having been advised by its Staff, is of the opinion and finds that, subject to certain conditions, the Services Agreements are in the public interest and should be approved. The Virginia Gas Companies should reap benefits from the Centralized Services provided by AGL Services under the Services Agreements due to economies of scale and the elimination of duplicative personnel and facilities across the holding company system.

However, we have some concerns that must be addressed to protect the public interest. First, service company agreements are frequently the largest and most comprehensive affiliate arrangements that public service corporations have. The type, nature, and scope of the Centralized Services provided under such agreements can change significantly over time. The Applicants, their corporate parents, and the natural gas industry have also experienced significant changes over the last few years. The future is likely to see more of the same. In addition, the full nature and scope of the Virginia Gas Companies' need for Centralized Services is still being studied. Therefore, we find that the Applicants should report to the Commission's Director of Public Utility Accounting the results of the AGLR-NUI Transition Team's analysis of the Virginia Gas Companies' need for Centralized Services as soon as they become available. In addition, we find that the duration of the Commission's approval should be limited to five years to ensure an ongoing comprehensive review of the Services Agreements, which we believe is necessary to ensure that they remain in the public interest.

Our second concern relates to two clauses found in the Services Agreements. On Page eight under Description of Services in Exhibit I (Policies and Procedures Manual) to the Services Agreements, the initial paragraph states that:

A description of the [Centralized] [S]ervices performed by [AGL Services], *which may be modified from time to time* (emphasis added), is presented below.

This statement seems to refer to a Services Agreement clause that allows the Virginia Gas Companies to modify their selection of Centralized Services upon 60 days written notice to AGL Services. This clause apparently permits the Virginia Gas Companies to add or delete Centralized Services at the Virginia Gas Companies' discretion.

We also note that on Page 11 under Description of Services, the Applicants list an "Other Services" category. The category description states that:

[AGL Services] provides other services as identified in this document or requested by the AGLR [client subsidiaries].

The Applicants indicate that the "Other Services" category was so named because, after AGL Services' initial formation and categorization of service departments, a few service departments remained that lacked commonality for service provider category naming purposes. However, the Applicants represent that the departments under this category do have specific names and include corporate communications, business support, advertising, operations improvement and corporate, which have minimal costs.

We are concerned that clauses such as those described above are open-ended and permit the addition of new Centralized Services without further commission scrutiny. Therefore, we will approve the corporate communications, business support, advertising, operations improvement and AGL Services corporate service subcategories that the Applicants specifically identified as belonging to the Other Services category, but we will not approve the Other Services category itself. Except for the Other Services subcategories listed above, we find that only Centralized Services that are specifically identified in the Services Agreements should be approved.

Third, we are concerned with situations where AGL Services engages third parties to provide Centralized Services to the Virginia Gas Companies. For example, the Services Agreements allow AGL Services to engage expert third parties such as public accountants, depreciation consultants, insurance companies, actuaries, law firms and investment companies to assist AGL Services in providing auditing, depreciation, insurance, employee benefit, legal and treasury services to the Virginia Gas Companies. We are not opposed to this practice when it involves unaffiliated third parties. However, the engagement by AGL Services of AGLR affiliates to provide Centralized Services to the Virginia Gas Companies is a concern as the AGL Service-AGLR affiliate relationship is not aim's length and would avoid Commission scrutiny. Therefore, we find that such affiliated third party relationships should be prohibited absent separate Commission approval.

Fourth, the Services Agreements provide AGL Services with substantial flexibility in determining how to distribute Centralized Service costs to its AGLR client affiliates, including the Virginia Gas Companies. On Page eight under Description of Services in the initial paragraph, the statement is made that:



## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

*Substitution or changes may be made in the methods of allocation hereinafter specified (emphasis added), as may be appropriate and to the extent permitted under the SEC 60-day letter procedure, and will be provided to state regulatory agencies and to each affected AGLR [client subsidiary].*

This clause apparently allows AGL Services to change the allocation methodologies that it uses to distribute Centralized Services costs to the Virginia Gas Companies at its discretion and at any time, subject only to SEC notice and approval. We find that a change in allocation methodologies constitutes a change in the terms and conditions of the Services Agreements, which should require new Commission approval. We also find that that close monitoring of the Services Agreements' allocation methods is appropriate.

Fifth, Code §§ 56-78 and 56-79 and Virginia case law require the Applicants to bear the affirmative burden of proof of demonstrating that the affiliate charges are just and reasonable in any future rate proceedings. *Commonwealth Gas Services, Inc. v. Reynolds Metals Co., et al.*, 236 Va. 362, 368, 374 S.E.2d 35, 39 (1988). Also, the Commission's "lower of cost or market" policy for affiliate charges states that:

Where the Company proposes that the Commission set rates based on charges from an affiliate, the charges must be based on the affiliate's cost, including a reasonable return, so long as this cost does not exceed the market price. The market test applied by this Commission and the Court is to test whether the affiliate's costs are reasonable.

*Application of GTE South Incorporated, For revisions to its local exchange, access and intraLATA long distance rates*, 1991 S.C.C. Ann. Rept. 218, aff'd sub. Nom. *GTE South Incorporated v. AT&T*, 259 Va. 338 (2000).

For some Centralized Services, pricing at cost may be appropriate. However, some Centralized Services may be obtainable from unaffiliated parties and, therefore, a market and a market price may exist. Examples of such Centralized Services may include, but are not limited to, accounting, legal, accounts payable, and information technology. We direct VGDC, VGPC and VGSC to maintain records, consistent with the findings above, to demonstrate that the Centralized Services provided by AGL Services are cost beneficial to Virginia ratepayers. We find that the Virginia Gas Companies should bear the burden to show that, for Centralized Services obtained from AGL Services where a market and a market price exists, the jurisdictional applicants paid the lower of cost or market. Records of such investigations and comparisons should be available for Commission Staff review upon request.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to § 56-77 of the Code of Virginia, Virginia Gas Distribution Company, Virginia Gas Pipeline Company and Virginia Gas Storage Company are hereby granted approval to enter into the above-referenced Services Agreements with AGL Services Company as described herein, consistent with the findings above.
- 2) The Applicants are directed to submit to the Commission's Director of Public Utility Accounting the results of the Transition Team's analysis of the Virginia Gas Companies' need for Centralized Services as soon as they become available.
- 3) The approval granted herein for the Services Agreements is limited to five years from the date of the Order Granting Approval. Any further provision of Centralized Services under the Services Agreements shall require subsequent Commission approval.
- 4) The approval granted herein includes the corporate communications, business support, advertising, operations improvement and AGL Services corporate service subcategories that the Applicants separately identified as part of the Other Services category, but excludes the Other Services category itself. Except for the Other Services subcategories listed above, the approval granted herein includes only Centralized Services that are specifically identified in the Services Agreements. Should VGDC, VGPC and/or VGSC desire to add new Centralized Services not specifically identified in the Services Agreements or in this paragraph, it shall be required to file a separate application for approval pursuant to the Affiliates Act.
- 5) The approval granted herein shall not include the provision by AGL Services of Centralized Services to VGDC, VGPC and/or VGSC by the engagement of affiliated third parties. Should VGDC, VGPC and/or VGSC desire to make use of such affiliates' expertise, it shall be required to file a separate application for approval pursuant to the Affiliates Act.
- 6) VGDC, VGPC and VGSC shall maintain records, consistent with the findings above, to demonstrate that the Centralized Services provided by AGL Services are cost beneficial to Virginia ratepayers. For all Centralized Services provided by AGL Services where a market may exist, VGDC, VGPC and/or VGSC shall investigate whether there are alternative sources from which it could purchase such services. If an alternative source exists, VGDC, VGPC and/or VGSC shall compare the market price to AGL Services' charges and pay the lower of cost or market. Records of such investigations and comparisons shall be available for Commission Staff review upon request.
- 7) Commission approval shall be required for any changes in the terms and conditions of the Services Agreements approved herein, including changes in allocation methodologies, and any successors or assigns.
- 8) 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.
- 9) The approval granted herein shall have no ratemaking implications for annual informational filings or future rate proceedings.
- 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) VGDC, VGPC and VGSC shall include the transactions covered under the Services Agreements approved herein in its Annual Report of Affiliate Transactions submitted to the Commission's Director of Public Utility Accounting on or before May 1 of each year, which deadline may be extended administratively by the Commission's Director of Public Utility Accounting. Such report shall include a schedule displaying annual AGL Services billings by Centralized Service and segregated between directly charged, directly assigned, and allocated amounts. For each allocated amount, the allocation basis and actual allocation factor shall be shown. This reporting requirement is in addition to existing Annual Report of Affiliate Transactions requirements.

12) If Annual Informational and/or General Rate Case Filings are not based on a calendar year, then VGDC, VGPC and VGSC shall include the affiliate information contained in the Annual Report of Affiliate Transactions in such filings.

13) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUE-2004-00110  
NOVEMBER 2, 2004**

APPLICATION OF  
VIRGINIA GAS PIPELINE COMPANY,  
VIRGINIA GAS DISTRIBUTION COMPANY,  
VIRGINIA GAS STORAGE COMPANY,  
AGL SERVICES COMPANY,  
and  
AGL RESOURCES INC.

For authorization to issue short-term debt to affiliates under Chapters 3 and 4 of Title 56 of the Code of Virginia

**ORDER GRANTING AUTHORITY**

On September 8, 2004, Virginia Gas Pipeline Company ("VGPC"), Virginia Gas Storage Company ("VGSC"), Virginia Gas Distribution Company ("VGDC") (together referenced as "VG Utility Group"), jointly filed an application with AGL Services Company ("AGL Services") and AGL Resources ("AGLR") (collectively called "Applicants") for authority to incur short-term indebtedness through participation in two separate money pools established by AGLR and administered by AGL Services. The amount of short-term debt proposed in the application exceeds twelve percent of capitalization as defined in § 56-65.1 of the Code of Virginia. Applicants paid the requisite fee of \$250.

AGLR has a separate Money Pool for regulated utility subsidiaries ("Utility Money Pool") and another for non-utility subsidiaries ("Non-Utility Money Pool"). The separate Utility and Non-Utility Money Pools operate under the same terms and conditions that were indicated and approved by the Commission's Order Granting Authority dated December 23, 2003, in Case No. PUE-2003-00548.

Initially, Applicants requested authority for VGDC to issue short-term debt up to an aggregate balance of \$100,000,000 through participation in the AGLR Utility Money Pool administered by AGL Services. Correspondingly, Applicants requested authority for VGPC and VGSC to each issue short-term debt up to an aggregate balance of \$100,000,000 through participation in the AGLR Non-Utility Money Pool administered by AGL Services. On September 29, 2004, Applicants amended the amounts of aggregate short-term indebtedness for each of the VG Utility Companies to \$2,180,000 for VGDC, \$2,950,000 for VGSC, and \$11,750,000 for VGPC. The authority requested is for a period of twelve months beginning from the time the proposed merger is consummated.

Utility and Non-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 respective Utility or Non-Utility Money Pool from which they were borrowed.

If Utility or Non-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 of major corporations sold through dealers as quoted in The Wall Street Journal. If Utility or Non-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 Utility or Non-Utility Money Pool borrowings are supported by Internal and External Funds, the rate will reflect a composite rate, equal to the weighted average cost of Internal 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 or Non-Utility Money Pool will be allocated to borrowing parties in proportion to their respective daily outstanding borrowing of External Funds. Borrowing parties of the respective Utility or Non-Utility Money Pool will borrow pro rata from each internal or external fund source in the same proportion that the respective funds from each source bear in relation to the total amount of funds available.

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. The Commission is of the further opinion that, for reporting and monitoring purposes, the requested authority should be granted to a date certain rather than an indeterminate period ended twelve months from the close of the proposed merger. In addition, the Commission is aware of the on-going debate over the possible repeal or amendment of the Public Utility Holding Company Act of 1935 ("PUHCA"). Therefore, the authority granted herein is conditioned upon PUHCA remaining materially unaltered, as detailed below.

Accordingly, IT IS ORDERED THAT:

(1) Upon consummation of the merger of AGLR and NUI, VGDC is authorized to participate in the AGLR Utility Money Pool and to incur short-term indebtedness in excess of twelve percent of capitalization not to exceed \$2,180,000, through the period ended December 31, 2006, under the terms and conditions and for the purposes set forth in the application, as amended.

(2) Upon consummation of the merger of AGLR and NUI, VNPC and VGSC are authorized to participate in the AGLR Non-Utility Money Pool and to incur short-term indebtedness in excess of twelve percent of capitalization not to exceed \$1 1,750,000 for VGPC and \$2,950,00 for VGSC, through the period ended December 31, 2006, under the terms and conditions and for the purposes set forth in the application, as amended.

(3) Within thirty (30) days after PUHCA is repealed or materially amended, Applicants shall file an application seeking to continue the authority granted in this proceeding.

(4) The authority granted in this proceeding shall expire ninety (90) days after PUHCA is repealed or materially amended, unless otherwise ordered by the Commission.

(5) Should Applicants seek to amend or extend the authority for any of the VG Group to participate in the Utility or Non-Utility Money Pool beyond December 31, 2006, Applicants shall file an application requesting such authority no later than November 8, 2006.

(6) Approval of this application shall have no implications for ratemaking purposes.

(7) Approval of this application does not preclude the Commission from applying the provisions of § 56-78 and § 56-80 of the Code of Virginia hereafter.

(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 annual reports of action within sixty (60) days of the end of each calendar year following the date of this order, to include:

a) a monthly schedule of total Utility Money Pool borrowings and total Non-Utility Money Pool Borrowings, with each schedule segmented by borrower ; and

b) a monthly schedule that separately reflects Utility and Non-Utility Money Pool interest expense, each type of allocated fee, and an explanation of how both the interest expense and allocated fee have been calculated.

(10) This matter shall be continued subject to the continuing review, audit, and appropriate directive of the Commission.

### **CASE NO. PUE-2004-00111 SEPTEMBER 29, 2004**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION

Ex Parte: In Re: Investigation of gas supply asset assignment and agency agreement between Virginia Natural Gas, Inc., and Sequent Energy Management, L.P., f/k/a AGL Energy Services, Inc.

#### **ORDER ESTABLISHING AUDIT AND INVESTIGATION**

On November 30, 2000, the State Corporation Commission ("Commission") granted approval<sup>1</sup> of an energy services agreement ("Agreement") between Virginia Natural Gas, Inc. ("VNG"), and AGL Energy Services, Inc., now known as Sequent Energy Management, L.P. ("Sequent"). Under the terms and conditions of the Agreement, Sequent provides natural gas supply asset management services for VNG's non-distribution assets and operates as VNG's agent for procuring natural gas supplies. As noted in the November 30, 2000, Order Granting Approval, an essential task of the energy manager is to find, create, and take advantage of physical and financial market opportunities by managing VNG's assets in combination with other assets to meet the requirements of VNG's customers and other markets more efficiently. By allowing VNG to obtain natural gas procurement and asset management services from a consolidated and centralized source, the Agreement was designed to allow VNG to take advantage of economies of scale and other business efficiencies that would minimize the price of natural gas to VNG and its customers.

The Commission's November 30, 2000, Order Granting Approval in Case No. PUA-2000-00085 required VNG and Sequent to file quarterly reports with the Commission's Divisions of Public Utility Accounting and Energy Regulation to facilitate the Commission Staff's ("Staff") review and monitoring of the Agreement. The Commission further retained the authority to examine the books and records of any affiliate of VNG, whether or not regulated by the Commission, to facilitate the Staff's review of the parties' conduct under the Agreement and to ensure that the Agreement remained in the public interest.

On May 4, 2004, a Petition was filed by United States Gypsum Company ("USGC") requesting an audit and investigation of the Agreement approved in Case No. PUA-2000-00085. USGC's Petition was docketed in Case No. PUE-2004-00050.<sup>2</sup> This Petition alleged that VNG and its agent and affiliate Sequent have mismanaged VNG's assets under the Agreement to the detriment of VNG's firm and transportation customers. On September 20, 2004, the Commission entered an Order in Case No. PUE-2004-00050 granting USGC's Petition to the extent it requested that the Staff further audit and investigate the Agreement to determine whether the Agreement remains in the public interest.

NOW THE COMMISSION, upon consideration of the foregoing, hereby docketed this matter and directs its Staff to further audit and investigate the Agreement approved in Case No. PUA-2000-00085 and to file a Report addressing whether the Agreement remains in the public interest. The Staff is authorized to hire an outside consultant to assist in the audit and investigation, if necessary. VNG and Sequent are directed to cooperate with the Staff and to

<sup>1</sup> See Application of Virginia Natural Gas, Inc., and AGL Energy Services, Inc., For approval of an Energy Services Agreement under Chapter 4 of Title 56 of the Code of Virginia, Case No. PUA-2000-00085, 2000 S.C.C. Ann. Rep. 240 (hereafter Case No. PUA-2000-00085.)

<sup>2</sup> See Petition of United States Gypsum Company v. Virginia Natural Gas, Inc., and Sequent Energy Management f/k/a AGL Energy Services, Inc., Case No. PUE-2004-00050, Doc. No. 040540167, Preliminary Order (May 28, 2004) (hereafter this matter will be referred to as Case No. PUE-2004-00050).

furnish all information requested by the Staff so it can complete its investigation in an efficient and timely manner. In order to facilitate prompt and efficient discovery by the Staff, we will shorten the response time for VNG's and Sequent's answers to Staff interrogatories and data requests to seven (7) business days. No persons other than the Staff shall have discovery rights pending the filing of the Staff's Report.

Finally, depending on the nature of the Staff's Report and the findings and recommendations therein, we anticipate issuing an Order scheduling any further proceedings in this matter, including possible provisions for a public hearing.

Accordingly, IT IS ORDERED THAT:

- (1) This matter shall be docketed and assigned Case No. PUE-2004-00111.
- (2) On or before March 15, 2005, the Staff shall investigate the Agreement approved in Case No. PUA-2000-00085 and file an original and fifteen (15) copies of a Report with the Clerk of the Commission containing the Staff's findings and recommendations on whether the Agreement remains in the public interest. The Staff's investigation shall, among other things: (i) review the terms and conditions of the Agreement and determine whether any amendments or revisions to the Agreement are necessary; (ii) examine how the Agreement has been implemented by VNG and AGL Energy Services, Inc./Sequent; and (iii) audit transactions undertaken by VNG and AGL Energy Services, Inc./Sequent under the Agreement to determine whether the Agreement continues to be in the public interest. A copy of the Staff Report shall be contemporaneously served upon VNG and Sequent.
- (3) VNG and Sequent shall respond to written interrogatories within seven (7) business days after the receipt of the same. Except as modified in this Order, discovery shall be in accordance with Part VI of the Commission's Rules of Practice and Procedure.
- (4) This matter is continued pending further order of the Commission.

**CASE NO. PUE-2004-00113  
NOVEMBER 3, 2004**

APPLICATION OF  
DELMARVA POWER AND LIGHT

For exemption from Rules Governing the Use of Bidding Programs to Purchase Electricity from Other Power Suppliers and Part of Chapter 4 of Title 56

**ORDER**

By Petition filed with the State Corporation Commission ("Commission") on September 17, 2004, the Delmarva Power and Light Company ("Delmarva" or "Company") seeks exemption from the Rules Governing the Use of Bidding Programs to Purchase Electricity from Other Power Suppliers (20 VAC 5-301-10, *et seq.*) ("Bidding Rules") and a partial exemption from Chapter 4 (§ 56-76 *et seq.*) of Title 56 of the Code of Virginia ("Affiliates Act").

The Petition relates to the Company's plan to secure wholesale power for purposes of serving its Virginia retail load on and after January 1, 2005. As detailed in the Petition, the Company's application is intended to ensure that its affiliate, Conectiv Energy Supply, Inc. ("CESI"), may bid on Delmarva's request for proposals ("RFP") to serve Delmarva's entire Virginia load of approximately 98 megawatts. Additionally, the Petition seeks to ensure that CESI's bids on this RFP will not be constrained by a "lower of cost or market" pricing requirement that this Commission has, in some instances, imposed on transactions between state-regulated utilities and their affiliates governed by the Affiliates Act.

As noted in the Petition, this is a preliminary application that anticipates a further application to this Commission for an adjustment to the Company's capped rates, to be made pursuant to § 56-582 B (i) of the Virginia Electric Utility Restructuring Act ("Restructuring Act").<sup>1</sup> Section 56-582 B (i) of the Restructuring Act authorizes the Commission to adjust Virginia electric utilities' capped rates to permit their recovery of "fuel and purchased power costs pursuant to § 56-249.6, and, if applicable, in accordance with the terms of any Commission order approving the divestiture of generation assets pursuant to § 56-590."

Section 56-249.6 of the Code authorizes Commission-regulated electric utilities to recover their fuel costs, including the cost of purchased power, on a dollar-for-dollar basis, subject to this Commission's determination that such costs were prudently incurred. According to the Petition, Delmarva will be seeking to adjust its capped generation rates in the near future to reflect the purchased power costs it expects to incur as a result of its RFP. That petition was filed on October 27, 2004. Such an application will be subject to the statutory notice and hearing requirements of § 56-249.6 of the Code.

The Company states in its Petition that it is desirable that CESI be permitted to bid on Delmarva's RFP. CESI currently supplies the wholesale power Delmarva requires to serve its Virginia load and has done so continuously since Delmarva's divestiture of its generation assets to third parties and affiliates.<sup>2</sup> Delmarva states in its application that the RFP is necessitated by CESI's cancellation of its current wholesale supply contract with Delmarva effective December 31, 2004.

<sup>1</sup> Chapter 23 (§ 56-576 *et seq.*) of Title 56 of the Code of Virginia.

<sup>2</sup> The Commission issued an Order on June 29, 2000, in Case Nos. PUE-2000-00086 and PUA-2000-00032, approving Delmarva's divestiture of its generation facilities. At that time, Delmarva's generation facilities physically located within the Commonwealth consisted of two intermediate (*i.e.*, non-base load) generation facilities located on Virginia's Eastern Shore. As part of the June 29, 2000, Order, we adopted and approved a June 12, 2000, Memorandum of Understanding ("MOU") between Delmarva and the Commission Staff establishing, *inter alia*, a "Fuel Index Procedure" applicable to fuel factor adjustments on and after January 1, 2004, and extending through the end of the capped rate period.

Currently, the Bidding Rules, when applicable, prohibit affiliates of Virginia jurisdictional electric utilities from bidding on capacity to serve such electric utilities.<sup>3</sup> However, the Bidding Rules also provide in 20 VAC 5-301-10 that "[A] utility may file for exemptions from any or all of these bidding program requirements." The Petition requests that this Commission "[f]ind that the Bidding Rules are not applicable to Delmarva's RFP process...or grant an exemption from these Rules to the extent that they may be inconsistent with Delmarva's RFP bidding process. ..." Petition at 6. Delmarva states in its Petition that the Bidding Rules are presently "inconsistent with the structure and function of the electric utility industry and power markets."

The Petition also suggests that should the actions of this Commission limit CESI to a bid of the lower of cost or market in its application of the Affiliates Act to this RFP, CESI would probably not participate in the RFP. The Company states that "[i]f CESI submits the best bid, Delmarva would be prevented from obtaining electric power for delivery to its customers at the lowest available price. Neither CESI nor any other power supplier would provide service at its cost, which would eliminate any profit." Petition at 7.

NOW THE COMMISSION, having considered the foregoing, finds as follows.

We will approve the Company's application to the extent of exempting it from the requirements of 20 VAC 5-301-20 of the Bidding Rules; Delmarva may entertain a bid on its RFP from its affiliate, CESI. CESI presently furnishes wholesale power to Delmarva, and we see no reason to preclude its participation in Delmarva's RFP.

In authorizing this exemption, however, we do so in lieu of approving Delmarva's request (framed in the alternative) that the Commission: (i) find the Bidding Rules not applicable to Delmarva's RFP process, or (ii) grant an exemption from these Rules to the extent that they may be inconsistent with Delmarva's RFP bidding process. Thus, we do not adopt Delmarva's view that the Bidding Rules are presently "inconsistent with the structure and function of the electric utility industry and power markets."

However, with respect to Delmarva's Petition to exempt any such bid by CESI from the possible requirement that Delmarva pay CESI (assuming CESI is the winning bidder) the lower of cost or market for such wholesale power, we believe that such a request is premature, and we will deny that part of the Petition. Were we to rule on this issue at this time, such an action would, in our view, constitute an advisory opinion with implications for the rate application, now filed but not yet noticed or heard. In short, the procedural and due process requirements of § 56-249.6 of the Code preclude us from acting on the issue at this time.

We add, however, that such denial is without prejudice to Delmarva advancing that argument to this Commission in making its case for a rate adjustment pursuant to § 56-582 B (i) of the Code. We will also grant Delmarva limited relief under the Affiliates Act by authorizing Delmarva to entertain bids on Delmarva's RFP by CESI. However, as noted above, the rate implications of that action must await this Commission's resolution of Delmarva's filing pursuant to § 56-582 B (i) of the Code.

Accordingly, IT IS ORDERED THAT:

- (1) Delmarva is hereby exempted from the requirements of 20 VAC 5-301-20 of the Bidding Rules; Delmarva may entertain a bid from its affiliate, CESI, in conjunction with Delmarva's RFP described in the Petition.
- (2) Delmarva's Petition under the provisions of the Affiliates Act is hereby granted to the extent that Delmarva may entertain a bid from its affiliate, CESI, in conjunction with Delmarva's RFP described in the Petition.
- (3) The Petition is denied without prejudice, as described herein, in all other respects.
- (4) This matter is continued for further Order of this Commission.

<sup>3</sup> 20 VAC 5-301-20 of the Bidding Rules specifically states that "[W]ith the exception noted below, a utility may allow all sources of capacity to submit offers in a bidding program. This could include other electric utilities, independent power producers, cogenerators and small power producers.

*A host utility may not allow directly affiliated companies to participate in its capacity solicitation. Parties offering capacity reductions through load management may participate at the discretion of the host utility.* (emphasis added)

**CASE NO. PUE-2004-00116  
OCTOBER 19, 2004**

APPLICATION OF  
VIRGINIA ELECTRIC AND POWER COMPANY

For authority to issue long-term debt

**ORDER GRANTING AUTHORITY**

On September 24, 2004, Virginia Electric and Power Company ("Applicant") filed an application with the State Corporation Commission ("Commission") under Chapter 3 (§ 56-55 *et seq.*) of Title 56 of the Code of Virginia requesting authority to incur long-term indebtedness with the United States Government. The Applicant paid the requisite fee of \$250.

Applicant requests authority to obtain financing in the form of promissory notes from the United States Government in the amount of up to \$5,000,000, which may be drawn down in the year 2004. The proceeds will be used as a part of the Applicant's purchase of electric distribution facilities at Fort Eustis, Virginia, Fort Story, Virginia and Fort Monroe, Virginia. The notes will not be secured and each note drawn under the loan agreement will have

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an approximate twenty year maturity which may vary to reflect various amortizing balances corresponding to the attributes of the different distribution systems among the locations. The notes will have a fixed rate.

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) The Applicant is hereby authorized to borrow up to \$5,000,000 from the United States Government, under the terms and conditions and for the purposes set forth in the application, through December 31, 2004.

(2) Within ten (10) days of the date of the issuance of promissory notes to the United States Government, Applicant shall file a Report of Action with the Division of Economics and Finance that shall include the amount of the note(s), the interest rate(s), the maturity of notes(s) and the applicable redemption provisions.

(3) Approval of the application shall have no implications for ratemaking purposes.

(4) There being nothing further to be done, this matter is hereby dismissed.

**CASE NO. PUE-2004-00118  
OCTOBER 21, 2004**

APPLICATION OF  
THE POTOMAC EDISON COMPANY d/b/a ALLEGHENY POWER

For authority to issue and sell up to \$440 million of debt securities and/or credit facilities

**ORDER GRANTING AUTHORITY**

On September 27, 2004, The Potomac Edison Company d/b/a Allegheny Power ("Potomac Edison" or "the Company") filed an application under Chapter 3 of Title 56 of the Code of Virginia. In its application, Potomac Edison proposes to issue debt securities and/or credit facilities up to \$440,000,000 through October 1, 2006. Applicant paid the requisite fee of \$250.

Potomac Edison requests authority to issue and sell first mortgage bonds ("FMB"), secured and unsecured medium term notes ("MTN"), debentures or other debt securities (collectively "Refunding Debt"), or any combination thereof, in one or more series, or to enter into one or more credit facilities with one or more financial institutions ("Credit Facilities"), or any combination of Refunding Debt and Credit Facilities not to exceed \$440,000,000. The interest rates may be fixed or floating and will be determined at the time of issuance. Maturities may range from less than one year to over 30 years. The proceeds of the issuances will be used to repay, refinance or redeem certain currently outstanding FMB and MTN, to pay premiums for calling existing FMB and MTN, and reasonable fees and issuance costs. Refunding Debt will be issued pursuant to competitive bidding or negotiated arrangements with financial institutions, underwriters, banks or agents, or public offerings or private placements. In the case of Credit Facilities, the issuance will be determined by negotiations or arrangements with lenders of the Credit Facilities. Potomac Edison represents that it will only issue Refunding Debt if the net present value of the net interest savings will be positive and significant.

We also note that Potomac Edison currently has Commission authority to issue up to \$66,800,000 under Case No. PUF-1997-00031.<sup>1</sup>

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 find that the authority granted in Case No. PUF-1997-00031 should be terminated and superceded by the approval granted herein.

Accordingly, IT IS ORDERED THAT:

1) The authority granted in Case No. PUF-1997-00031 is hereby terminated and superceded by the authority granted herein.

2) Potomac Edison is hereby authorized to issue Refunding Debt and/or Credit Facilities up to a maximum of \$440,000,000 through October 1, 2006, under the terms and conditions and for the purposes as set forth in its application, provided that the issuance of Refunding Debt results in cost savings.

3) Potomac Edison shall submit a preliminary Report of Action within ten (10) days after the issuance of any securities pursuant to Ordering Paragraph (2), to include the type of security, the issuance date, the maturity date, amount of the issue, the interest rate, a cost/benefit analysis demonstrating cost savings as a result of issuing Refunding Debt.

4) Applicant shall file an annual report of action on or before March 1, 2005, and March 1, 2006, for the preceding annual period to include:

(a) the cumulative principal amount issued under the authority granted herein and the amount remaining to be issued;

(b) the issuance date, type of security, amount issued, interest rate, date of maturity, underwriters' names, underwriters' fees, other issuance expenses realized to date, and net proceeds to Applicant; and

<sup>1</sup> Application of The Potomac Edison Company, d/b/a Allegheny Power, For authority to issue debt securities, Case No. PUF-1997-00031, Orders dated November 7, 1997, March 1, 2001, December 13, 2002, and March 23, 2004.

- (c) a detailed schedule all reacquisition losses, unamortized premiums paid on refunded debt securities and overall cost savings from refunding.
- 5) Applicant shall file a final Report of Action on or before November 30, 2006, to include all information required in Ordering Paragraph (4) and a detailed account of all the actual expenses and fees paid to date for all securities issued under this authority, with an explanation of any variances from the estimated expenses contained in the Financing Summary attached to the application.
- 6) Approval of this 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.

**CASE NO. PUE-2004-00120  
DECEMBER 17, 2004**

JOINT APPLICATION  
NORTHERN VIRGINIA ELECTRIC COOPERATIVE  
and  
NOVEC SOLUTIONS, INC.

For approval of affiliate transactions

**ORDER GRANTING APPROVAL**

On October 6, 2004, Northern Virginia Electric Cooperative ("NOVEC") and NOVEC Solutions, Inc. ("NS") (collectively, "Applicants"),<sup>1</sup> filed a joint application with the Commission, under Chapter 4 of Title 56 of the Code of Virginia ("Code"). The joint application was assigned Case No. PUE-2004-00120. In the joint application, NOVEC and NS request the Commission to grant authority for NOVEC to:

- 1) Enter into a revised Cost Allocation and Service Agreement ("CAS Agreement") between NOVEC and NS to include various services provided by NOVEC to NS in support of NS's proposed program of providing managed optical bandwidth services and to include certain limited services to be provided by NS to NOVEC, as they relate to the provision of optical bandwidth services (i.e., transport and Internet data delivery services).
- 2) Enter into a Master Fiber Lease Agreement ("Fiber Agreement") with NS through which NS will lease from NOVEC certain installed (dark) fiber, and planned fiber that may be made available in the future. As part of the Fiber Agreement, NOVEC may provide to NS certain services associated with such leased fiber, such as communications, maintenance, repair, and installation services.

NOVEC is a Virginia public service company formed under the laws of the Commonwealth of Virginia. NS, a Virginia corporation, was formed by NOVEC as a wholly owned subsidiary. NS was established to conduct utility related or incidental business activities throughout the Northern Virginia region, pursuant to § 56-21 7 of the Code.

On December 16, 1997, in Case No. PUA-1997-00012, the Commission approved the CAS Agreement between NOVEC and NS, with services provided by NOVEC to NS limited to those for support of NS's provision of satellite television services and appliance warranty services. No services were to be provided by NS to NOVEC.

On March 24, 1999, in an Order entered in Case No. PUA-1999-00004, the Commission granted permission for NS to engage in any lawful business services not prohibited or excluded in § 56-210 (as amended and reflected in new § 56-231.16), and by other sections repealed in 1999, §§ 56-217, 56-225, and 56-229 of Chapter 9 of Title 56 of the Code.

On July 20, 2000, NOVEC Energy Solutions, Inc. ("NES")<sup>2</sup> formed as a wholly owned affiliate of NS, was established in order to serve as a competitive service provider and as an aggregator in electric and natural gas retail access pilot programs.

On September 19, 2000, NES filed an application, assigned Case No. PUE-2000-00479, for licensure to conduct business as a competitive service provider in conjunction with Virginia retail access pilot programs, and to act as an aggregator in electric and natural gas retail access pilot programs. The application was approved by the Commission in an Order entered December 22, 2000.

On November 7, 2000, in Case No. PUA-2000-00068, the Commission granted authority for NOVEC to:

- Provide a loan to NS through a promissory note.
- Allow NS to conduct any lawful business permitted pursuant to § 56-23 1.16 of Chapter 9 of Title 56 of the Code, rather than the repealed § 56-210.

<sup>1</sup> NS was formerly called NOVASTAR, Inc. ("NOVASTAR"). The name change was effective at the State Corporation Commission ("Commission") on May 14, 2002. All prior applications of NOVEC that include NS, as referenced in this Order, were made and approved by the Commission under the name of NOVASTAR.

<sup>2</sup> NES was formerly called America's Energy Alliance, Inc. ("AEA"). The name change was effective on April 15, 2002, and Articles of Amendment were filed with the Commission. All of the prior applications of NOVEC that included NES, as referenced in this Order, were made and approved by the Commission under the name of AEA.

- Modify the CAS Agreement for NOVEC to receive services from NS and its affiliates and to provide services to NS and its affiliates.<sup>3</sup>
- Transfer certain computer software of NOVEC to NES and the remaining natural gas customers and accounts from NOVEC's America's Energy Division, under an Asset Purchase Agreement.

On November 16, 2001, the Commission entered Orders, in Case Nos. PUA-2001-00036 and PUF-2001-00027, in which it expanded the authority granted to NOVEC in previous cases to provide equity to NS and NES in an aggregate amount not to exceed \$2,000,000; and to provide loans, credits, and other debt instruments to NS and NES in an aggregate amount not to exceed \$10,000,000.

In the context of the pending joint application, Case No. PUE-2004-00120, NS plans to provide managed optical bandwidth Internet services. To provide such Internet services, NS will lease dark fiber from NOVEC or other dark fiber providers, activate that dark fiber, and connect it to an Internet Service Provider ("ISP") access point, allowing NS to provide Internet services to large multi-facility commercial, governmental and/or property management companies. In the future, the customer base may be expanded to small or medium size multi-facility enterprises. NS will be providing data services only and no voice services are planned at this time.

NS Internet services will be limited to the transporting of Internet data content from major ISPs delivered wholesale, or to the retail final end-user. At the present time, NS does not intend to provide Internet content or service other than when it is associated with its managed bandwidth service.

Currently, NOVEC obtains its Internet Provider ("IP") bandwidth services, used for internal communications, through a contract with an IP service provider that relies upon the last mile loop of the local telephone company. NOVEC's fiber network is being extended to directly connect to the global backbone network for direct IP connectivity access. NOVEC requires approximately 5 M/bits of bandwidth for its internal needs. The approximate commercial charge for IP connectivity for 5 M/bits delivered at retail in the Northern Virginia area, based on market survey research, is in the range of \$2,000 per M/bit per month. If, as planned, NOVEC satisfies its IP requirements through NS IP, when established, or if NS provides other communications services to NOVEC, the charges to NOVEC will be at the lower of cost or market. Charges based on cost are anticipated to be less than half of the existing commercial rate, resulting in substantial savings to NOVEC.

NOVEC's charges to NS for administrative and operational services provided through and as described in the CAS Agreement will be the fully loaded cost to NOVEC in providing those services. NOVEC's charges to NS for dark and additional fiber provided through and as described in the Fiber Agreement will be at the higher of cost or market. Fiber market rates were determined by NOVEC based on primary survey research of fiber market leasing rates in the Northern Virginia area. Based on current market research, NOVEC will provide services to NS at the market rate, which Applicants represent is significantly higher than a cost-based rate.

In the joint application, Applicants assert that approval by the Commission is in the public interest because provision of managed bandwidth services by NS supports the FCC regulatory policies of promoting competition, innovation, and investment in broadband services. Also, provision of bandwidth services through a separate subsidiary will help insure that such services will not be subsidized by NOVEC. Finally, the compensation received by NOVEC for services provided to NS and the use of NOVEC's plant (i.e., dark fiber network) that supports NS programs will defray a portion of NOVEC's fixed and operating costs, thereby indirectly benefiting the customer.

NOW THE COMMISSION, upon consideration of the joint application and representations of the Applicants and having been advised by Staff, is of the opinion and finds that the CAS Agreement and the Fiber Agreement between NOVEC and NS are in the public interest and should be approved, subject to the pricing conditions described herein.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to § 56-77 of the Code, NOVEC is hereby granted authority to enter into the CAS Agreement and the Fiber Agreement with its affiliate, NS, as reviewed and described herein subject to the following conditions. Goods and services provided by NOVEC to NS shall be priced at the higher of cost or market, and goods and services received by NOVEC from its affiliates shall be at the lower of cost or market.
- 2) The authority granted herein shall have no ratemaking implications for future rate proceedings.
- 3) The approval granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code.
- 4) Should there be any changes to the terms and conditions of the CAS Agreement, Commission approval shall be required for such changes.
- 5) Should there be any changes to the terms and conditions of the Fiber Agreement, Commission approval shall be required for such changes.
- 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 such affiliate is regulated by the Commission.
- 7) As first ordered in Case No. PUA-1997-00012, NOVEC shall submit an Annual Report of Affiliate Transactions (the "Report"), with the Director of Public Utility Accounting of the Commission by no later than April 1 of each year, subject to administrative extension by the Director of Public Utility Accounting. Such Report shall provide and shall include the following: affiliate's name, description of each affiliate agreement, date(s) covered by each affiliate agreement, total annual dollar amount expended under each affiliate agreement, identification and description of each service provided, and the total annual expenses of each service provided. Such Report shall include the cumulative aggregate level of equity contributions by NOVEC to its affiliates, the cumulative aggregate amount of loan guarantees, loans, letters of credit, and other debt instruments made by NOVEC to its affiliates, broken down by each loan guarantee and by each debt instrument and identifying the amount of outstanding loan or debt balances of each affiliate. The Report shall include all agreements with

<sup>3</sup> While the CAS Agreement is between NOVEC and NS, it applies to NOVEC and NS and its affiliates, thereby including NES. Therefore, references herein to NS within the context of the CAS Agreement include both NS and its affiliates.



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affiliates regardless of the amount involved. In the Report, NOVEC shall include evidence or documentation of its research to obtain market price data for services provided, including any loan guarantees, loans, and letters of credit extended to its affiliates, as may be appropriate. The Report shall include a copy of each lease addendum executed during the preceding calendar year in connection with the Fiber Agreement approved herein.

- 8) The Report, as herein described, will not be treated as confidential. NOVEC may seek confidential treatment of information as provided by our Rules of Practice and Procedure, 5 VAC 5-20-170.
- 9) If General Rate Case Filings are not based on a calendar year, NOVEC shall include the affiliate information contained in the Report in such filings.
- 10) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUE-2004-00122  
NOVEMBER 30, 2004**

APPLICATION OF  
APPALACHIAN POWER COMPANY

For authority to receive cash capital contributions from an affiliate

**ORDER GRANTING AUTHORITY**

On October 20, 2004, Appalachian Power Company ("APCO" or the "Company") and American Electric Power Company, Inc. ("AEP"), jointly filed an application with the State Corporation Commission ("Commission") under Chapter 4 of Title 56 of the Code of Virginia requesting authority for AEP to make cash capital contributions to APCO from time to time prior to January 1, 2007, up to an aggregate amount of \$200,000,000.

APCO states that the proceeds of such capital contributions will be applied to the Company's construction program, to repay short-term debt, and for other proper corporate purposes. APCO also states that their will be no costs allocated or charged for such capital contributions and that they will help provide an adequate equity component in managing a favorable capital structure for APCO.

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) APCO is hereby authorized to receive cash capital contributions from AEP, at AEP's discretion, from time to time prior to January 1, 2007, up to an aggregate amount of \$200,000,000.
- (2) Within sixty (60) days after the end of each calendar quarter in which any of the cash capital contributions are received pursuant to Ordering Paragraph (1), Applicant shall file with the Commission a detailed Report of Action to include all cash capital contributions received during the calendar quarter by amount and date, along with a corresponding quarter ended balance sheet that reflects such contributions.
- (3) Applicant's Final Report of Action shall be due on or before March 1, 2007, to include the information required in Ordering Paragraph (2) in a cumulative summary of actions taken during the period authorized.
- (4) Approval of the application shall have no implications for ratemaking purposes.
- (5) Approval of this application does 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 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 section 56-79 of the Code of Virginia.
- (7) This matter shall be continued, subject to the continuing review, audit, and appropriate directive of the Commission.

**CASE NO. PUE-2004-00123  
NOVEMBER 30, 2004**

APPLICATION OF  
APPALACHIAN POWER COMPANY

For authority to incur long-term debt

**ORDER GRANTING AUTHORITY**

On October 21, 2004, Appalachian Power Company ("APCO, or "Applicant") filed an application with the Virginia State Corporation Commission ("Commission") under Chapters 3 and 4 of Title 56 of the Code of Virginia for authority to issue long-term debt to the public and to an affiliate.

In conjunction, Applicant requests authority to enter 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"). 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 \$950,000,000 from time to time through December 31, 2005. The Notes may be issued in the form of First Mortgage Bonds, Senior Notes, 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 9 months and not more than 50 years. The interest rate may be fixed or variable. The fixed rate of any note shall not exceed by more than 350 basis points the yield to maturity on United States Treasury obligations of comparable maturity at the time of pricing of the Notes. The initial interest rate on any variable rate Note will not exceed 10% per annum.

APCO requests authority to issue up to \$200,000,000 out of the \$950,000,000 aggregate principal amount of Notes to its parent company, American Electric Power Company, Inc. ("AEP"), through one or more unsecured Notes. APCO states that the interest rates on any Notes issued to AEP would parallel AEP's cost of capital in accordance with the Public Utility Holding Company Act of 1935, as amended ("PUHCA"). However, the Notes will only be sold to AEP if their effective cost is lower than or equal to the effective cost of an unsecured Note of similar terms and tenor sold to non-affiliated entities.

APCO intends to sell the Notes (i) by competitive bidding; (ii) through negotiation with underwriters or agents; (iii) by direct placement with a commercial bank or other institutional investor; or (iv) to its parent company, AEP. Issuance costs are expected to be less than 1.0% of the principal, with no costs incurred on Notes issued to AEP. The proceeds from the issuance of the Notes will be used to redeem, directly or indirectly, long-term debt; to refund, directly or indirectly, preferred stock; to repay short-term debt; to reimburse APCO's treasury for construction program expenditures; and for other proper corporate purposes. If it is found to be cost advantageous, proceeds from the issuance of the Notes may be used for the early redemption of up to \$45,000,000 of APCO's First Mortgage Bonds, 8.0% Series due 2025, which becomes eligible for early redemption at 1.04% of the principal amount on June 1, 2005.

In conjunction with the issuance of the proposed securities, Applicant requests authority, through December 31, 2005, 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 ("Treasury Hedges"). All Treasury Hedges will correspond to one or more of the Notes. Consequently, the cumulative notional amount of the Treasury Hedges cannot exceed \$950,000,000.

Finally, APCO requests a continuation of the authority granted in Case No. PUE-2004-00003 to utilize interest rate management techniques and enter into IMRAs through December 31, 2005.<sup>1</sup> 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. APCO will only enter IRMAs with counterparties that are highly rated financial institutions. The aggregate notional amount of the IMRAs outstanding will not exceed 25% of APCO's existing debt obligations.

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 will approve the application subject to the terms and conditions detailed herein.

Accordingly, IT IS ORDERED THAT:

- (1) Applicant is hereby authorized to issue and sell up to \$950,000,000 of Notes, from time to time during the period January 1, 2005, through December 31, 2005, for the purposes and under the terms and conditions set forth in the application.
- (2) Notes issued in accordance with Ordering Paragraph (1) for the purpose of refunding maturing debt are limited to the aggregate principal amount of \$530,000,000, while remaining Notes may be issued to increase outstanding debt or for the early redemption of existing debt, when it is cost effective and interest savings can be demonstrated.
- (3) Applicant is hereby authorized to issue and sell up to \$200,000,000 of the total \$950,000,000 authorized in Ordering Paragraph (1) to AEP, provided that the effective cost of such Notes is lower than or equal to the effective cost of an unsecured Note of similar terms and conditions sold to non-affiliated entities.
- (4) Applicant is authorized to enter into the hedging agreements for the purposes set forth in its application and to the extent that the aggregate notional amount outstanding does not to exceed \$950,000,000 during the period January 1, 2005 through December 31, 2005.
- (5) 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, 2005, through December 31, 2005.
- (6) Applicant shall not enter into any IRMA or hedging transaction involving counterparties having credit ratings of less than investment grade.
- (7) Applicant shall submit a preliminary Report of Action within ten (10) days after the issuance of any debt pursuant to this Order to include the type of debt, the issuance date, the amount of the issue, the interest rate, the maturity date, and any securities retired.
- (8) Applicant shall submit a preliminary Report of Action within ten (10) days after it enters into any hedging agreement or IRMA pursuant to Ordering Paragraphs (4) and (5) 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.

<sup>1</sup> Pursuant to the Commission's Order Granting Authority, dated February 11, 2004, in Case No. PUE-2004-00003, APCO's existing authority to utilize IRMAs is set to expire after December 31, 2004.

(9) Within 60 days after the end of each calendar quarter in which any debt is issued pursuant to this Order, Applicant shall file a more detailed Report of Action to include: the type of debt issued, the date and amount of each series, the interest rate, the maturity date, net proceeds to Applicant, an itemized list of expenses to date associated with each issue, a description of how the proceeds were used, a list of any securities retired with a corresponding analysis to demonstrate the cost savings associated with the refunding, a list of all hedging agreements and IRMAs associated the debt issued, and a balance sheet reflecting the actions taken.

(10) Applicant's Final Report of Action shall be due on or before March 1, 2006, to include the information required in Ordering Paragraph (9) in a cumulative summary of actions taken during the period authorized.

(11) The authority granted herein shall have no implications for ratemaking purposes.

(12) Approval of this application does not preclude the Commission from applying the provisions of § 56-78 and § 56-80 of the Code of Virginia hereafter.

(13) 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.

(14) This matter shall remain under the continued review, audit, and appropriate action of this Commission.

**CASE NO. PUE-2004-00125  
DECEMBER 17, 2004**

APPLICATION OF  
DELMARVA POWER & LIGHT COMPANY  
and  
CONECTIV ENERGY SUPPLY, INC.

For approval of transactions under Chapter 4 of Title 56 of the Code of Virginia

**ORDER GRANTING APPROVAL**

On October 26, 2004, Delmarva Power & Light Company ("Delmarva" or the "Company") and Conectiv Energy Supply, Inc. ("CESI"), filed an application requesting approval under Chapter 4 of Title 56 of the Code of Virginia for approval for Delmarva to purchase electric power from its affiliate, CESI.

Delmarva is a Delaware and Virginia corporation that provides electric service to approximately 22,700 retail customers and one wholesale customer in Accomack and Northampton Counties on Virginia's Eastern Shore. Delmarva is a wholly owned subsidiary of Conectiv, which is incorporated in Delaware and is a registered holding company under the federal Public Utility Holding Company Act of 1935.

CESI is a Delaware corporation wholly owned by Conectiv Energy Holding, Inc. ("CEH). CEH is, in turn, a wholly owned subsidiary of Conectiv. CESI engages in competitive wholesale electric power and natural gas transactions at market-based rates subject to Federal Energy Regulatory Commission ("FERC") jurisdiction.

In its June 29, 2000 Order, in Case No. PUE-2000-00086, the Commission approved Delmarva's functional separation plan, which provided for the total divestiture of Delmarva's electric power plants and a series of rate reductions. The Commission's June 29, 2000 Order also permitted CESI and Delmarva to enter into a service agreement and related short-term transaction agreements with CESI under which CESI sold power to Delmarva during the transitional period when Delmarva was divesting itself of its generation assets and third party power purchase and sale agreements.

Delmarva subsequently replaced these short-term agreements with a contract under which CESI sold power to Delmarva through December 31, 2003, for all of Delmarva's Virginia power supply requirements for customers who had not selected a competitive retail power supplier. The Commission approved that contract in its Order dated December 21, 2001, in Case No. PUA-2001-00057. That contract limited Delmarva's risk with respect to purchased power related costs because it provided for Delmarva to purchase power required to serve its Virginia default service customers at a price equal to the power supply component of the Company's Virginia retail rates. To the extent that CESI's costs to generate or procure electricity to supply all of the power requirements of Delmarva's Virginia retail sales customers were less than or greater than that price, CESI bore the risks and rewards of such costs. In Case No. PUE-2003-00544, the Commission approved an extension of the contract until either CESI or Delmarva gave the other notice of termination, which termination could not occur prior to December 31, 2004. In a letter dated July 27, 2004, CESI provided notice to Delmarva of termination as of December 31, 2004. In response to such termination, the Company initiated a Request for Proposal ("RFP") to solicit bids from prospective bidders to supply power for Delmarva's Virginia default service load beginning on January 1, 2005.

Delmarva now requests approval of a power purchase transaction (the "Full Requirements Service Agreement" or "FSA") between Delmarva and CESI under which CESI will supply 100% of Delmarva's Virginia default service customers' requirements for a 17-month term commencing on January 1, 2005, through May 31, 2006.

Under the Full Requirements Service Agreement, CESI is obligated to provide to Delmarva all of the capacity and megawatt hours ("MWh") needed by Delmarva's customers. Delmarva will pay CESI its bid price of \$61.25 per MWh of energy delivered to Delmarva for service to its Virginia retail sales customers based on the number of MWh delivered to Delmarva's default service customers. CESI will sell such power to Delmarva pursuant to FERC tariff.

As represented by Delmarva, the FSA was entered into a result of a competitive bidding process in which nine power suppliers took the necessary steps to qualify to bid. Delmarva received seven bids. Bidders were required to offer to provide capacity and energy sufficient to meet the needs of Delmarva's default service customers and to include all supply costs in a dollar per MWh bid. At time of application, none of Delmarva's customers had selected an alternative service provider.

Delmarva represents that CESI was the lowest bidder, and, at Staffs request, provided confidential information to support its representation. No other bidder was affiliated with Delmarva or CESI.

Delmarva represents that, by entering into the FSA, it will be assured of obtaining 100% of the capacity needed to provide service to its customers from January 1, 2005, through May 31, 2006. The FSA was priced based on market prices in accordance with FERC tariffs. Delmarva represents that the FSA, however, will require an increase in rates and has filed a companion application, Case No. PUE-2004-00124, requesting approval of new rate schedules designed to recover the increased cost of such purchased power.

NOW THE COMMISSION, upon consideration of the application and representations of the Company and having been advised by its Staff, is of the opinion and finds that the above-described FSA is in the public interest and should, therefore, be approved. Accordingly, IT IS ORDERED THAT:

(1) Pursuant to § 56-77 of the Code of Virginia, Delmarva is hereby granted approval of the Full Requirements Service Agreement for the purposes and under the terms and conditions as described herein.

(2) Should any terms and conditions of the Full Requirements Service Agreement change from those contained herein, Commission approval shall be required for such changes.

(3) The FSA approved herein shall be subject to the same terms and conditions as detailed in the Commission's June 29, 2000 Order in Case Nos. PUE-2000-00086 and PUA-2000-00032, as applicable.

(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. The purchased power costs associated with the FSA shall be considered in Case No. PUE-2004-00124. Should any additional issues develop regarding the approval granted herein, such issues shall be dealt with in Case No. PUE-2004-00124 or in any other proceeding, as necessary, in accordance with the Commission's continuing jurisdiction over affiliate transactions to revise and amend the terms and conditions of the FSA as necessary to protect the public interest.

(5) 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.

(6) Delmarva shall include the transactions approved herein in its Annual Report of Affiliate Transactions submitted to the Commission's Director of Public Utility Accounting.

(7) If Annual Informational and/or General Rate Case Filings are not based on a calendar year, then Delmarva shall include the affiliate information contained in the Annual Report of Affiliate Transactions in such filings.

(8) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2004-00126  
DECEMBER 20, 2004**

APPLICATION OF  
SOUTHWESTERN VIRGINIA GAS COMPANY

2004 Annual Informational Filing

**ORDER**

On October 27, 2004, Southwestern Virginia Gas Company ("Southwestern" or the "Company") filed with the State Corporation Commission ("Commission") its Annual Informational Filing ("AIF") for the period ending June 30, 2004.

Pursuant to 20 VAC 5-200-30 A 11 of the Rules Governing Rate Increase Applications and Annual Informational Filings, Southwestern requests a waiver of the requirement to file certain information for Southwestern Virginia Energy Industries, Ltd. ("Parent"), and the Company. Specifically, the Company requests a waiver of the requirement of 20 VAC 5-200-30 A 9 to file Schedule 1 - Historic Profitability and Market Data, Schedule 2 - Interest and Cash Flow Coverage Data, Schedule 6 - Public Financial Report, and Schedule 7 - Comparative Financial Statements. In support of its request for waiver of these schedules, Southwestern states that the Parent has historically never contributed to the raising of capital for the Company or assisted the Company in raising capital either by guaranteeing debt or in any other manner securing the Company obligations. The Company further states that the Parent is a closely held corporation, not traded publicly, and does not have financial statements prepared for public distribution.

Southwestern further requests a waiver of the requirement to prepare Schedule 30 - Jurisdictional Study. In support of its request for waiver of Schedule 30, the Company states that non-jurisdictional customers represent less than 1.2% of its customers and 4.4% of its gas throughput. The Company asserts that there is virtually no impact on the per customer cost of service and no economic justification to create such a study.

NOW THE COMMISSION, upon consideration of the matters, is of the opinion and finds that the Company should be granted a waiver of the rules for the AIF for the period ending June 30, 2004, as described herein.

Accordingly, IT IS ORDERED THAT:

- (1) Southwestern Virginia Gas Company's annual informational filing for the period ending June 30, 2004, shall be docketed as PUE-2004-00126, and all associated papers shall be filed therein.
- (2) Southwestern Virginia Gas Company's request for waiver of the requirement to file certain schedules is hereby granted.
- (3) The Commission waives the requirement for the Company to file Schedule 1 - Historic Profitability and Market Data, Schedule 2 - Interest and Cash Flow Coverage Data, Schedule 6 - Public Financial Report, Schedule 7 - Comparative Financial Statements, and Schedule 30 - Jurisdictional Study.
- (4) The waiver granted herein does not extend to any future application for a rate increase or annual informational filing and should not be considered precedent for the grant of a waiver in any future proceeding.

**CASE NO. PUE-2004-00128  
NOVEMBER 16, 2004**

APPLICATION OF  
APPALACHIAN POWER COMPANY

To revise its fuel factor pursuant to § 56-249.6 of the Code of Virginia

**ORDER ESTABLISHING 2005 FUEL FACTOR PROCEEDING**

On October 29, 2004, Appalachian Power Company ("Appalachian" or the "Company") filed with the State Corporation Commission ("Commission") an application along with testimony, exhibits, and a proposed tariff intended to increase its current fuel factor from 1.300¢ per kWh to 1.420¢ per kWh, effective with bills rendered on and after January 1, 2005.

The application states that the revision from 1.300¢ per kWh to 1.420¢ per kWh is necessary to reflect the appropriate level of fuel expense recovery over the period January 1, 2005, through December 31, 2005, within the meaning of § 56-249.6 of the Code of Virginia ("Code"). The proposed fuel factor change will result in an estimated total revenue increase of approximately \$18.6 million, or 2.8%, over the twelve month projected period.

NOW THE COMMISSION, having considered the application and applicable statutes and regulations, 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. We will permit the proposed fuel factor of 1.420¢ per kWh to be placed into effect, on an interim basis, effective with bills rendered on and after January 1, 2005.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed and assigned Case No. PUE-2004-00128.
- (2) A public hearing shall be convened on February 8, 2005, at 10:00 a.m., in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia, to receive comments from members of the public and to receive evidence related to the application. Any person not participating as a respondent as provided for in Ordering Paragraph (8) below may give oral testimony at the February 8, 2005, public hearing. Any person desiring to make a statement need only appear in the Commission's Second Floor Courtroom in the Tyler Building at 9:45 a.m. on the day of the hearing and identify himself or herself to the Bailiff.
- (3) Appalachian shall put its proposed fuel factor into effect, on an interim basis, effective with bills rendered on and after January 1, 2005.
- (4) Copies of the Company's application, prefiled testimony, exhibits, and proposed tariff, as well as this Order, are available to the public by submitting a request to counsel for Appalachian, Ashley C. Beuttel, Esquire, Woods Rogers PLC, 823 East Main Street, Suite 1200, Richmond, Virginia 23219. 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 between the hours of 8:15 a.m. and 5:00 p.m., Monday through Friday, or download unofficial copies from the Commission's website: <http://www.state.va.us/scc/caseinfo.htm>.
- (5) On or before December 13, 2004, Appalachian shall cause a copy of the following notice to be published as display advertising (not classified) on one occasion in newspapers of general circulation throughout its service territory:

**NOTICE TO THE PUBLIC OF  
APPALACHIAN POWER COMPANY'S REQUEST  
TO REVISE ITS FUEL FACTOR**

On October 29, 2004, Appalachian Power Company ("Appalachian" or the "Company") filed with the State Corporation Commission (the "Commission") an application along with testimony, exhibits, and a proposed tariff intended to increase its current fuel factor from 1.300¢ per kWh to 1.420¢ per kWh, effective with bills rendered on and after January 1, 2005.

The application states that the revision from 1.300¢ per kWh to 1.420¢ per kWh is necessary to reflect the appropriate level of fuel expense recovery over the period January 1, 2005, through December 31, 2005, within the meaning of § 56-249.6 of the Code of Virginia. The proposed fuel factor change will result in

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an estimated total revenue increase of approximately \$18.6 million, or 2.8%, over the twelve month projected period.

The Commission has scheduled a public hearing to commence at 10:00 a.m. on February 8, 2005, in the Commission's Second Floor Courtroom, Tyler Building, 1300 East Main Street, Richmond, Virginia, for the purpose of receiving comments from members of the public and evidence related to the application.

Copies of Appalachian's application, prefiled testimony, exhibits, and proposed tariff, as well as a copy of the Commission's Order in this proceeding, are available to the public by submitting request to counsel for Appalachian, Ashley C. Beuttel, Esquire, Woods Rogers PLC, 823 East Main Street, Suite 1200, Richmond, Virginia 23219. 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 between the hours of 8:15 a.m. and 5:00 p.m., Monday through Friday, or unofficial download copies from the Commission's website: <http://www.state.va.us/scc/caseinfo.htm>.

On or before December 30, 2004, any interested person may participate as a respondent in this proceeding as provided by the Commission's Rules of Practice and Procedure by filing an original and fifteen (15) copies of a notice of participation with the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Interested parties should obtain a copy of the Commission's Order in this proceeding for further details on participation as a respondent.

Any person not participating as a respondent as provided above and desiring to make a statement at the public hearing concerning the application may appear in the Commission's Second Floor Courtroom in the Tyler Building at 9:45 a.m. on the day of the hearing and sign up to speak.

All filings with the Clerk of the Commission shall refer to Case No. PUE-2004-00128 and shall simultaneously be served on counsel for the Company at the address set forth above.

APPALACHIAN POWER COMPANY

(6) On or before December 13, 2004, Appalachian 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.

(7) At the commencement of the hearing scheduled herein, Appalachian shall provide proof of service and notice as required in this Order.

(8) On or before December 30, 2004, any interested person may participate as a respondent in this proceeding by filing an original and fifteen (15) copies a notice of participation with the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, and shall simultaneously serve a copy of the notice of participation on counsel to the Company at the address set forth in Ordering Paragraph (4) above. Pursuant to Rule 5 VAC 5-20-80 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. Interested parties shall refer in all of their filed papers to Case No. PUE-2004-00128.

(9) Within five (5) business days of receipt of a notice of participation as a respondent, Appalachian 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.

(10) On or before January 13, 2005, each respondent may file with the Clerk of the Commission at the address set forth in Ordering Paragraph (8) above an original and fifteen (15) copies of any testimony and exhibits by which it expects to establish its case. Each respondent shall serve copies of the testimony and exhibits on counsel to Appalachian and on all other respondents.

(11) The Commission Staff shall investigate the reasonableness of Appalachian's estimated costs and proposed fuel factor. On or before January 21, 2005, the Staff shall file with the Clerk of the Commission an original and fifteen (15) copies of testimony and exhibits regarding its investigation of the application and shall promptly serve a copy on counsel to the Company and all respondents.

(12) On or before January 28, 2005, Appalachian shall file with the Clerk of the Commission an original and fifteen (15) copies of any rebuttal testimony that the Company expects to offer in rebuttal to the testimony and exhibits of the respondents and the Commission Staff and shall on the same day serve one copy on Staff and all respondents.

(13) Appalachian and respondents shall respond to written interrogatories 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 and Procedure.

**CASE NO. PUE-2004-00129  
DECEMBER 17, 2004**

APPLICATIONS OF  
ATMOS ENERGY CORPORATION  
and  
ATMOS ENERGY HOLDINGS, INC.

For authority to incur short-term debt and to lend short-term debt to an affiliate

**ORDER GRANTING AUTHORITY**

On November 1, 2004, Atmos Energy Corporation ("Atmos" or "Company") and Atmos Energy Holdings, Inc. ("AEH"), completed an application with the State Corporation Commission ("Commission") under Chapters 3 and 4 of Title 56 of the Code of Virginia (Va. Code §§ 56-55 et seq. and 56-76 et seq.) requesting authority to incur short-term indebtedness up to a maximum of \$643,000,000 at any time between January 1, 2005, and December 31, 2005. The amount of short-term debt requested in the application is in excess of twelve percent (12%) of total capitalization as defined in § 56-65.1 of the Code of Virginia. Atmos also requests authority to lend short-term funds to an affiliate in an amount not to exceed \$100,000,000 at any one time. Applicant paid the requisite fee of \$250.

Atmos proposes to incur short-term indebtedness by making drawdowns under existing credit facilities or through the use of its commercial paper program. Atmos has in place three separate credit facilities totaling \$643,000,000 of available credit. Under the credit facilities, the interest rate may be negotiated at the time of drawdown or based on the then prevailing London InterBank Offered Rate ("LIBOR"). Under the commercial paper program, the interest rate is set daily based on market conditions. Applicant states that the funds will be used to maintain its construction budget, to acquire additional assets, to redeem maturing long-term debt securities, to provide working capital, to provide for maximum peak day gas purchases, and for other general corporate purposes.

Atmos also proposes to continue to lend to its wholly owned subsidiary, AEH, through a \$100,000,000 short-term credit facility ("Affiliate Facility") for calendar year 2005. The interest rate on the proposed affiliate transactions will be based on LIBOR plus 275 basis points. The interest rate is 25 basis points higher than the LIBOR plus 250 basis points that Atmos Energy Marketing, LLC ("AEM), another wholly owned subsidiary of Atmos, would pay to draw down funds from its uncommitted, secured revolving credit facility ("Stand Alone Facility").

According to the application, AEH is a non-regulated natural gas marketing and trading subsidiary of Atmos. The requested loan to AEH is primarily to support the natural gas supply procurement efforts of AEM for, among others, Atmos. Applicant also states that AEH is the guarantor of all amounts outstanding under the Stand Alone Facility. The six financial institutions that provide the Stand Alone Facility have no recourse to Atmos' regulated utility assets. Applicant also suggests that the \$100,000,000 Affiliate Facility will entail relatively modest risk to Atmos as to any impact on financial standing or as to any impact on Virginia operations. Atmos proposes that any increase in the Stand Alone Facility will result in an equivalent reduction in the amount of short-term loans that Atmos may make to AEH.

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 as conditioned below will not be detrimental to the public interest.

With regard to the pricing of the loans from Atmos to AEH, in order to maintain an accurate proxy for the market based interest cost rate when the Stand Alone Facility is renewed, we will require Atmos to adjust the interest rate it charges to AEH to 25 basis points above the rate index effective for the Stand Alone Facility upon renewal. We will require that Atmos file a report of action containing the revised rate index no later than April 10, 2005. We will also require that any increase in the Stand Alone Facility will result in an equivalent reduction in the amount of short-term loans that Atmos may make to AEH.

**ACCORDINGLY, IT IS ORDERED THAT:**

- 1) Applicant is hereby authorized to incur short-term indebtedness in excess of twelve percent (12%) of total capitalization, provided that such debt does not exceed \$643,000,000 at any one time between January 1, 2005, and December 31, 2005, under the terms and conditions and for the purposes set forth in the application as modified herein.
- 2) Applicant is hereby authorized to lend to AEH short-term funds up to an aggregate amount of \$100,000,000 between January 1, 2005, and December 31, 2005, for the purposes set forth in the application, provided that any increases in the Stand Alone Facility obtained after the date of this Order will result in a decrease in the limit of the Affiliate Facility on a dollar for dollar basis.
- 3) Applicant shall file no later than April 10, 2005, a report of action stating the major components of the renewed credit facility agreement, including the new limit and the interest rate index.
- 4) Applicant shall file with the Commission quarterly reports of action no later than May 15, 2005, August 15, 2005, and November 15, 2005, 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.
- 5) Applicant shall submit to the Commission a final report of action on or before February 28, 2006, providing the information required in ordering paragraph (3) above for the fourth calendar quarter of 2005. The final report of action shall also include a summary schedule of fees paid by Atmos in 2005 for each line of credit, credit facility, bank facility or loan, with dates of origination and maturity for each provider of credit in effect during 2005.
- 6) Applicant shall provide to the Divisions of Economics and Finance and Public Utility Accounting the quarterly financial reports for AEH that are provided to its lenders at the same time such reports are provided to the lenders.

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- 7) Commission approval shall be required for any subsequent changes in the terms and conditions of the Affiliate Facility.
- 8) The authority granted herein shall not preclude the Commission from applying to Applicant the provisions of §§ 56-78 and 56-80 of the Code of Virginia hereafter.
- 9) The Commission reserves the right to examine the books and records of any affiliate of Applicant in connection with the authority granted herein, whether or not such affiliate is regulated by this Commission.
- 10) Approval of this application shall have no implications for ratemaking purposes.
- 11) Should Applicant wish to obtain authority beyond calendar year 2005, it shall file an application requesting such authority no later than November 15, 2005. Such application shall also include a summary of its actions taken to separate non-regulated financing from dependence on Atmos' utility operations and a detailed description of the progress made during 2005 to obtain fully independent financing for AEH and its subsidiaries.
- 12) This matter shall remain under the continued review, audit, and appropriate directive of the Commission.

**CASE NO. PUE-2004-00130  
NOVEMBER 23, 2004**

APPLICATION OF  
VIRGINIA ELECTRIC AND POWER COMPANY

For authority to issue common stock

**ORDER GRANTING AUTHORITY**

On November 12, 2004, Virginia Electric and Power Company ("Virginia Power" or "Applicant") filed an application with the State Corporation Commission ("Commission") under Chapters 3 and 4 of Title 56 of the Code of Virginia requesting authority to issue common stock. The Applicant paid the requisite fee of \$250.

Virginia Power requests authority to issue and sell up to \$1,000,000,000 in common stock to its parent, Dominion Resources, Inc. ("DRI") on or before December 31, 2006. The Applicant expects an initial issuance of shares to occur on or before December 31, 2004. Virginia Power states that the issuance and sale of the common stock will enable it to meet its target capitalization ratios. The proceeds will be used to retire short-term debt, including outstanding commercial paper and to otherwise fund its capital requirements.

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) Virginia Power is hereby authorized to issue and sell up to \$1,000,000,000 in common stock to DRI through December 31, 2006, under the terms and conditions and for the purposes set forth in the application.
- (2) Within ten (10) days of the date of the issuance of common stock, Virginia Power shall file a report of action to include the amount of common stock issued, the date of such issuance and the use of the proceeds of the issuance.
- (3) On or before February 28, 2007, Virginia Power shall file a final report of action to include a summary of the information contained in order paragraph 2.
- (4) The authority granted herein shall have no implications for ratemaking purposes.
- (5) This matter shall remain under the continued review, audit and appropriate directive of the Commission.

**CASE NO. PUE-2004-00132  
DECEMBER 3, 2004**

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, 2004, Virginia Natural Gas, Inc. ("VNG"), AGL Resources Inc., ("AGLR"), and AGL Services Company ("AGL Services") (collectively, "Applicants"), filed an application under Chapters 3 and 4 of Title 56 of the Code of Virginia requesting authority for VNG to participate in an



AGLR Money Pool, to issue and sell common stock, and to issue long-term debt to an affiliate. The amount of short-term debt proposed in the application exceeds twelve percent of capitalization as defined in § 56-65.1 of the Code of Virginia. Applicants paid the requisite fee of \$250.

VNG, AGLR, and AGL Services request authorization for VNG to: 1) issue short-term debt up to an aggregate balance of \$100,000,000 through participation in the AGLR Utility Money Pool administered by AGL Services; 2) issue long-term debt to AGLR in an amount not to exceed \$250,000,000; and 3) issue and sell common stock to AGLR in an amount not to exceed \$300,000,000, all through December 31, 2005.

Applicants note that the requested level of authority to issue short-term debt, long-term debt, and common stock in this case is identical to the limits previously authorized in Case Nos. PUF-2001-00019, PUE-2002-00515, and PUE-2003-00548.

Terms of significance to these various issuances follow. 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 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 commercial paper ("External Funds"), the daily rate will reflect the weighted average cost of External Funds. In months when borrowings are supported by Internal and External Funds, the rate will reflect a composite rate, equal to the weighted average cost of Internal 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.

The terms and conditions of long-term debt issued by VNG 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 proposed financings, the rate of interest will be determined utilizing Lehman Brothers Long Treasury Bond rate as quoted in *The Wall Street Journal* dated nearest to the time of the loan drawn, plus the appropriate credit spread for AGLR's existing long term debt rating. However, such rate will be adjusted to match AGLR's cost of borrowing if AGLR subsequently issues long-term debt within one year after the loan is drawn.

For common stock, VNG requests authority to issue up to 4,727 shares of common stock without par value to AGLR, not to exceed \$300,000,000. 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 debt, to recapitalize VNG in connection with its acquisition by AGLR, to refinance maturing long-term debt, and to permanently fund capital projects.

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. Additionally, the Commission is aware of the on-going debate over the possible repeal or amendment of the Public Utility Holding Company Act of 1935 ("PUHCA"). Therefore, the authority granted herein is conditioned upon PUHCA remaining materially unaltered, as detailed below.

Accordingly, IT IS ORDERED THAT:

(1) VNG is authorized to participate in the AGLR Utility Money Pool and to incur short-term indebtedness in excess of twelve percent of capitalization not to exceed \$100,000,000, for the period January 1, 2005, through December 31, 2005, under the terms and conditions and for the purposes set forth in the 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, through December 31, 2005, under the terms and conditions and for the purposes set forth in the application.

(3) Within thirty (30) days after PUHCA is repealed or materially amended, Applicants shall file an application seeking to continue the authority granted in this proceeding.

(4) The authority granted in this proceeding shall expire ninety (90) days after PUHCA is repealed or materially amended, unless otherwise ordered by the Commission.

(5) Should Applicants seek to extend the authority for VNG to participate in the Utility Money Pool beyond December 31, 2005, Applicants shall file an application requesting such authority no later than November 15, 2005.

(6) Approval of this application shall have no implications for ratemaking purposes.

(7) Approval of this application does not preclude the Commission from applying the provisions of § 56-78 and § 56-80 of the Code of Virginia hereafter.

(8) The Commission reserves the right to examine the books and records of any affiliate in connection with the authority granted herein pursuant to § 56-79 of the Code of Virginia, whether or not such affiliate is regulated by this Commission.

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(9) Applicants shall within ten (10) days after the issuance of any common stock or long-term debt pursuant to the authority granted herein submit a preliminary report. 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.

(10) Applicants shall file a report of action within sixty (60) days of the end of each calendar quarter. Such report shall include:

- a) monthly schedules of Utility Money Pool borrowings, segmented by borrower (whether VNG or affiliate);
- 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; and
- c) a summary of the information noted in Ordering Paragraph (9) which provides the cumulative amount of securities issued to date for each type of security and the amount of authority remaining, a general statement concerning the purposes for which the securities were issued, and a balance sheet reflecting the actions taken.

(11) Applicants shall file their final report of action on or before March 1, 2006, to include all of the information outlined in Ordering Paragraph (10) for the last calendar quarter of the authorization period.

(12) This matter shall be continued subject to the continuing review, audit, and appropriate directive of the Commission.

**CASE NO. PUE-2004-00133  
NOVEMBER 30, 2004**

APPLICATION OF  
VIRGINIA GAS PIPELINE COMPANY  
and  
VIRGINIA GAS STORAGE COMPANY,

For approval pursuant to Chapter 4 of Title 56 of the Code of Virginia

**ORDER GRANTING MOTION**

On August 24, 2004, the State Corporation Commission ("Commission") granted Virginia Gas Pipeline Company ("VGPC") and Virginia Gas Storage Company ("VGSC")<sup>1</sup> approval to enter into an arrangement to exchange excess gas between each other for operational purposes.<sup>2</sup>

Ordering Paragraph (2) of the Order Granting Approval required VGPC and VGSC to formalize the arrangement into an agreement defining their duties and responsibilities to each other. The Commission directed the executed agreement to be filed with the Commission by October 23, 2004. On October 19, 2004, VGPC and VGSC filed an executed Agreement for Operational Transfer of Gas ("Agreement") in satisfaction of Ordering Paragraph (2).

On November 17, 2004, VGPC and VGSC filed a Motion to Amend Agreement ("Motion") noting that Paragraph 1 of the Agreement set forth a definition of "excess gas" containing a thirty (30) day requirement, rather than a sixty (60) day requirement as VGPC and VGSC intended. Pursuant to Ordering Paragraph (5) of the Order Granting Approval, Commission approval is required for any changes in the terms and conditions to the Agreement. VGPC and VGSC request approval of the First Amendment of the Agreement ("First Amendment") attached to the Motion which corrects the error, but does not alter the substance of the Agreement.

NOW THE COMMISSION, upon consideration of the Motion, is of the opinion that the Motion should be granted and the Agreement restated and amended as set forth in the First Amendment.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed as Case No. PUE-2004-00133.
- (2) The Motion to Amend Agreement is hereby granted.
- (3) The First Amendment of the Agreement is hereby approved.
- (4) This matter shall remain open for any subsequent amendment of the Agreement between VGPC and VGSC and any successors or assigns.

<sup>1</sup> Virginia Gas Distribution Company was included in the June 2, 2004, application, but filed a request to withdraw from the proceeding on August 13, 2004, which was granted by the Commission in its August 24, 2004, Order.

<sup>2</sup> Application of Virginia Gas Distribution Company, Virginia Gas Pipeline Company, and Virginia Gas Storage Company, For approval for permission to transfer regulated gas for operational purposes between affiliates under Chapter 4 of Title 56 of the Code of Virginia, Case No. PUE-2004-00067, Order Granting Approval (August 24, 2004).

**DIVISION OF ECONOMICS AND FINANCE****CASE NO. PUF-1999-00033  
MARCH 9, 2004**

APPLICATION OF  
VIRGINIA ELECTRIC AND POWER COMPANY

For authority to issue Extendible Commercial Notes

**DISMISSAL ORDER**

By State Corporation Commission ("Commission") Orders dated December 9, 1999, and February 14, 2002, Virginia Electric and Power Company ("Virginia Power" or "Applicant") was granted authority to issue and sell up to \$200,000,000 in senior unsecured notes designated as Extendible Commercial Paper Notes ("ECNs") through December 31, 2003.

As directed by the Commission, Virginia Power has filed periodic reports of action. In addition, at the request of our Staff, Virginia Power filed additional information on March 3, 2004. According to the information filed with the Commission, Virginia Power issued: \$50,000,000 in ECNs on August 13, 2002, \$25,000,000 in ECNs on September 18, 2002 and \$25,000,000 on September 19, 2002. The \$100,000,000 in ECNs issued in 2002 have matured. Additionally, the authority to issue ECNs expired on December 31, 2003. Based upon the information filed by Virginia Power in this case, it appears that its actions were in accordance with the authority granted.

On consideration whereby, IT IS ORDERED, that there appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUF-2000-00017  
OCTOBER 19, 2004**

APPLICATION OF  
KENTUCKY UTILITIES COMPANY d/b/a OLD DOMINION POWER

For authority to use and assume obligations associated with financial derivative instruments

**ORDER FURTHER EXTENDING AUTHORITY**

On June 23, 2000, the Commission issued its Order Granting Authority in this case which authorized Kentucky Utilities Company d/b/a Old Dominion Power ("KU/ODP" or "Applicant") to use and assume obligations associated with financial derivative instruments ("Derivatives") from time to time through the period ending December 31, 2002. The Commission's Order of June 23, 2000, also established certain limitations on Applicant's use of Derivatives.

Limitations under the existing authority prohibit Applicant from entering into any Derivative transaction that will cause Applicant's estimated annualized net payment obligation to exceed \$20,000,000. In addition, the aggregate notional amount of all Derivatives shall not to exceed \$400,000,000 at any one time. Moreover, Applicant shall not enter into any Derivative transaction involving counterparties having credit ratings of less than investment grade.

By letter dated November 22, 2002, Applicant requested that its authority in this case be extended through December 31, 2004. The Commission granted Applicant's request in its Order Extending Authority, dated December 17, 2002.

By letter dated September 10, 2004, Applicant requests that the authority granted by the Commission in this case be further extended through December 31, 2006. Applicant also requested that an Order granting the requested extension be issued no later than November 30, 2004.

THE COMMISSION, upon consideration of the Applicant's request and having been advised by its Staff, is of the opinion and finds that approval of Applicant's request will not be detrimental to the public interest. Accordingly,

IT IS ORDERED THAT:

- 1) Applicant's authority to enter into Derivative transactions, as granted by Commission Orders dated June 23, 2000, and December 17, 2002, is hereby extended from December 31, 2004, through the period ending December 31, 2006.
- 2) The date of Applicant's Final Report as detailed in Paragraph (2) of the Commission's Order dated December 17, 2002, shall be extended from March 1, 2005, to March 1, 2007.
- 3) All other provisions of the Commission's Order dated June 23, 2000, shall remain in full force and effect.
- 4) Should Applicant wish to acquire authority for Derivative transactions beyond December 31, 2006, it shall file a new application.
- 5) This matter shall be continued, subject to the continuing review, audit, and appropriate directive of the Commission.

**CASE NO. PUF-2001-00017  
NOVEMBER 19, 2004**

APPLICATION OF  
TOLL ROAD INVESTORS PARTNERSHIP II, L.P.

For Approval of Refinancing

**ORDER APPROVING REFINANCING**

On July 3, 2001, Toll Road Investors Partnership II, L.P. ("TRIP II" or the "Company"), the owner and operator of the Dulles Greenway, filed an application ("Application") in this docket with the State Corporation Commission ("Commission"). The Application requested, among other things, approval of proposed refinancing and an amendment to TRIP II's certificate of authority. The Company requested approval of a plan to call certain outstanding bonds and to raise additional capital by issuing new bonds maturing from 2036 to 2056. On November 7, 2001, the Commission issued a Final Order that: (1) approved TRIP II's proposal to issue approximately \$270.0 million in new debt securities with the proceeds to be used to retire approximately \$100.0 million of existing debt; and (2) amended the Company's certificate of authority ("Refinancing Order").

The Refinancing Order provided that TRIP II's certificate of authority shall be extended to terminate on the earlier of the date ten (10) years after the last maturity date of any bond issued pursuant to that order, or upon final payment of principal or interest of any bond issued pursuant to that order. In addition, ordering paragraph (8) of the Refinancing Order stated that such extension to the certificate of authority shall be automatically revoked if the Company files a report stating that the refinancing is abandoned. Further, the Refinancing Order required TRIP II to file quarterly reports on the progress of the refinancing and on any changes to the refinancing plan. The Company's most recently quarterly report, dated September 30, 2004, advised the Commission that significant progress had been made on the refinancing, provided additional information on the new terms of the refinancing, and advised that all construction projects described in the Application would be funded through the refinancing.

On November 12, 2004, the Company filed a letter with the Commission advising that TRIP II is expected to complete the refinancing as close to December 15, 2004, as possible - if it can obtain from the Commission, on an expedited basis, confirmation that no further approvals from the Commission are required. The Company requests such confirmation. The Company also explains the modifications that have been made to the proposed refinancing since the Commission issued the Refinancing Order. The new refinancing plan is different from that approved by the Refinancing Order in the following respects, among others: (1) the amount of debt to be issued has increased from approximately \$270 million to approximately \$298 million; (2) the debt to be issued under the new refinancing plan will be insured by MBIA at a cost of approximately \$55 million, whereas the original Application did not contemplate bond insurance; (3) the Multi-Modal Insured Project Revenue Bonds will carry a variable rate of interest, but will be hedged through an interest rate swap agreement; and (4) the debt proposed to be issued will no longer be in the form of zero coupon bonds in its entirety, but rather (i) approximately \$143.8 million is expected to be in Multi-Modal Insured Project Revenue Bonds, with mandatory early redemption obligations tied to available cash after funding operations, (ii) approximately \$38.6 million is expected to be in the form of Senior Callable Zero Coupon Insured Project Revenue Bonds with mandatory early redemption obligations tied to available cash after funding operations, and (iii) approximately \$16.2 million is expected to be in the form of Senior Zero Coupon Insured Project Revenue Bonds.

NOW THE COMMISSION, having considered the Application, the Refinancing Order, the Company's letter dated November 12, 2004, and the applicable law, and having been advised by its Staff, is of the opinion and finds as follows. We will treat the November 12, 2004, letter filed by TRIP II as an amendment to its Application. We find that the new refinancing proposal is materially different from that approved in the Refinancing Order and, thus, requires separate approval by this Commission. We also find that the new refinancing proposal is in the public interest, and we approve such proposal.

In addition, we find that the amended application does not constitute an abandonment of the refinancing plan under ordering paragraph (8) of the Refinancing Order; as such, the amendments to the Company's certificate of authority approved in the Refinancing Order remain in full force and effect. Finally, we note that our approval herein is independent of any other state or federal approval required before any securities may be issued, is not an extension of credit or any guarantee of repayment of principal or payment of interest by the Commission or any other agency, instrumentality, or political subdivision of the Commonwealth, and does not guarantee any particular level of tolls or toll structure for the Dulles Greenway.

Accordingly, IT IS ORDERED THAT:

(1) Case No. PUF-2001-00017 be restored to the Commission's docket and be placed in active status in the records of the Clerk of the Commission to receive: (a) the Company's November 12, 2004, letter; (b) the Commission Staffs action brief in this matter, which is being filed simultaneously with this Order Approving Refinancing; and (c) this Order Approving Refinancing.

(2) As provided by the Virginia Highway Corporation Act of 1986, Chapter 20 (§ 56-535 et seq.) of Title 56 of the Code of Virginia, the Company's Application for approval of refinancing, as amended by its letter dated November 12, 2004, is hereby granted.

(3) The amendments to the Company's certificate of authority approved in the Refinancing Order remain in full force and effect.

(4) On January 3, 2005, and on the first Commission business day of each succeeding calendar quarter until the closing of the refinancing, the Company shall file with the Clerk of the Commission a report on the progress of, and any changes to, the refinancing. The Clerk of the Commission shall associate these reports with this Case No. PUF-2001-00017. Copies of the reports shall be simultaneously served on the directors of the Commission's Divisions of Public Utility Accounting and Economics and Finance.

(5) Within sixty (60) days of the closing of refinancing, TRIP II shall file with the Clerk of the Commission a report of the full details of the refinancing, including the terms of all obligations issued. The Clerk of the Commission shall associate this report with this Case No. PUF-2001-00017. This information shall include a schedule of the maturity dates and interest payment dates, if any, of all obligations. This information also shall identify any aspects of the refinancing plan that differ from the Company's November 12, 2004, letter. Copies of the report shall be simultaneously served on the directors of the Commission's Divisions of Public Utility Accounting and Economics and Finance.

(6) If the plan of refinancing approved herein is abandoned, the Company shall promptly file a report on the abandonment with the Clerk of the Commission. The Clerk of the Commission shall associate this report with this Case No. PUF-2001-00017. Copies of the report shall be simultaneously served on the directors of the Commission's Divisions of Public Utility Accounting and Economics and Finance.

(7) If the Company abandons the plan of refinancing, ordering paragraph (1) of the Fourth Order Amending Certificate of December 14, 1994, 1994 S.C.C. Ann. Rep. 207, will be reinstated without further order of the Commission upon the filing of the report with the Clerk of the Commission.

(8) This matter is dismissed.

**CASE NO. PUF-2002-00003  
MARCH 25, 2004**

APPLICATION OF  
DELMARVA POWER & LIGHT COMPANY

For authority to borrow up to \$275,000,000 in short-term debt through a money pool

**DISMISSAL ORDER**

By Orders dated February 26, 2002, and September 6, 2002, Delmarva Power & Light Company ("Delmarva" or "Applicant") was granted authority by the State Corporation Commission ("Commission") under Chapters 3 and 4 of Title 56 of the Code of Virginia to borrow up to \$275,000,000 in short-term debt from the capital markets or from the Conectiv System Money Pool (and its successor, the Pepco Holding System Money Pool) through March 31, 2004. Pursuant to those Orders, Applicant was directed to file certain reports of action.

Applicant filed the reports of action in accordance with the Orders. According to the reports, Applicant was an investor in the Money Pool from April of 2002 through June of 2003, with investment balances peaking in June of 2002 in excess of \$220,000,000<sup>1</sup>. From July of 2003 through December of 2003, Delmarva has primarily been a borrower, with short-term borrowings peaking in August of 2003 at approximately \$88,000,000. Applicant has subsequently received continuing financing authority in Case No. PUE-2004-00007. In our Order dated March 4, 2004 in Case No. PUE-2004-00007, we terminated and superceded the authority in this case.

NOW THE COMMISSION, having considered the matter, is of the opinion and finds that the actions of the Applicant appear to be in accordance with the authority granted.

Accordingly, IT IS ORDERED THAT there appearing nothing further to be done in this matter, it is hereby dismissed.

<sup>1</sup> According to our Staff, Applicant was primarily an investor in the Conectiv System Money Pool, and subsequently the Pepco Holdings System Money Pool, as a result of divesting generation plants in conjunction with authority granted in Case No. PUE-2000-00086. Since June of 2001, more than \$300,000,000 of securities have been redeemed by Delmarva.

**CASE NO. PUF-2002-00009  
MARCH 25, 2004**

APPLICATION OF  
DELMARVA POWER & LIGHT COMPANY

For authority to issue up to \$46 million of tax-exempt refunding bonds

**DISMISSAL ORDER**

By Order dated March 27, 2002 ("March 27 Order"), Delmarva Power & Light Company ("Applicant") was authorized by the State Corporation Commission ("Commission") under Chapter 3 of Title 56 of the Code of Virginia to issue up to \$46,000,000 in tax-exempt refunding bonds through December 31, 2003. Applicant was directed to file reports of action.

Applicant filed its reports of action in accordance with the March 27 Order. According to the reports, Applicant issued two series of tax-exempt bonds totaling \$46,000,000 during the authorization period. Specifically, on May 30, 2002, Applicant issued \$15,000,000 of variable rate, Series 2002A exempt facilities refunding revenue bonds due May 1, 2032, and \$31,000,000 of 5.20%, Series 2002B pollution control refunding revenue bonds due February 1, 2019. The proceeds were used to refinance \$15,000,000 of 6.85% Gas Facilities Revenue Bonds of Series 1992A and \$31,000,000 of 6.75% Pollution Control Refunding Revenue Bonds Series 1992B.

NOW THE COMMISSION, having considered the matter, is of the opinion and finds that the actions of the Applicant appear to be in accordance with the authority granted.

Accordingly, IT IS ORDERED THAT this matter is hereby dismissed.

## DIVISION OF SECURITIES AND RETAIL FRANCHISING

### CASE NOS. SEC-2001-00107, SEC-2002-00004, SEC-2002-00005, SEC-2002-00006, SEC-2002-00007, and SEC-2002-00008 OCTOBER 22, 2004

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

v.

TIRE RECYCLERS, INC., GARY F. EDWARDS, JOSEPH R. DUNN, THOMAS G. JARRELL, M. CHARLES WHITE,  
and  
CHARLES E. AYERS, JR.,  
Defendants

#### FINAL ORDER

On June 28, 2002, the State Corporation Commission ("Commission") entered a Settlement Order ("Order") in this case. That Order, among other things, required:

- (1) Defendants pay to each investor, interest on their investment at the rate of six percent (6%) simple interest from the date of the investment up to and including December 31, 2002, with payment made in two annual installments on June 30, 2003 and June 30, 2004.
- (2) The following individuals would not be included in the interest payment:
  - a. Officers, directors, managers of Defendants or Defendants' affiliates ("RCM Ltd., LLC", "B & B Investments Ltd.", and "B & B Investments LLC").
  - b. Parents, children or spouses of the persons listed in subparagraph (a) above.
  - c. Any company or individual that had a contractual relationship with Defendants on or before the date of the purchase by that company or individual of any securities mentioned in the settlement.
3. Defendants issue certificates in Tire Recyclers, Inc. to the investors of RCM Ltd., LLC, B & B Investments Ltd., and B & B Investments LLC on or before June 30, 2003.
4. Defendants provide copies of an audited financial statement to the Division of Securities and Retail Franchising ("Division") no later than July 1, 2002.
5. Pursuant to § 13.1-521 of the Code of Virginia, Defendants pay to the Commission the sum of ten thousand dollars (\$10,000) to defray the cost of investigation.
6. Pursuant to § 13.1-521 of the Virginia Securities Act ("Act"), Defendant Tire Recyclers Inc., pay to the Commonwealth a penalty in the amount of five thousand dollars (\$5,000), Defendant Gary F. Edwards pay to the Commonwealth a penalty in the amount of two thousand dollars (\$2,000), Defendant Joseph R. Dunn pay to the Commonwealth a penalty in the amount of two thousand dollars (\$2,000), Defendant Thomas G. Jarrell pay to the Commonwealth a penalty in the amount of two thousand dollars (\$2,000), Defendant M. Charles White pay to the Commonwealth a penalty in the amount of two thousand dollars (\$2,000), and Defendant Charles E. Ayers, Jr. pay to the Commonwealth a penalty in the amount of two thousand dollars (\$2,000).

A check of the Clerk of the Commission's records show that Tire Recyclers, Inc.'s corporate existence was terminated on April 30, 2004, for failure to pay its annual fee.

On September 14, 2004, the Division sent correspondence to Defendants' counsel, J. Paul Gregorio ("Gregorio") to inquire about the status of Defendants.

By letter dated October 1, 2004, Gregorio informed the Division of the following:

- a. Defendants intend to reactivate their corporate registration as soon as Defendants are financially able;
- b. B&B Investments, Ltd. was dissolved and B&B Investments, LLC was created in its place;
- c. No interest has been paid on the stock to investors due to the "dire financial condition" of Defendants; and
- d. The power to Defendants' plant has been turned off and therefore, no records can be obtained from Defendants' computers.

The Division staff has now reported to the Commission that due to Defendants' financial condition, as well as termination of its corporate existence, Defendants are unable to comply with the terms of the Settlement Order. Accordingly,

IT IS ORDERED THAT:

- (1) All undertakings and provisions of a continuing nature set forth in the prior order remain in full force and effect as it pertains to Defendant.

- (2) Entry of this order shall not affect any duty or obligation to disclose the existence or nature of this matter or of any order entered herein.
- (3) This case is dismissed.
- (4) The papers herein shall be filed among the ended cases.

**CASE NOS. SEC-2001-00107, SEC-2002-00004, SEC-2002-00005,  
SEC-2002-00006, SEC-2002-00007, and SEC-2002-00008  
NOVEMBER 8, 2004**

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

v.

TIRE RECYCLERS, INC., GARY F. EDWARDS, JOSEPH R. DUNN, THOMAS G. JARRELL, M. CHARLES WHITE,  
and  
CHARLES E. AYERS, JR.,  
Defendants

**AMENDING ORDER**

On October 22, 2004, the State Corporation Commission ("Commission") entered a Final Order in this case. The Final Order, among other things, made reference to the original Settlement Order entered on June 28, 2002, and noted, in pertinent part, the purported requirements thereof that:

- (1) Defendants pay to each investor, interest on their investment at the rate of six percent (6%) simple interest from the date of the investment up to and including December 31, 2002, with payment made in two annual installments on June 30, 2003, and June 30, 2004.
- (2) The following individuals would not be included in the interest payment:
  - a. Officers, directors, managers of Defendants or Defendants' affiliates ("RCM Ltd., LLC", "B & B Investments Ltd.", and "B & B Investments LLC").
  - b. Parents, children or spouses of the persons listed in subparagraph (a) above.
  - c. Any company or individual that had a contractual relationship with Defendants on or before the date of the purchase by that company or individual of any securities mentioned in the settlement.
- (3) Defendants issue certificates in Tire Recyclers, Inc. to the investors of RCM Ltd., LLC, B & B Investments Ltd., and B & B Investments LLC on or before June 30, 2003.
- (4) Defendants provide copies of an audited financial statement to the Division of Securities and Retail Franchising ("Division") no later than July 1, 2002.
- (5) Pursuant to § 13.1-521 of the Code of Virginia, Defendants pay to the Commission the sum of ten thousand dollars (\$10,000) to defray the cost of investigation.
- (6) Pursuant to § 13.1-521 of the Virginia Securities Act ("Act"), Defendant Tire Recyclers Inc., pay to the Commonwealth a penalty in the amount of five thousand dollars (\$5,000), Defendant Gary F. Edwards pay to the Commonwealth a penalty in the amount of two thousand dollars (\$2,000), Defendant Joseph R. Dunn pay to the Commonwealth a penalty in the amount of two thousand dollars (\$2,000), Defendant Thomas G. Jarrell pay to the Commonwealth a penalty in the amount of two thousand dollars (\$2,000), Defendant M. Charles White pay to the Commonwealth a penalty in the amount of two thousand dollars (\$2,000), and Defendant Charles E. Ayers, Jr. pay to the Commonwealth a penalty in the amount of two thousand dollars (\$2,000).

The Final Order further noted that a check of the Clerk of the Commission's records indicated that Tire Recyclers, Inc.'s, corporate existence was terminated on April 30, 2004, for failure to pay its annual fee.

On September 14, 2004, the Division sent correspondence to Defendants' counsel, J. Paul Gregorio ("Gregorio") to inquire about the status of Defendants.

By letter dated October 1, 2004, Gregorio informed the Division of the following:

- a. Defendants intend to reactivate their corporate registration as soon as Defendants are financially able;
- b. B&B Investments, Ltd. was dissolved and B&B Investments, LLC was created in its place;
- c. No interest has been paid on the stock to investors due to the "dire financial condition" of Defendants; and
- d. The power to Defendants' plant has been turned off and, therefore, no records can be obtained from Defendants' computers.

The Division staff has now reported to the Commission that due to Defendants' financial condition, as well as termination of its corporate existence, Defendants are unable to comply with the terms of the Settlement Order.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

On November 2, 2004, Defendants, by counsel, filed a letter with the Clerk of the Commission, in which the Defendants requested that the Final Order be amended to reflect what each individual or corporate defendant is ordered to do to avoid any confusion or litigation in the future. It appears that the term "Defendants" as used in paragraphs 1, 2 a., 2 c, 3, 4 and 5 and the term "Defendant" as used in Ordering Paragraph (1) of the Final Order should refer to Defendant Tire Recyclers, Inc., only. All other terms in the Final Order are correct.

Accordingly, IT IS ORDERED THAT:

- (1) All undertakings and provisions of a continuing nature set forth in the prior Order remain in full force and effect as it pertains to Defendant Tire Recyclers, Inc.
- (2) Entry of this Order shall not affect any duty or obligation to disclose the existence or nature of this matter or of any Order entered herein.
- (3) The term "Defendants" as used in paragraphs 1, 2 a, 2 c, 3, 4, and 5 of the Final Order and the term "Defendant" as used in Ordering Paragraph (1) of the Final Order should be changed to Defendant Tire Recyclers, Inc.
- (4) This case is dismissed.
- (5) The papers herein shall be filed among the ended cases.

**CASE NOS. SEC-2002-00054 and SEC-2003-00072  
JULY 30, 2004**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
ALPHACOM, INC.  
ROBERT SNYDER  
Defendants

**FINAL ORDER**

On February 26, 2004, the State Corporation Commission ("Commission") issued an Amended Rule to Show Cause ("Rule") against AlphaCom, Inc. ("AlphaCom"), and Robert Snyder ("Snyder"). The Rule alleged that: (1) Defendant Snyder offered or sold AlphaCom securities, but the securities were not registered with the Division of Securities and Retail Franchising ("Division"), in violation of § 13.1-507 of the Virginia Securities Act, § 13.1 -501 *et seq.* of the Code of Virginia ("Act"); (2) Defendant AlphaCom employed persons who sold securities without being registered with the Division as an agent of the issuer, in violation of § 13.1-504 B of the Act; (3) Defendant AlphaCom offered and sold securities in the company without providing adequate disclosure of the financial condition of the company and the risk level of the investment, in violation of § 13.1-502 (2) of the Act; and (4) Defendant Snyder sold securities of AlphaCom without being registered with the Division as an agent of the issuer, in violation of § 13.1-504 A of the Act. This Rule directed the Defendant to file a pleading responsive to the Rule on or before April 6, 2004.

The February 26, 2004, Amended Rule assigned the matter to a Hearing Examiner; scheduled an evidentiary hearing for May 13, 2004; and ordered the Defendant to appear at the hearing to show cause why it should not be penalized pursuant to § 13.1-521 of the Act for the alleged violations of the Act as set forth in the Rule.

On May 7, 2004, counsel for the Division of Securities and Retail Franchising filed a Motion for Default Judgment alleging that the Defendant had failed to file an answer or other responsive pleading by the date set forth in the Rule.

On May 13, 2004, the matter was heard by Michael D. Thomas, Hearing Examiner. Counsel appearing at the hearing was Mary Beth Taylor, Esquire, for Commission Staff. Although the Defendant received notice of the hearing and was properly served, the Defendant failed to appear at the hearing. The testimony of William Ward, in the form of oral testimony as well as an affidavit and attached exhibits regarding the allegations, was marked as an exhibit and admitted into the record. Counsel for the Staff moved for a default judgment based on the Defendant's failure to file a responsive pleading and appear at the hearing.

On May 24, 2004, the Hearing Examiner issued his Report. In his Report, he found that: (1) the Division established by clear and convincing evidence that AlphaCom violated § 13.1-504 B by employing three unregistered agents, Mr. Snyder, Mr. Joel Stamp, and Mr. James Stamp, in the sale of AlphaCom securities in Virginia; (2) the Division established by clear and convincing evidence that AlphaCom violated § 13.1-502(2) by failing to provide a certain Virginia investor with a prospectus, risk warning, or other financial information about AlphaCom prior to his investment in the company; (3) the Division established by clear and convincing evidence that Mr. Snyder violated § 13.1-504 A by effecting or undertaking to effect the sale of AlphaCom securities to two Virginia residents when he was not registered under the Act<sup>1</sup>; and (4) the Division established by clear and convincing evidence that Mr. Snyder violated § 13.1-507 of the Act by offering or selling to two residents of Virginia AlphaCom securities, which were not registered or exempted under the Act.

The Hearing Examiner also found that the Division's request that the Defendants be provided an opportunity to make restitution to the 11 Virginia investors listed in Exhibit 14 in lieu of paying the penalties recommended is reasonable. He recommended that the Defendants be given ninety (90) days to present a plan to the Commission by which the Defendants will make monetary restitution to the Virginia investors. He further recommended that the

<sup>1</sup> The Hearing Examiner stated that while Mr. Snyder may have been involved in the sale of AlphaCom securities to other residents of Virginia when he was not registered, the evidence in the record supports a finding that he did it in only two instances.



Commission approve the plan prior to its implementation, and if approved, the Commission may vacate, in whole or in part, the penalties imposed in this case.

The Hearing Examiner recommended that the Commission enter a Judgment Order against the Defendants that: (1) adopts the findings and recommendations in his Report; (2) penalizes AlphaCom the sum of \$5,000 for each of its three violations of § 13.1-504 B of the Code of Virginia, which results in a total penalty of \$15,000; (3) penalizes AlphaCom the sum of \$5,000 for its one violation of § 13.1-502(2) of the Code of Virginia; (4) penalizes Mr. Snyder the sum of \$5,000 for each of his two violations of § 13.1-504 A of the Code of Virginia, which results in a total penalty of \$10,000; (5) penalizes Mr. Snyder the sum of \$5,000 for each of his two violations of § 13.1-507 of the Code of Virginia, which results in a total penalty of \$10,000; (6) assesses the Defendants, jointly and severally, the Division's \$12,895.20 cost for conducting the investigation in this case pursuant to § 13.1-518 of the Code of Virginia; (7) permits the Defendants ninety (90) days in which to present a plan to the Commission by which the Defendants will make monetary restitution to the Virginia investors listed in Exhibit 14; and (8) continues the case generally for the Defendants to present a plan of restitution.

There were no comments filed on the Hearing Examiner's Report.

NOW THE COMMISSION, upon consideration of the Rule, the record, the Hearing Examiner's ruling, and the applicable statutes, is of the opinion and finds that the Hearing Examiner's findings and recommendations are reasonable and should be adopted.

Accordingly, IT IS ORDERED THAT:

- (1) The findings and recommendations of the May 24, 2004, Hearing Examiner's Report are hereby adopted.
- (2) In accordance with the Commission's regulatory duties and powers and pursuant to § 13.1-521 of the Act, judgment is entered for the Commonwealth and against the Defendants, and a civil penalty of \$20,000 shall be imposed on each of the Defendants for the violations of the Act as described herein.
- (3) Pursuant to § 13.1-519 of the Act, the Defendants are hereby enjoined from any further violations of the Act.
- (4) The Defendants shall be assessed, jointly and severally, the Division's \$12,895.20 cost for conducting the investigation pursuant to § 13.1-518 of the Act.
- (5) Within 90 days of the date of this Order, the Defendants may present a plan to the Commission by which they will make monetary restitution to the Virginia investors listed in Exhibit 14.
- (6) This matter shall be continued generally for the Defendants to present a plan of restitution. If, at the end of 90 days, no plan for restitution has been submitted by the defendants in this matter, the Commission will issue an order imposing the penalties of \$20,000 on each of the Defendants and dismissing this matter.

**CASE NO. SEC-2003-00001  
JUNE 25, 2004**

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

v.

SCV FINANCIAL SERVICES, INC.  
STEPHEN C. VOSS,  
Defendants

**FINAL ORDER**

On June 19, 2003, the State Corporation Commission ("Commission") issued a Rule to Show Cause ("Rule") against SCV Financial Services, Inc. ("SCV"), and Stephen C. Voss ("Voss"), in which the Division of Securities and Retail Franchising ("Division") alleged that SCV and Voss had applied to register with the Commission as a state-registered investment advisor and investment advisor representative, respectively, pursuant to § 13.1-505 of the Virginia Securities Act ("Act"). More specifically, the Division alleged that SCV had filed its application in an attempt to avoid addressing the deficiencies that the Division had found at Voss & Co., Inc. ("Voss & Co."), an entity in which Voss had been President and for which Voss had been a registered broker-dealer agent. Voss & Co. was a registered broker-dealer in Virginia until January 22, 2003, and a registered investment advisor in Virginia until December 31, 2002.

The Rule ordered SCV and Voss (collectively, the "Defendants") to appear and show cause why they should not be denied registration pursuant to § 13.1-505 I of the Act and why they should not be penalized pursuant to § 13.1-521 of the Act for violations that occurred when Voss was operating Voss & Co., enjoined pursuant to § 13.1-519 of the Act from future violations, and be assessed the costs of investigation pursuant to § 13.1-518 of the Act, on account of the aforesaid alleged violations.

The Rule assigned the matter to a Hearing Examiner, scheduled the matter for a hearing, and directed the Defendants to file a responsive pleading.

The Defendants filed a Responsive Pleading to Rule to Show Cause ("Answer") on August 18, 2003. Therein, the Defendants asserted that SCV should not be sanctioned in any way for any of the violations alleged in the Rule. The Defendants further stated that Voss had put into place a reasonable system of supervision at Voss & Co. under Rule 21 VAC 5-20-260 C and E.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

By Hearing Examiner Ruling dated December 9, 2003, this matter was scheduled to be heard on February 19, 2004. On the morning of the hearing, the Defendants filed a letter indicating their intent to withdraw their respective applications. Voss indicated that he would be unable to attend the hearing, but he continued to rely on the defenses raised in the Answer.

The hearing was convened by Hearing Examiner Michael D. Thomas on February 19, 2004. Only the Division, by counsel, appeared at the hearing. Four witnesses testified for the Division, and the Division also introduced thirty-four exhibits into the record. The Division requested that Voss and SCV be denied registration in the Commonwealth of Virginia for a period of five years and assessed the costs of the investigation in the amount of \$33,552.00.

The Division filed a post-hearing brief on March 23, 2004. Therein, the Division argued that the Defendants should be held responsible for the prior corporation's alleged violations of the Act and that Voss's assertion that he did everything necessary to address reasonable supervision is unsupported and contrary to the facts in evidence.<sup>1</sup> The Division also renewed its request that SCV Financial and Voss be denied registration for a period of five years and that the Defendants should be assessed the costs of the Division's investigation.

On May 10, 2004, the Hearing Examiner issued his Report. In his Report, the Hearing Examiner Found that the Division's request to deny Voss and SCV registration was moot, because SCV and Voss had withdrawn their respective applications.<sup>2</sup> He further found that while Voss & Co. committed most of the violations alleged by the Division,<sup>3</sup> such violations were insufficient to pierce the corporate veil between Voss & Co. and Voss or SCV. He therefore recommended that the Commission adopt the findings in his Report and dismiss the Rule against the Defendants with prejudice.

The Division filed Comments on Report of Hearing Examiner ("Comments") on May 28, 2004. The Division contends that the Commission should pierce the corporate veil, because Voss was clearly a control person. The Division also argues that, even without piercing the corporate veil, the Commission should deny the application of Voss and SCV. The Division further asserts that it does not have to accept the withdrawal of an applicant and can seek to deny the application through the formal process. The Division also contends that it only seeks denial of registration and imposition of the costs of the investigation, and that it has abandoned its request for monetary penalties and injunctions.<sup>4</sup>

NOW THE COMMISSION, upon consideration of the applicable statutes, the record, the Hearing Examiner's Report and comments filed thereto, is of the opinion and finds that the findings and recommendations of the May 10, 2004, Hearing Examiner's Report should be adopted.<sup>5</sup>

Accordingly, IT IS ORDERED THAT:

- (1) The findings and recommendations of the May 10, 2004, Hearing Examiner's Report are hereby adopted;
- (2) The Rule to Show Cause against SCV and Voss is hereby Dismissed, with prejudice; and
- (3) The papers herein are passed to the file for ended causes.

<sup>1</sup> Brief filed by the Division on March 23, 2004, at 3 and 8-10.

<sup>2</sup> The Hearing Examiner considered the veil-piercing question in light of the Division's request to penalize, enjoin, and assess the costs of investigation against the Defendants.

<sup>3</sup> Hearing Examiner Thomas found that Voss & Co. committed fourteen of the seventeen violations alleged in the Rule. Hearing Examiner Report dated May 10, 2004, at 2-4, 11-14.

<sup>4</sup> Comments at 3.

<sup>5</sup> We express no opinion herein on whether the Defendants' requested withdrawal of their application renders moot the Division's request to deny their registration.

**CASE NO. SEC-2003-00002  
OCTOBER 29, 2004**

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

v.  
VILLAGE LIFE, INC.,  
Defendant

**FINAL ORDER**

On January 23, 2003, the Commission entered an Order for Temporary Injunction in this case. That Order, among other things, adjudged and ordered:

(1) That the Motion for Temporary Injunction filed by the Division of Securities and Retail Franchising ("Division"), by counsel, and dated January 16, 2003, be granted for a period of one hundred twenty (120) days beginning from the date of entry of the Order; and

(2) Defendants be temporarily enjoined from the offer and sale of unregistered securities in the Commonwealth of Virginia.

Subsequently, the Tennessee Department of Commerce and Insurance won court approval of an agreed order placing Defendant in receivership.

The Division of Securities and Retail Franchising staff has now reported to the Commission that the Order for Temporary Injunction has expired. Accordingly,

IT IS ORDERED THAT:

- (1) Entry of this order shall not affect any duty or obligation to disclose the existence or nature of this matter or of any order entered herein.
- (2) This case is dismissed.
- (3) The papers herein shall be filed among the ended cases.

**CASE NO. SEC-2003-00003  
AUGUST 25, 2004**

SUNBEAM PRODUCTS, INC.,  
Petitioner,  
v.  
148977 CANADA INC.,  
Respondent

**FINAL ORDER**

On January 13, 2003, Sunbeam Products, Inc. ("Sunbeam"), petitioned the State Corporation Commission ("Commission"), pursuant to § 59.1-92.10 A of the Virginia Code, for cancellation of the Virginia Trademark Registration for the mark "MISTER COFFEE," and for cancellation of the Virginia Service Mark for the mark "MISTER COFFEE." Commission records show 148977 Canada Inc. ("Canada Inc.") as the owner of both marks. On January 27, 2003, Canada Inc. filed its Response to Petition to Cancel in which it asserted Sunbeam's Petition should be denied. On March 27, 2003, the Commission entered an Order Setting a Hearing, which, among other things, scheduled this matter for a hearing on September 22, 2003, and assigned the matter to a Hearing Examiner. On September 10, 2003, the Hearing Examiner granted a joint motion from Sunbeam and Canada Inc. requesting that the hearing be rescheduled from September 22, 2003, to January 22, 2004.

The hearing was held on January 22 and 23, 2004. Brian J. McNamara, Esquire, Lisa S. Mankofsky, Esquire, and Geoffrey M. McNutt, Esquire, appeared on behalf of Sunbeam. William D. Breneman, Esquire, and Frank Sofocleous, Esquire, appeared on behalf of Canada, Inc.

In this case, Sunbeam seeks the cancellation of the Virginia Trademark and Service Mark, "Mister Coffee." The Commission's records currently show Canada Inc. as the owner of this mark. Sunbeam asserts the Virginia marks were abandoned by its prior owner and that Canada Inc. committed fraud when it renewed the Virginia marks in 2002. Canada Inc. denies the allegations and raises several equitable defenses.

The Hearing Examiner issued his Report on May 25, 2004. In his Report, the Examiner found that: (1) the "MISTER COFFEE" Virginia marks were abandoned prior to their sale to Canada Inc.; (2) Sunbeam failed to provide clear and convincing evidence that Canada Inc. committed fraud in renewing the Virginia marks; (3) all of Canada Inc.'s equitable defenses should be dismissed; and (4) the abandonment of the Virginia "MISTER COFFEE" marks cancels the marks depicted on File Nos. 3435 and 5201 and that these files cannot be transformed automatically into new marks.

Specifically, the Hearing Examiner made the following findings and recommendations:

- (1) The Virginia "MISTER COFFEE" mark represented by the Certificate of Registration of a Trademark, Service Mark or Case Mark, File No. A4449, issued on June 4, 1992, and subsequently renumbered as File No. 3435, was abandoned by Mister Coffee Services, Inc., during the period beginning June 1993 and extending to at least July 2001;
- (2) The Virginia "MISTER COFFEE" mark represented by the Certificate of Registration of a Trademark, Service Mark or Case Mark, File No. B2335, issued on June 4, 1992, and subsequently renumbered as File No. 5201, was abandoned by Mister Coffee Services, Inc., during the period beginning June 1993 and extending to at least July 2001;
- (3) The Virginia "MISTER COFFEE" mark represented by the Certificate of Registration of a Trademark, Service Mark or Case Mark, File No. 3435, should be canceled;
- (4) The Virginia "MISTER COFFEE" mark represented by the Certificate of Registration of a Trademark, Service Mark or Case Mark, File No. 5201, should be canceled;
- (5) Sunbeam failed to prove by clear and convincing evidence that Canada Inc. committed fraud when it renewed the Virginia "MISTER COFFEE" marks, File Nos. 3435 and 5201; and
- (6) Canada Inc.'s equitable defenses should be dismissed.

The Hearing Examiner recommends that the Commission adopt the findings in his Report, cancel Virginia "MISTER COFFEE" marks, File Nos. 3435 and 5201, and dismiss this case from the docket of active matters.

On June 15, 2004, both Sunbeam and Canada Inc. filed Comments in response to the Hearing Examiner's Report. In its comments, Sunbeam states that it disagrees with the Hearing Examiner's finding that it failed to prove that Canada Inc. committed fraud when it renewed the Virginia marks. Sunbeam argues that: (1) Canada Inc. deliberately made materially false representations to the Commission in its applications to renew the marks;

(2) Canada Inc. made such false representations with the intention of deceiving the Commission into issuing the renewals for the marks; (3) the Commission relied on Canada Inc.'s deliberate misrepresentations in issuing the renewals; and (4) the Commission would not have issued the renewals in the absence of Canada Inc.'s material misrepresentations. Canada Inc. asserts in its comments that the Report is fundamentally flawed in finding the "MISTER COFFEE" marks were abandoned. Canada Inc. states that these flaws arise from the improper retroactive application of the 1998 Virginia Code to operative facts occurring in 1993, and that the legal effect of these operative facts is governed by the applicable Trademark and Service Mark Act in the 1950 Virginia Code.

On June 28, 2004, Canada Inc. filed a "Supplement to Respondent's Comments to the Report of Alexander F. Skirpan, Jr., Hearing Examiner" ("Supplemental Comments"). In its Supplemental Comments, Canada Inc. states that it seeks to supplement its initial comments in view of Sunbeam's inconsistent arguments regarding allegations of fraud in the renewal of the "MISTER COFFEE" marks in Maryland and Virginia. On July 1, 2004, Sunbeam filed a "Motion to Strike Respondent's Comments to the Report of Alexander F. Skirpan, Jr., Hearing Examiner" ("Motion to Strike"). Sunbeam argues that Canada Inc.'s supplement violates the Commission's Rules of Practice and Procedure, is an improper reply to Sunbeam's timely submitted comments, is not relevant to this proceeding, and misrepresents the circumstances in Maryland. On July 12, 2004, Canada Inc. filed "Respondent's Opposition to Sunbeam's Motion to Strike." In its Opposition, Canada contends that its Supplemental Comments do not violate the Commission's Rules and are relevant to this proceeding.

NOW THE COMMISSION, having considered all applicable statutes, the Hearing Examiner's Report and the comments thereto, finds that the Hearing Examiner's findings and recommendations are reasonable and should be adopted. Further, we grant Sunbeam's Motion to Strike Canada Inc.'s Supplemental Comments.<sup>1</sup>

Accordingly, IT IS ORDERED THAT:

- (1) The findings and recommendations of the May 25, 2004, Hearing Examiner's Report are hereby adopted.
- (2) The Virginia "MISTER COFFEE" marks, File Nos. 3435 and 5201, are hereby canceled.
- (3) Sunbeam's Motion to Strike Respondent's Comments to the Report of Alexander F. Skirpan, Jr., Hearing Examiner is hereby granted.
- (4) There being nothing further to be done herein, this matter should be dismissed from the Commission's docket of active cases.

<sup>1</sup> We note that had we considered Canada Inc.'s Supplemental Comments, our decision to adopt the Hearing Examiner's findings and recommendations would not change.

**CASE NOS. SEC-2003-00008, SEC-2003-00065, and SEC-2003-00066  
NOVEMBER 15, 2004**

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

v.

PREMIER CAPITAL MANAGEMENT, LLC  
MATHIEU REGINALD REYNA,  
and  
THOMAS JOSEPH SPELLMAN  
Defendants

**SETTLEMENT ORDER**

The Commission's Division of Securities and Retail Franchising ("Division") has instituted an investigation of Premier Capital Management, LLC ("PCM"), Mathieu Reginald Reyna ("Reyna"), and Thomas Joseph Spellman ("Spellman"), pursuant to § 13.1-518 of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia.

As a result of its investigation, against PCM and Reyna the Division alleges that:

1. PCM offered and sold unregistered securities, to wit: shares of Xentex stock, to thirteen (13) investors in Virginia and other jurisdictions, in violation of § 13.1-507 of the Act.
2. PCM transacted business as an agent of the issuer for Xentex without being so registered with the Division, in violation of § 13.1-504 A of the Act.
3. PCM transacted business as a broker-dealer without being so registered with the Division, in violation of § 13.1-504 A of the Act.
4. PCM transacted business as an investment advisor without being so registered with the Division, in violation of § 13.1-504 A of the Act.
5. PCM employed two (2) unregistered broker-dealer agents, in violation of § 13.1-504 B of the Act.
6. PCM employed two (2) unregistered investment advisor representatives, in violation of § 13.1-504 A of the Act.
7. PCM violated the recordkeeping requirements for investment advisors by failing to maintain the books and records as set forth in 21 VAC 5-80-160.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

8. PCM made material omissions and misrepresentations in the offer and sale of securities to investors, to wit: failed to inform them that the Xentex stock they were purchasing was not transferable, in violation of § 13.1-502(2) of the Act.
9. Reyna offered and sold unregistered securities, to wit: shares of Xentex stock, to investors, in violation of § 13.1-507 of the Act.
10. Reyna transacted business as an agent of the issuer for Xentex without being so registered with the Division, in violation of § 13.1-504 A of the Act.
11. Reyna transacted business as an investment advisor representative without being so registered with the Division, in violation of § 13.1-504 A of the Act.
12. Reyna made material omissions and misrepresentations in the offer and sale of securities to investors, to wit: failed to inform them that the Xentex stock they were purchasing was not transferable, in violation of § 13.1-502(2) of the Act.
13. Reyna willfully made a false or misleading statement in a document filed with the Commission, to wit: provided an incomplete listing of Virginia investors in response to a Commission-ordered subpoena, in violation of § 13.1-516 of the Act.

The Defendants neither admit nor deny the allegations, but admit the Commission's jurisdiction and authority to enter this Settlement Order. As a proposal to settle all matters arising from the allegations made against them, Defendants PCM and Reyna have offered, and agreed to comply with, the following terms and undertakings:

1. Reyna will make a rescission offer, on the terms provided herein, to the following investors:

A. J. Crump  
 Frank Kerestasy  
 Sun Kerestasy  
 Xen Investments  
 Claude Lym  
 Wesley Williamson  
 John Eiban

The rescission offer will occur as follows:

- a. Within thirty (30) days of the date of this Settlement Order, Reyna will make a written offer of rescission sent by certified mail to each of the above-named investors to include:
    - (i) An offer to repay all monies invested by or through Reyna or PCM; and
    - (ii) A provision that gives the investor thirty (30) days from the date of receipt of the rescission offer to provide Reyna with written notification of the investor's decision to accept or reject the offer.
  - b. Reyna will include with the written offer of rescission a copy of this Settlement Order.
  - c. If the rescission offer is accepted, Reyna shall forward one quarter of the rescission amount to each investor within forty five (45) days of the entry of this Settlement Order, with the remaining balance paid to the investors within eighteen months from the date of entry of this Settlement Order.
  - d. Within nineteen months from the date of the Settlement Order, Reyna will submit to the Division an affidavit, which contains the following:
    - (i) a copy of the postal return receipt for each offer of rescission made;
    - (ii) the investor's response, if any; and
    - (iii) if applicable, the amount and the date that payment was sent to the investor.
2. The Defendants will not violate the Act in the future.
  3. Defendant PCM will not do business in the securities industry for a period of eighteen (18) months from the date of entry of this Order.
  4. Defendant Reyna will not do business in the securities industry for a period of six (6) months from the date of entry of this Order, with the single exception of managing his personal accounts, which will include only Reyna's personal funds, and not funds from any other source.
  5. Defendant PCM will pay to the Commission twenty-five thousand dollars (\$25,000) in penalties, which will be waived if rescission offers are made in accord with section 1 above and rescission is made in accord with its terms to all named investors who accept the offer.
  6. Defendant Reyna will pay to the Commission twelve thousand two hundred fifty dollars (\$12,250) in penalties which will be waived if rescission offers are made in accord with section 1 above and rescission is made in accord with its terms to all named investors who accept the offer.
  7. Defendant Reyna will pay to the Commission five thousand one hundred dollars (\$5,100) to defray the cost of investigation.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

8. It is recognized and understood that if the Defendants fail to comply with any of the foregoing terms and undertakings, then the Commission reserves the right to take whatever action it deems appropriate including, but not limited to, instituting a show cause proceeding under the Act or other applicable statutes based on such failure to comply, on the allegations contained herein and/or such other allegations as are warranted, and the Defendants will not contest the exercise of the right reserved. The Division has recommended that Defendants' offer of settlement be accepted pursuant to authority granted to the Commission in § 12.1-15 of the Code of Virginia.

## THEREFORE, IT IS ORDERED THAT:

1. Pursuant to the authority granted to the Commission in § 12.1-15 of the Code of Virginia, the Defendants' offer of settlement is accepted.
2. Defendants will fully comply with the aforesaid terms and undertakings of the settlement.
3. Defendant PCM will pay to the Commission twenty-five thousand dollars (\$25,000) in penalties, which will be waived if rescission offers are made in accord with section 1 above and rescission is made in accord with its terms to all named investors who accept the offer.
4. Defendant Reyna will pay to the Commission twelve thousand two hundred fifty dollars (\$12,250) in penalties which will be waived if rescission offers are made in accord with section 1 above and rescission is made in accord with its terms to all named investors who accept the offer.
5. Defendant Reyna will pay to the Commission five thousand one hundred dollars (\$5,100) to defray the cost of investigation.
6. The Commission shall retain jurisdiction in this matter for all purposes, including the institution of a show cause proceeding as described above, 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 NOS. SEC-2003-00038 and SEC-2003-00039  
JUNE 25, 2004**

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

v.  
CITIGROUP GLOBAL MARKETS, INC., F.K.A. SALOMON SMITH BARNEY, INC.<sup>1</sup>,  
and  
WILLIAM F. DODGE, II  
Defendants

**SETTLEMENT ORDER**

The Commission's Division of Securities and Retail Franchising ("Division") has instituted an investigation of Defendants, Citigroup Global Markets, Inc. ("Citigroup" or the "Firm") and William F. Dodge, II ("Dodge"), pursuant to § 13.1-518 of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia.

As a result of its investigation, the Division alleges that:

- (i) Citigroup employed agent Paul J. Abrams ("Abrams"), who solicited seven transactions with two Virginia residents as joint accountholders ("Accountholders") without being registered in the Commonwealth of Virginia, in violation of § 13.1-504 of the Act;
- (ii) Abrams marketed a plan to the Accountholders to invest their money, solicited transactions from the Accountholders and entered orders which were rejected due to Abrams' lack of registration in Virginia, then amended that plan, in violation § 13.1-502 of the Act;
- (iii) Citigroup failed to exercise diligent supervision over the actions of Dodge and Abrams, in violation of Commission Rule 21 VAC 5-20-260 B;
- (iv) The Accountholders continued to contact Abrams regarding investments in their account and, at least once, authorized Abrams to have the Firm purchase securities for the account. Dodge reasonably should have known that the Accountholders continued to contact Abrams and therefore engaged in conduct that was in violation of the written policies and procedures of Citigroup, and therefore Dodge violated NASD Rule 21 10 by failing to observe high standards or commercial honor and just and equitable principles of trade. Such conduct violates Rule 21 VAC 5-20-280 E 12, which prohibits licensed agents from engaging in conduct that would violate NASD Rules.

The Defendants neither admit nor deny these allegations, but Defendants admit 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 offered, and agreed to comply with, the following terms and undertakings:

- (i) Pursuant to § 13.1-521, Citigroup agrees to pay a penalty in the amount of fifty thousand dollars (\$50,000) to the Treasurer of Virginia;

<sup>1</sup> On or about April 7, 2003, Salomon Smith Barney, Inc. ("SSB") changed its name to Citigroup Global Markets, Inc. Since the matters which were the subject of the investigation occurred prior to the name change, the allegations herein generally refer to SSB.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

- (ii) Pursuant to § 13.1-518 of the Act, Citigroup agrees to pay to the Commission the sum of twenty-two thousand four hundred eighty-six dollars (\$22,486) to defray the costs of investigation;
- (iii) Pursuant to § 13.1-521, Dodge agrees to pay a penalty in the amount of fifteen thousand dollars (\$15,000) to the Treasurer of Virginia; and
- (iv) Pursuant to § 13.1-518, Dodge agrees to pay to the Commission the sum of five thousand dollars (\$5,000) to defray the costs of investigation.

The Division has recommended that Defendants' offer of settlement be accepted pursuant to authority granted to the Commission in § 12.1-15 of the Code of Virginia.

## IT IS ORDERED THAT:

- (i) Pursuant to the authority granted to the Commission in § 12.1-15 of the Code of Virginia, the Defendants' offer of settlement is accepted;
- (ii) The Defendants shall fully comply with the aforesaid terms and undertakings of the settlement;
- (iii) Pursuant to § 13.1-521, Citigroup shall pay a penalty in the amount of fifty thousand dollars (\$50,000) to the Treasurer of Virginia;
- (iv) Pursuant to § 13.1-518 of the Act, Citigroup shall pay to the Commission the sum of twenty-two thousand four hundred eighty-six dollars (\$22,486) to defray the costs of investigation;
- (v) The sum of seventy-two thousand four hundred eighty-six dollars (\$72,486) tendered by Citigroup contemporaneously with the entry of this Settlement Order is accepted;
- (vi) Pursuant to § 13.1-521, Dodge shall pay a penalty in the amount of fifteen thousand dollars (\$15,000) to the Treasurer of Virginia;
- (vii) Pursuant to § 13.1-518, Dodge shall pay to the Commission the sum of five thousand dollars (\$5,000) to defray the costs of investigation;
- (viii) The sum of twenty thousand dollars (\$20,000) tendered by Dodge contemporaneously with the entry of this Settlement Order is accepted; and
- (ix) This case is dismissed from the Commission's docket and the papers herein be placed in the file for ended causes.

**CASE NO. SEC-2003-00040  
JANUARY 30, 2004**

COMMONWEALTH OF VIRGINIA,  
STATE CORPORATION COMMISSION

v.

JONATHAN ROBERTS FINANCIAL GROUP, INC.,  
JOHN R. CARLSON,  
Defendants

**SETTLEMENT ORDER**

The Commission's Division of Securities and Retail Franchising ("Division") has instituted an investigation of Defendants, Jonathan Roberts Financial Group, Inc. ("Jonathan Roberts"), formerly Alliance Capital Management Corporation and John R. Carlson, pursuant to § 13.1-518 of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia.

As a result of its investigation, the Division alleges that:

1. Defendant Jonathan Roberts is a corporation domiciled in Tampa, Florida with its current address at 3550 Buschwood Park Drive - Suite 135.
2. Defendant Jonathan Roberts is currently a registered broker-dealer in Virginia, Central Registration Depository ("CRD") No. 46285, and has been so registered as a broker-dealer in Virginia since March 10, 1999.
3. Defendant John R. Carlson, CRD No. 2156089, is President and owner of Jonathan Roberts and President and owner of Tilchin Asset Management, a Registered Investment Advisor, CRD No. 112294.
4. Defendant, Jonathan Roberts offered and sold unregistered securities, without the securities or the transactions being exempted from the registrations provisions of the Act in violation of § 13.1-507.
5. Defendants failed to exercise supervision over the securities activities of their agents in violation of Rule 21 VAC 5-20-260 B.
6. Defendants failed to enforce established written procedures adopted by the firm and duties imposed pursuant to Rule 21 VAC 5-20-260 D, undertake prompt review and written approval by a designated supervisor of all securities transactions by agents, pursuant to Rule 21 VAC 5-20-260 D 3, and conduct annual inspections of its business locations, pursuant to Rule 21 VAC 5-20-260 E 2.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Defendants neither admit nor deny the Division's allegations, but admit to the Commission's jurisdiction and authority to enter this order.

As an offer to settle all matters arising from the allegations made against them as described in this order, Defendants have offered and agree to comply with the following terms and undertakings:

- (1) Defendants will refrain from any further conduct which constitutes a violation of the Act or the Commission's Rules.
- (2) Defendants, pursuant to § 13.1-521 of the Act, will pay a penalty to the Commonwealth in the amount of three thousand five hundred dollars (\$3,500.00) contemporaneously with the entry of this order.
- (3) Defendants, pursuant to § 13.1-518 of the Act, will pay to the Commission the sum of one thousand five hundred dollars (\$1,500.00) as reimbursement for the costs of the Division's investigation contemporaneously with the entry of this order.
- (4) Jonathan Roberts will file a Broker-Dealer Withdrawal Form, Form BDW, withdrawing its broker-dealer registration in the state of Virginia no later than thirty (30) days after the entry of this order.
- (5) John R. Carlson agrees not to seek registration or employment in any supervisory capacity with any broker-dealer in this Commonwealth until such time as all fines and investigation costs are paid in full.
- (6) John R. Carlson agrees that, should he seek the ownership or registration of a broker-dealer entity in this Commonwealth or employment in any supervisory capacity with any broker-dealer in this Commonwealth or registration as a broker-dealer agent in this Commonwealth, he will pay an additional penalty to the Commonwealth for the violations alleged herein, in the amount of eighteen thousand dollars (\$18,000.00), and will pay to the Commission an additional sum of two thousand dollars (\$2,000.00) as reimbursement for the costs of the Division's investigation in this case, prior to approval of such registration or employment.

The Division has recommended that Defendants' offer of settlement be accepted pursuant to the authority granted to the Commission in § 12.1-15 of the Code of Virginia.

NOW, THEREFORE, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted to the Commission in § 12.1-15 of the Code of Virginia, Defendants' offer of settlement is accepted.
- (2) Defendants fully comply with the aforesaid terms and undertakings of the settlement.
- (3) Pursuant to § 13.1-521 of the Act, Defendants shall pay a penalty to the Commonwealth in the amount of three thousand five hundred dollars (\$3,500.00) and the Commonwealth recover of and from Defendants said amount.
- (4) Pursuant to § 13.1-518 of the Act, Defendants shall pay to the Commission the sum of one thousand five hundred dollars (\$1,500.00) as reimbursement for the costs of the Division's investigation.
- (5) The total sum of five thousand dollars (\$5,000.00) tendered by Defendants contemporaneously with the entry of this order is accepted.
- (6) Defendant, John R. Carlson, pursuant to § 13.1-519 of the Act, is hereby enjoined from ownership or registration of a broker-dealer entity, supervisory responsibility within a broker-dealer entity, and transacting business as a broker-dealer agent, in this Commonwealth, until such time as he pays the remaining penalty balance of eighteen thousand dollars (\$18,000.00) to the Commonwealth and the costs of investigation balance of two thousand dollars (\$2,000.00) to the Commission as set forth in this order.
- (7) The Commission shall retain jurisdiction in the matter for all purposes.

**CASE NO. SEC-2003-00041  
JANUARY 30, 2004**

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

v.

MERRILL LYNCH, PIERCE, FENNER & SMITH, INCORPORATED,  
DEFENDANT

**SETTLEMENT ORDER**

The Commission's Division of Securities and Retail Franchising ("Division") has instituted an investigation of Defendant, Merrill Lynch, Pierce, Fenner & Smith, Incorporated ("Merrill Lynch"), pursuant to § 13.1-518 of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia.

As a result of its investigation, the Division alleges that Defendant, through its registered agents:

1. Recommended to Mr. and Mrs. Eugene Kallgren of Williamsburg, Virginia the purchase and sale of securities without reasonable grounds to believe that the recommendations were suitable for the investors, in violation of Commission Rule 21 VAC 5-20-280 A 3;
2. Failed to exercise diligent supervision over the securities activities of a broker-dealer agent employed at the Williamsburg, Virginia branch office of Merrill Lynch, in violation of Commission Rule 21 VAC 5-20-260 B;



3. Recommended to Ms. Julie R. Meals of Newport News, Virginia the purchase and sale of securities without reasonable grounds to believe that the recommendations were suitable for Ms. Meals, in violation of Commission Rule 21 VAC 5-20-280 A 3;

4. Failed to exercise diligent supervision over the securities activities of a broker-dealer agent employed at the York, Pennsylvania branch office of Merrill Lynch, in violation of Commission Rule 21 VAC 5-20-260 B.

The Defendant neither admits nor denies these allegations, but admits to the Commission's jurisdiction and authority to enter this settlement order.

As an offer to settle all matters arising from these allegations, Defendant has offered, and agreed to comply with, the following terms and undertakings:

1. Defendant will refrain from any conduct that constitutes a violation of the Act or the Commission's Rules promulgated thereunder;

2. Defendant, pursuant to § 13.1-521 of the Act, has agreed to offer to pay restitution to Mr. and Mrs. Eugene Kallgren in the amount of seventy three thousand five hundred forty-four dollars and eighty one cents (\$73,544.81). Defendant will make the aforesaid restitution offer to Mr. and Mrs. Eugene Kallgren within fifteen (15) calendar days of the entry of this settlement order and will provide satisfactory proof to the Division that the restitution offer has been made. Mr. and Mrs. Eugene Kallgren shall have thirty (30) calendar days from the date of receipt of the restitution offer to provide Defendant with written notification of their decision to accept or reject the restitution offer. If the offer of restitution is accepted, Defendant shall have fifteen (15) calendar days to deliver payment;

3. Defendant, pursuant to § 13.1-521 of the Act, has offered to pay restitution to Ms. Julie R. Meals in the amount of two hundred sixty-eight thousand seven hundred twenty-three dollars and twelve cents (\$268,723.12). Defendant made the aforesaid written restitution offer to Ms. Meals on August 12, 2003, and will provide satisfactory proof to the Division that the restitution offer and payment has been made;

4. Defendant, pursuant to § 13.1-521 of the Act, has agreed that the Division will engage a third party examiner, duly qualified, to conduct eight (8) branch examinations in the eastern third of the United States of America ("Third Party Examiner"). The Third Party Examiner must at least be a certified public accountant with three (3) years of experience in securities compliance management, or in the alternative, have five (5) years of experience in securities compliance management. If necessary, the Defendant and the Division will agree to other qualifications of the Third Party Examiner within fifteen (15) business days of the entry of this settlement order. Defendant shall recommend at least two (2) prospective firms, which meet such qualifications, to the Division for its consideration. Within thirty (30) business days of the date of receipt, if the Division has not accepted at least one (1) of the Defendant's recommendations, the matter will be referred to the Counsel to Commission for a final decision as to which Third Party Examiner, if any, should be utilized or if additional recommendations are warranted.

The Division will randomly select eight (8) branches located outside the Commonwealth of Virginia that employ Virginia registered broker-dealer agents for the special review. The Third Party Examiner will independently review and evaluate (1) Defendant's recommendations and clients' trading activity compared with customer's stated investment objectives and financial condition, (2) Defendant's written supervisory procedures regarding new accounts and securities transactions related to customer suitability, and (3) Defendant's separate system of review regarding the effective implementation of its supervisory procedures with regard to customer suitability. Defendant has agreed to compensate the Third Party Examiner for any and all costs of the examinations. Defendant shall pay such fees and charges directly to the Third Party Examiner within thirty (30) business days of receipt of the auditor's billing invoice. The Defendant and the Division, as described above, shall determine the scope of the examination.

5. It is recognized and understood that if Defendant fails to comply with any of the foregoing terms and undertakings, then the Commission reserves the right to take whatever action it deems appropriate, including, but not limited to, instituting a show cause proceeding under the Virginia Securities Act or other applicable statute based upon such failure to comply, on the allegations contained herein and/or on such other allegations as are warranted, and Defendant will not contest the exercise of the right reserved.

The Division has recommended that Defendant's offer of settlement be accepted pursuant to the authority granted to the Commission in § 12.1-15 of the Code of Virginia.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Pursuant to the authority granted to the Commission in § 12.1-15 of the Code of Virginia, Defendant's offer of settlement is accepted;

2. Defendant fully complies with the aforesaid terms and undertakings of the settlement;

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

**CASE NOS. SEC-2003-00049 and SEC-2003-00050  
OCTOBER 13, 2004**

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

v.

BIO-SOLUTIONS FRANCHISE CORPORATION  
BIO-SOLUTIONS INTERNATIONAL, INC.  
Defendants

**SETTLEMENT ORDER**

The Commission's Division of Securities and Retail Franchising ("Division") has instituted an investigation of Defendants, Bio-Solutions Franchise Corporation and Bio-Solutions International, Inc., pursuant to § 13.1-567 of the Virginia Retail Franchising Act ("Act"), § 13.1-557 *et seq.* of the Code of Virginia.

As a result of its investigation, the Division alleges that the Defendants (1) offered and granted franchises in Virginia in violation of § 13.1-560 of the Act; (2) failed to provide the franchisee a copy of the Virginia approved disclosure document in violation of § 13.1-563(e); and (3) told potential franchisees that it had applied with the Division to become registered to offer and sell franchises and was in the process of becoming registered at the time the franchises were offered, when in fact no such application was filed until more than a year after the franchise agreements were signed, in violation of § 13.1-563(b) of the Act.

The Defendants admit the third allegation, and Defendants admit 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 offered, and agreed to comply with, the following terms and undertakings:

1. By July 31, 2004, Defendants will pay to investor Joel Bernstein five thousand dollars (\$5,000).
2. By July 31, 2004, Defendants will pay to the Commission two thousand dollars (\$2,000) to defray the cost of investigation.
3. The Defendants will not violate the Act in the future.
4. It is recognized and understood that if the Defendants fail to comply with any of the foregoing terms and undertakings, then the Commission reserves the right to take whatever action it deems appropriate including, but not limited to, instituting a show cause proceeding under the Act or other applicable statutes based on such failure to comply, on the allegations contained herein and/or such other allegations as are warranted, and the Defendants will not contest the exercise of the right reserved.

The Division has recommended that Defendants' offer of settlement be accepted pursuant to authority granted to the Commission in § 12.1-15 of the Code of Virginia.

THEREFORE, IT IS ORDERED THAT:

1. Pursuant to the authority granted to the Commission in § 12.1-15 of the Code of Virginia, the Defendants' offer of settlement is accepted.
2. Defendant will fully comply with the aforesaid terms and undertakings of the settlement.
3. The papers herein shall be filed among the ended cases.

**CASE NOS. SEC-2003-00053 and SEC-2003-00075  
NOVEMBER 16, 2004**

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

v.

ALIREZA ATEFI GARAKANI  
WORLDONLINE 247, INC. a/k/a WORLDONLINE, CORPORATION a/k/a WORLD ON-LINE CORPORATIONS a/k/a  
WORLD ONLINE, INC. a/k/a WORLDONLINE a/k/a WORLD ONLINE, INC.  
Defendants

**SETTLEMENT ORDER**

The Commission's Division of Securities and Retail Franchising ("Division") has instituted an investigation of WorldOnline 247, Inc. ("WOL"), and Alireza Atefi Garakani ("Garakani"), pursuant to § 13.1-518 of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia.

As a result of its investigation, the Division alleges that:

1. WOL offered and sold unregistered securities, in violation of § 13.1-507 of the Act.

2. WOL sold securities through Garakani, who was not registered as an agent of an issuer with the Division, in violation of § 13.1-504 B of the Act.

3. Garakani and WOL obtained money by means of an untrue statement of a material fact, in that prospective investors were told that the former owner of the Cleveland Indians, Rich Jacobs, had invested more than three million dollars in WOL as an indication that WOL was a quality investment, in violation of §13.1-502(2) of the Act.

4. Garakani and WOL offered and sold securities in WOL without providing adequate disclosure of the financial condition of WOL and the risk level of the investment, in violation of § 13.1-502(2) of the Act.

5. Garakani and WOL made material omissions and misrepresentations in the offer and sale of securities to investors, to wit: failed to disclose that a previous company owned by Garakani which provided the same service as WOL had failed and investors lost their investments, in violation of § 13.1-502(2) of the Act.

6. Garakani and WOL engaged in a transaction, practice, or course of business which operated as a fraud or deceit upon the purchaser of securities, in that WOL held itself out to be a corporation, and investors bought shares of that "corporation", but no such entity existed until long after the investments were made, in violation of § 13.1-502(3).

7. Garakani transacted business as an agent of the issuer for WOL without being so registered with the Division, in violation of § 13.1-504 A of the Act.

The Defendants admit that they sold securities in violation of §13.1-507 and deny the remaining allegation. Defendants further admit the Commission's jurisdiction and authority to enter this Settlement Order. As a proposal to settle all matters arising from the allegations made against them, the Defendants have offered, and agreed to comply with, the following terms and undertakings:

1. Defendants will make a rescission offer to all investors, to occur as follows:

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 investor to include:

i. An offer to repay all monies invested by or through Garakani or WOL; and

ii. A provision that gives the investor thirty (30) days from the date of receipt of the rescission offer to provide the Defendants with written notification of his decision to accept or reject the offer.

b. The Defendants will include with the written offer of rescission a copy of this Settlement Order.

c. If the rescission offer is accepted, Defendants will forward the payment to the investors within nine (9) months of the date of this Order.

d. Within ten (10) months of the date of the Settlement Order, Defendants will submit to the Division an affidavit, executed by the Defendants, which contains the following:

i. The date on which the investor received the offer of rescission;

ii. The investor's response; and

iii. If applicable, the amount and the date that payment was sent to the investor.

2. The Defendants will not violate the Act in the future.

3. The Defendants will provide an affidavit stating any names, addresses, or phone numbers used by them, along with social security numbers and FEINs, as well as the names and addresses of every investor along with the dates and amounts of each investment and the amount of shares purchased, and the name of the company in which the investment was made.

4. Defendant WOL will pay to the Commission thirty thousand dollars (\$30,000) in penalties, these penalties to be waived if the rescission offer aforementioned in section 1 is fully satisfied.

5. Defendant Garakani will pay to the Commission thirty thousand dollars (\$30,000) in penalties, these penalties to be waived if the rescission offer aforementioned in section 1 is fully satisfied.

6. The defendants will, jointly and severally, pay to the Commission one thousand five hundred dollars (\$1,500) to defray the cost of investigation within ninety (90) days of the date of this Order.

7. It is recognized and understood that if the Defendants fail to comply with any of the foregoing terms and undertakings, then the Commission reserves the right to take whatever action it deems appropriate including, but not limited to, instituting a show cause proceeding under the Act or other applicable statutes based on such failure to comply, on the allegations contained herein and/or such other allegations as are warranted, and the Defendants will not contest the exercise of the right reserved.

The Division has recommended that Defendants' offer of settlement be accepted pursuant to authority granted to the Commission in § 12.1-15 of the Code of Virginia.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

THEREFORE, IT IS ORDERED THAT:

1. Pursuant to the authority granted to the Commission in § 12.1-15 of the Code of Virginia, the Defendants' offer of settlement is accepted.
2. Defendants will fully comply with the aforesaid terms and undertakings of the settlement.
3. Defendant WOL will pay to the Commission thirty thousand dollars (\$30,000) in penalties, which will be waived if a rescission offer is made in compliance with the above terms.
4. Defendant Garakani will pay to the Commission thirty thousand dollars (\$30,000) in penalties, which will be waived if a rescission offer is made in compliance with the above terms.
5. The defendants will pay, jointly and severally, to the Commission one thousand five hundred dollars (\$1,500) to defray the cost of investigation within ninety (90) days of this Order.
6. The Commission shall retain jurisdiction in this matter for all purposes, including the institution of a show cause proceeding as described above, 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-2003-00070 and SEC-2003-00071  
OCTOBER 6, 2004**

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

v.

FARMER'S LIVESTOCK MARKET, INC.

and

BUCK SIMMONS *a/k/a* THEADO EDWARD SIMMONS, JR.,  
Defendants

**FINAL ORDER**

On January 21, 2004, the State Corporation Commission ("Commission") entered a Settlement Order ("Order") in which Farmer's Livestock Market, Inc., and Buck Simmons *a/k/a* Theado Edward Simmons, Jr. ("Defendants") neither admitted nor denied the allegations made by the Commission's Division of Securities and Retail Franchising ("Division"), but offered, and agreed to comply with, certain terms and undertakings including, among other things, making a written rescission offer to investors; filing with the Division an affidavit containing an acknowledgement that a rescission offer was made to the investors; and stating the dollar amount of rescission paid to investors.

The Defendants provided to the Division an affidavit dated June 18, 2004, stating that eleven investors accepted rescission. The affidavit failed to list the amount of rescission to the eleven investors as required by the Order. The Defendants provided an amended affidavit to the Division on August 18, 2004, stating that six investors accepted the rescission offer. The affidavit further stated that in lieu of rescission, existing investors purchased the shares of the six investors seeking rescission. The affidavit identified the buyer and seller, number of shares, and purchase price for each transaction.

Although the Defendants failed to make rescission to the six investors pursuant to the terms of the Settlement Order, the investors received restitution in a manner satisfactory to them. All other terms of the Order have been satisfied. The Division recommends that the matter be dismissed.

Accordingly, IT IS ORDERED THAT:

- (1) All undertakings and provisions of a continuing nature set forth in the prior order remain in full force and effect.
- (2) Entry of this order shall not affect any duty or obligation to disclose the existence or nature of this matter or of any order entered herein.
- (3) This case is dismissed.
- (4) The papers herein shall be filed among the ended cases.

**CASE NOS. SEC-2003-00073 and SEC-2003-00074  
MAY 26, 2004**

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

v.

JAMES STAMP  
JOEL STAMP

**ORDER DISMISSING CASES**

On April 30, 2004, and May 5, 2004, the Division of Securities and Retail Franchising ("Division") filed Motions to Dismiss Allegations Against Defendants Joel Stamp and James Stamp in Case Nos. SEC-2003-00074 and SEC-2003-00073. In each motion, the Division stated that the Defendant had

reached a settlement with the Division whereby, in exchange for information and cooperation in other related cases, the allegations against him would be dismissed.

By two separate rulings issued May 5, 2004, the Hearing Examiner found that the Division's Motions to Dismiss Allegations should be granted, and recommended that the Commission enter a final order dismissing the Rules to Show Cause against each Defendant with prejudice.

NOW THE COMMISSION, having considered the Division's Motions and the Hearing Examiner's Rulings, finds that the Hearing Examiner's findings should be adopted, and these cases should be dismissed from the Commission's docket of active cases.

Accordingly, IT IS ORDERED THAT:

- (1) The findings contained in the May 5, 2004 Hearing Examiners' Reports in Case Nos. SEC-2003-00073 and SEC-2003-00074 are hereby adopted.
- (2) These cases are dismissed from the Commission's docket of active cases.

**CASE NO. SEC-2003-00076  
FEBRUARY 12, 2004**

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

v.

CHESAPEAKE INVESTMENT SERVICES, INC.,  
CHESAPEAKE INVESTMENT ADVISORS, INC.,

and

YU-DEE CHANG,  
Defendants

**SETTLEMENT ORDER**

The Commission's Division of Securities and Retail Franchising ("Division") has instituted an investigation of Defendants, Chesapeake Investment Services, Inc., Chesapeake Investment Advisors, Inc., and Yu-Dee Chang, pursuant to § 13.1-518 of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia.

As a result of its investigation, the Division alleges that:

1. Chesapeake Investment Services, Inc. is a Virginia corporation with its current address at 8200 Greensboro Drive, Suite 275, McLean, Virginia 22102. Chesapeake Investment Services, Inc. is an introducing broker registered with the National Futures Association. Mr. Yu-Dee Chang is the president of Chesapeake Investment Services, Inc. Chesapeake Investment Services, Inc. has never been registered as an investment advisor;
2. Chesapeake Investment Advisors, Inc. was a Virginia corporation terminated on July 1, 2002. Mr. Yu-Dee Chang was also the president of Chesapeake Investment Advisors, Inc. Chesapeake Investment Advisors, Inc. was located with and also known as Chesapeake Investment Services, Inc. Chesapeake Investment Advisors, Inc. was never registered as an investment advisor;
3. Chesapeake Investment Advisors, Inc. transacted business in the Commonwealth as an investment advisor in violation of Virginia Code § 13.1-504 A (ii);
4. Chesapeake Investment Advisors, Inc. employed an unregistered investment advisor representative in violation of Virginia Code § 13.1-504 B;
5. Chesapeake Investment Advisors, Inc., in its solicitation of advisory clients, made untrue statements of material fact, or omitted to state material facts necessary to make statements not misleading in violation of Virginia Code § 13.1-503 B; and
6. Mr. Yu-Dee Chang transacted business as an unregistered investment advisor representative in violation of Virginia Code § 13.1-504 A (ii).

The Defendants neither admit nor deny these allegations but admit to the Commission's jurisdiction and authority to enter this Settlement Order.

As a proposal to settle all matters arising from these allegations, Defendants have offered and agreed to comply with the following terms and undertakings:

1. Defendants will refrain from any further conduct which constitutes a violation of the Act or the Commission's Rules promulgated thereunder.
2. Chesapeake Investment Advisors, Inc. and Mr. Yu-Dee Chang, pursuant to § 13.1-521 of the Act, will pay to the Commonwealth a penalty in the amount of forty-five thousand dollars (\$45,000).
3. Chesapeake Investment Advisors, Inc. and Mr. Yu-Dee Chang, pursuant to § 13.1-518 of the Act, will pay to the Commission the sum of nine thousand dollars (\$9,000) to defray the costs of the investigation.

The Division has recommended that Defendants' offer of settlement be accepted pursuant to authority granted to the Commission in § 12.1-15 of the Code of Virginia.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Pursuant to the authority granted to the Commission in § 12.1-15 of the Code of Virginia, Defendants' offer of settlement is accepted;
2. Defendants fully comply with the aforesaid terms and undertakings of the settlement;
3. Pursuant to § 13.1-521 of the Act, Chesapeake Investment Advisors, Inc. and Mr. Yu-Dee Chang pay to the Commonwealth a penalty in the amount of forty-five thousand dollars (\$45,000);
4. Pursuant to § 13.1-518 of the Act, Chesapeake Investment Advisors, Inc. and Mr. Yu-Dee Chang pay to the Commission the sum of nine thousand dollars (\$9,000) to defray the costs of the investigation;
5. The total sum of fifty-four thousand dollars (\$54,000) tendered by Chesapeake Investment Advisors, Inc. and Mr. Yu-Dee Chang contemporaneously with the entry of this Settlement Order is accepted; and
6. This case is dismissed from the Commission's docket and the papers herein be placed in the file for ended causes.

**CASE NOS. SEC-2003-00077 and SEC-2003-00078  
JANUARY 23, 2004**

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

v.  
DRY CLEANING TO-YOUR-DOOR FRANCHISE CORPORATION  
and  
MARGO SLOAN,  
Defendants

**SETTLEMENT ORDER**

The Commission's Division of Securities and Retail Franchising ("Division") has instituted an investigation of Defendants, Dry Cleaning To-Your-Door Franchise Corporation and Margo Sloan, pursuant to § 13.1-567 of the Virginia Retail Franchising Act ("Act"), § 13.1-557 *et seq.* of the Code of Virginia.

As a result of its investigation, the Division alleges that the Defendants (i) granted two franchises in Virginia in violation of § 13.1-560 of the Act, and (ii) made untrue statements of material fact and omitted to state material facts in the granting of franchises in Virginia in violation of § 13.1-503(b) of the Act.

The Defendants neither admit nor deny these allegations, but admit 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 offered, and agreed to comply with, the following terms and undertakings:

- i. The Defendants agree not to commit any further violations of the Act;
- ii. Pursuant to § 13.1-567 of the Act, the Defendants will pay to the Commission two thousand dollars (\$2,000) to defray the costs of investigation;
- iii. Pursuant to § 13.1-569 of the Act, Defendants will pay to the Commonwealth a penalty in the amount of four thousand dollars (\$4,000);
- iv. 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 Virginia franchisee, John Heidel, to include (a) an offer to repay the franchisee's initial franchise fee of nineteen thousand nine hundred dollars (\$19,900), and (b) a provision that the franchisee has thirty (30) days from the date of receipt of the offer to provide the Defendants with written notification of his decision to accept or reject the offer;
- v. Defendants will include with the written offer of rescission a copy of this Settlement Order;
- vi. Evidence of compliance with the provisions of paragraphs iv and v above will be filed with the Division by the Defendants within thirty (30) days from the date that the offer of rescission is accepted, rejected, or lapses. Such evidence will be in the form of an affidavit, executed by the Defendant, which will contain an acknowledgement that the Defendant has made a written offer of rescission to the franchisee. The affidavit will include the date on which the franchisee received the offer of rescission, the franchisee's response, and the amount of rescission, if applicable; and
- vii. It is recognized and understood that if the Defendants fail to comply with any of the foregoing terms and undertakings, then the Commission reserves the right to take whatever action it deems appropriate, including, but not limited to, instituting a show cause proceeding under the Act or other applicable statutes based on such failure to comply, on the allegations contained herein and/or such other allegations as are warranted, and the Defendants will not contest the exercise of the right reserved.

The Division has recommended that Defendants' offer of settlement be accepted pursuant to authority granted to the Commission in § 12.1-15 of the Code of Virginia.

THEREFORE, IT IS ORDERED THAT:

1. Pursuant to the authority granted to the Commission in § 12.1-15 of the Code of Virginia, the Defendants' offer of settlement is accepted;
2. The Defendants shall fully comply with the aforesaid terms and undertakings of the Settlement;
3. Pursuant to § 13.1-567 of the Act, the Defendants will pay to the Commission the sum of two thousand dollars (\$2,000) to defray the costs of investigation;
4. Pursuant to § 13.1-569 of the Act, the Defendants will pay to the Commonwealth a penalty in the amount of four thousand dollars (\$4,000);
5. The sum of six thousand dollars (\$6,000) tendered contemporaneously with the entry of this Settlement Order is accepted; and
6. The Commission shall retain jurisdiction in this matter for all purposes, including the institution of a show cause proceeding as described above, 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-2004-00009  
AUGUST 18, 2004**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
MR. SMOOTHIE FRANCHISES, INC.,  
Defendant

**FINAL ORDER**

On May 12, 2004, the State Corporation Commission ("Commission") entered a Settlement Order ("Order") in this case. That Order, among other things, required:

1. Defendant make a written offer of rescission to each Virginia franchisee:
  - a. Within thirty (30) days of the date of the Order, Defendant make a written offer of rescission sent by certified mail to each Virginia franchisee to include:
    - i. An offer to repay the franchisee's initial franchise fee;
    - ii. A provision that gives the franchisee thirty (30) days from the date of receipt of the rescission offer to provide the Defendant with written notification of his decision to accept or reject the offer;
  - b. Defendant include with the written offer of rescission a copy of the Order;
  - c. If rescission was accepted, Defendant would forward the payment to the franchisee within seven (7) days of receipt of the acceptance; and
  - d. Within ninety (90) days from the date of the Order, Defendant would submit to the Division of Securities and Retail Franchising ("Division") an affidavit (attached as Exhibit 1), executed by Defendant, containing the following:
    - i. The date on which the franchisee received the offer of rescission;
    - ii. The franchisee's response; and
    - iii. If applicable, the amount and the date that payment was sent to the franchisee.
2. Defendant not violate the Virginia Retail Franchising Act ("Act") in the future; and
3. Defendant pay to the Commission two thousand one hundred dollars (\$2,100) to defray the costs of investigation.

The Division staff has now reported to the Commission that the Defendant has fulfilled the requirements of the Settlement Order.

Accordingly, IT IS ORDERED THAT:

1. All undertakings and provisions of a continuing nature set forth in the prior order remain in full force and effect.
2. Entry of this order shall not affect any duty or obligation to disclose the existence or nature of this matter or of any order entered herein.

3. This case is dismissed.
4. The papers herein shall be filed among the ended cases.

**CASE NO. SEC SEC-2004-00010  
MARCH 25, 2004**

APPLICATION OF  
NATIONAL COVENANT PROPERTIES  
5101 N. Francisco Avenue  
Chicago, Illinois 60625-6273

For an Order of Exemption under § 13.1-514.1 B of the Code of Virginia, as amended

**ORDER OF EXEMPTION**

THIS MATTER came for consideration upon written application dated February 27, 2004, with exhibits attached thereto, of National Covenant Properties ("NCP") requesting that certain securities 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 certain individuals be exempted from the agent registration requirements of said Act.

BASED UPON THE INFORMATION submitted, the following facts, in addition to others not enumerated herein, appear to exist: NCP is a not for profit Illinois corporation organized exclusively for religious, charitable, educational and scientific purposes; NCP intends to offer and sell, in an aggregate amount, up to \$50,000,000 of the following securities: 5-Year Fixed Rate Renewable Certificates (Series A), Variable Rate Certificates (Series G), and Individual Retirement Account ("IRA") Certificates on terms and conditions as more fully described in the Offering Circular filed as a part of the application; upon the exemption of the above-captioned Certificates, NCP will discontinue issuer transactions for all Certificates previously exempted from the securities registration of the Act; said securities are to be offered and sold by officers of NCP who will not be compensated for their sales efforts.

THE COMMISSION, based on the facts asserted by NCP in the written application and exhibits, 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 be, and they hereby are, exempted from the securities registration requirements of the Act and the officers of NCP be, and they hereby are, exempted from the agent registration requirements of said Act.

**CASE NO. SEC-2004-00014  
JUNE 9, 2004**

APPLICATION OF  
CATHOLIC UNITED INVESTMENT TRUST  
1200 Jorie Boulevard, Suite 210  
Oak Brook, Illinois 60523-2262

For an Order of Exemption under § 13.1-514.1 B of the Code of Virginia, as amended

**ORDER OF EXEMPTION**

THIS MATTER came for consideration upon written application dated February 17, 2003, with exhibits attached thereto, as subsequently amended, of Catholic United Investment Trust ("CUIT") requesting that Trust Units in the Fund 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: CUIT was established by The Roman Catholic Church, not for private profit but exclusively for religious, charitable and educational purposes; CUIT serves only Roman Catholic related religious organizations that are listed in the Official Kennedy Catholic Directory, exempt from federal income tax pursuant to Section 501(c)(3) of the Code, and are not private foundations as defined in Section 509(a) of the Code. Offers and sales of CUIT will be made exclusively through broker-dealers registered in the Commonwealth.

THE COMMISSION, based on the facts asserted by CUIT in the written application and exhibits, 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 be, and they hereby are, exempted from the securities registration requirements of the Act and that offers and sales shall be made in Virginia only by broker-dealers registered in the Commonwealth.



**CASE NO. SEC-2004-00021  
JUNE 9, 2004**

APPLICATION OF  
CENTREVILLE BAPTIST CHURCH  
15100 Lee Highway  
Centreville, Virginia 20120

For an Order of Exemption under § 13.1-514.1 B of the Code of Virginia, as amended

**ORDER OF EXEMPTION**

THIS MATTER came for consideration upon written application dated May 7, 2004, with exhibits attached thereto, as subsequently amended, of Centreville Baptist Church ("CBC") requesting that certain First Mortgage 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: CBC is a Virginia nonprofit corporation operating not for private profit but exclusively for religious, educational, benevolent and charitable purposes; CBC intends to offer and sell First Mortgage Bonds, 2004 Series, in an approximate aggregate amount of \$3,883,000 on terms and conditions as more fully described in the Prospectus filed as a part of the application; said securities are to be offered and sold by broker-dealers so registered under the Act.

THE COMMISSION, based on the facts asserted by CBC in the written application and exhibits, 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 be, and they hereby are, exempted from the securities registration requirements of the Act.

**CASE NO. SEC-2004-00022  
JULY 12, 2004**

APPLICATION OF  
MISSION INVESTMENT FUND OF THE EVANGELICAL LUTHERAN CHURCH IN AMERICA  
8765 West Higgins Road  
Chicago, Illinois 60631

For an Order of Exemption Under § 13.1-514.1 B of the Code of Virginia, as amended

**ORDER OF EXEMPTION**

THIS MATTER came for consideration upon written application dated April 15, 2004, with exhibits attached thereto, as subsequently amended, of Mission Investment Fund of the Evangelical Lutheran Church in America ("Mission") requesting that certain 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: Mission is a Minnesota nonprofit corporation organized exclusively for religious purposes; Mission intends to offer and sell certain unsecured debt obligations known as Mission Investments in an approximate aggregate amount of \$240,000,000 on terms and conditions as more fully described in the Offering Circular filed as a part of the application; said securities are to be offered and sold by certain registered agents of Mission who will not be compensated for their sales efforts. This Order repeals all previous Orders for these subject securities that have been exempted in Virginia.

THE COMMISSION, based on the facts asserted by Mission in the written application and exhibits, 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 be, and they hereby are, exempted from the securities registration requirements of the Act.

**CASE NO. SEC-2004-00031  
OCTOBER 21, 2004**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION

v.

CUMBERLAND MANAGEMENT GROUP, INC.,  
Defendant

**SETTLEMENT ORDER**

The Commission's Division of Securities and Retail Franchising (Division) has instituted an investigation of Defendant, Cumberland Management Group, Inc. (Cumberland), pursuant to § 13.1-518 of the Virginia Securities Act (Act), § 13.1-501 et seq. of the Code of Virginia.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

As a result of its investigation, the Division alleges that in the offer and sale of securities:

1. Defendant sold unregistered securities in the form of limited partnership units of Blairs Ridge at Grand Oaks Associates, LP (Blairs Ridge) and promissory notes of Cumberland in violation of § 13.1-507 of the Act;
2. Defendant transacted business as an unregistered broker-dealer in violation of § 13.1-504 A of the Act;
3. Defendant employed unregistered agents, Mr. Ben S. Read, Jr. and Mr. David C. Loughlin, in violation of § 13.1-504 B of the Act; and
4. Defendant obtained money by means of an untrue statement of a material fact in violation of § 13.1-502(2) of the Act in that the limited partnership was never formed.

The Defendant neither admits nor denies these allegations, but Defendant 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 offered, and agreed to comply with, the following terms and undertakings:

1. Pursuant to § 13.1-518 of the Act, Defendant will pay to the Commission seven hundred fifty dollars (\$750) to defray the cost of investigation.
2. Pursuant to § 13.1-521 of the Act, Defendant agrees to pay a penalty of one hundred seventy thousand dollars (\$170,000). However, this penalty will be waived at the time Defendant repays the original ten (10) limited partners of Blairs Ridge the principal invested amounts, less any payments made by Defendant. Defendant agrees that the payments will be made as soon as possible and all payments will be made by January 31, 2005.
3. Defendant will provide each limited partner a copy of this Order.
4. Defendant will, by February 17, 2005, submit to the Division an affidavit, executed by the Defendant, which contains the following:
  - a. The name and address of each investor;
  - b. The date and amount repaid; and
  - c. The date each investor was sent a copy of this order.
5. Defendant agrees to be permanently enjoined from violating the provisions of the Act in the future.
6. It is recognized and understood that if the Defendant fails to comply with any of the foregoing terms and undertakings, then the Commission reserves the right to take whatever action it deems appropriate, including but not limited to, instituting a show cause proceeding under the Act or other applicable statutes based on such failure to comply, on the allegation contained herein and/or on such other allegations as are warranted and the Defendant will not contest the exercise of the right reserved.

The Division has recommended that Defendant's offer of settlement be accepted pursuant to the authority granted to the Commission in § 12.1-15 of the Code of Virginia.

THEREFORE, IT IS ORDERED THAT:

1. Pursuant to the authority granted to the Commission in § 12.1-15 of the Code of Virginia, the Defendant's offer of settlement is accepted.
2. Defendant will fully comply with the aforesaid terms and undertakings of the settlement.
3. Defendant, pursuant to § 13.1-521 of the Act, will pay to the Commission the sum of one hundred seventy thousand dollars (\$170,000) as a penalty; however this penalty is waived at the time Defendant complies with undertakings 3 and 4 listed above. If Defendant fails to perform such undertakings, then the full penalty shall become immediately due and payable.
4. Defendant will pay to the Commission seven hundred fifty dollars (\$750) to defray the cost of the Division's investigation.
5. Seven hundred fifty dollars (\$750) tendered contemporaneously with the entry of this Settlement Order is accepted.
6. The Commission shall retain jurisdiction in this matter for all purposes, including the institution of a show cause proceeding as described above, 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-2004-00032  
DECEMBER 1, 2004**

COMMONWEALTH OF VIRGINIA, ex rel  
STATE CORPORATION COMMISSION

v.

WOLF CREEK EXPLORATION, LTD.,  
and

GEORGE T. MCDONALD, II,  
Defendants

**SETTLEMENT ORDER**

The Commission's Division of Securities and Retail Franchising ("Division") has instituted an investigation of Defendants, Wolf Creek Exploration, Ltd., and George T. McDonald, II ("McDonald") pursuant to § 13.1-518 of the Virginia Securities Act ("Act"), § 13.1-501 et seq. of the Code of Virginia.

As a result of its investigation, the Division alleges that the Defendants sold securities in the form of investment contracts comprised of joint venture oil and gas drilling programs between 1992 and 1998. In the sale of these securities:

1. Wolf Creek acted as an unregistered broker-dealer in violation of § 13.1-504 A (i) of the Act.
2. McDonald acted as an unregistered agent in violation of § 13.1-504 A of the Act.
3. Wolf Creek employed McDonald as an unregistered agent in violation of § 13.1-504 B of the Act.

The Defendants neither admit nor deny these allegations, but admit 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 offered and agreed to comply with the following terms and undertakings:

1. The Defendants agree to be permanently enjoined from violating the provisions of the Act in the future.
2. McDonald will provide each investor a copy of this Order.
3. Pursuant to § 13.1-521 of the Act, McDonald will pay to the Commonwealth a monetary penalty of forty-five thousand dollars (\$45,000). The Commission has agreed to waive this penalty if McDonald fully complies with the restitution provisions of paragraphs 4 and 5 below.
4. McDonald will make restitution of forty-five thousand dollars to investors on a pro-rata basis within 120 days from the date of this Order.
5. McDonald will, within 150 days from the date of this Order, submit to the Division an affidavit, executed by McDonald, containing the name and address of each investor and the amount and date of restitution to the investor.
6. It is recognized and understood that if the Defendants fail to comply with any of the foregoing terms and undertakings, then the Commission reserves the right to take whatever action it deems appropriate, including but not limited to, instituting a show cause proceeding under the Act or other applicable statutes based on such failure to comply, on the allegation contained herein and/or on such other allegations as are warranted and the Defendants will not contest the exercise of the right reserved.

The Division has recommended that Defendant's offer of settlement be accepted pursuant to authority granted to the Commission in § 12.1-15 of the Code of Virginia.

THEREFORE, IT IS ORDERED THAT:

1. Pursuant to the authority granted to the Commission in § 12.1-15 of the Code of Virginia, the Defendants' offer of settlement is accepted.
2. The Defendants shall fully comply with the aforesaid terms and undertakings of the Settlement.
3. Pursuant to § 13.1-519 of the Act, the Defendants are permanently enjoined from violating the provisions of the Act.
4. McDonald will provide each investor a copy of this Order.
5. Pursuant to § 13.1-521 of the Act, McDonald will pay to the Commonwealth a monetary penalty of forty-five thousand dollars (\$45,000); however, it is understood and agreed that this penalty is waived if McDonald fully complies with the restitution provisions set out in paragraphs 6 and 7 below.
6. McDonald will make restitution of forty-five thousand dollars (\$45,000) to investors on a pro-rata basis within 120 days from the date of this Order.
7. McDonald will, within 150 days from the date of this Order, submit to the Division an affidavit, executed by McDonald, containing the name and address of each investor and the amount and date of restitution to the investor.

8. The Commission shall retain jurisdiction in this matter for all purposes, including the institution of a show cause proceeding as described above, 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-2004-00034  
SEPTEMBER 28, 2004**

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

v.  
VIRGINIA POULTRY GROWERS COOPERATIVE, INC.,  
Defendant

**SETTLEMENT ORDER**

The Commission's Division of Securities and Retail Franchising (Division) has instituted an investigation of Defendant, Virginia Poultry Growers Cooperative, Inc., pursuant to § 13.1-518 of the Virginia Securities Act (Act), § 13.1-501 *et seq.* of the Code of Virginia.

As a result of its investigation, the Division alleges that in the offer and sale of securities, Defendant employed unregistered agents, Cecil E. Meyerhoeffer, Jr., Stephen W. Bazzle, Stephen M. Long, W. Forrest Miller, and Richard P. Reeves, in violation of § 13.1-504 B of the Act.

The Defendant neither admits nor denies these allegations, but Defendant 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 offered, and agreed to comply with, the following terms and undertakings:

1. Defendant will make an offer of rescission to all investors within 30 days of the date of the Order providing each investor 30 days to respond.
2. Defendant will, by October 29, 2004, submit to the Division an affidavit, executed by the Defendant, which contains the following:
  - a. The name and address of each investor.
  - b. The date each investor was sent a copy of the rescission offer and each investor's response.
3. Defendant agrees not to violate the provisions of the Act in the future.
4. It is recognized and understood that if the Defendant fails to comply with any of the foregoing terms and undertakings, then the Commission reserves the right to take whatever action it deems appropriate, including but not limited to, instituting a show cause proceeding under the Act or other applicable statutes based on such failure to comply, on the allegation contained herein and/or on such other allegations as are warranted and the Defendant will not contest the exercise of the right reserved.

The Division has recommended that Defendant's offer of settlement be accepted pursuant to the authority granted to the Commission in § 12.1-15 of the Code of Virginia.

THEREFORE, IT IS ORDERED THAT:

1. Pursuant to the authority granted to the Commission in § 12.1-15 of the Code of Virginia, the Defendant's offer of settlement is accepted.
2. Defendant will fully comply with the aforesaid terms and undertakings of the settlement.
3. The Commission shall retain jurisdiction in this matter for all purposes, including the institution of a show cause proceeding as described above, 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.

## DIVISION OF UTILITY AND RAILROAD SAFETY

**CASE NO. URS-2004-00001  
APRIL 13, 2004**

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

### ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia, the Virginia 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 of Virginia. 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 between October 1, 2003, and December 12, 2003, listed in Attachment A, involving ComCast of Virginia, Inc. ("Company"), the defendant, and alleges that:

- (1) The Company is an operator as that term is defined in § 56-265.15 of the Code of Virginia;
- (2) During the aforementioned period the Company has 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 of Virginia.
  - (b) Failing on certain occasions to mark the underground utility lines within the time period prescribed in the Act, in violation of § 56-265.19 A of the Code of Virginia.
  - (c) Failing on certain occasions to report to the notification center that lines had been marked or they were not in conflict with the proposed excavation, in violation of § 56-265.19 A and B of the Code of Virginia.

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, and set out in Attachment A hereto, the Company represents and undertakes that it will take remedial actions and pay a civil penalty as outlined below:

- (1) The Company shall pay an amount of \$173,000 to the Commonwealth of Virginia, \$20,000 of which shall be paid contemporaneously with the entry of this Order. The remaining \$153,000 is due as outlined in paragraphs (2) through (4) below, and may be suspended in whole or in part, provided the Company has completed or satisfied the specific remedial action prescribed below within the time period noted below. The initial payment of \$20,000 and any subsequent payments 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;
- (2) The Company will maintain a "no show" rate of 10 percent or less for a period of six (6) months, beginning on the first calendar day of the month following the entry of this Order, as measured by the Company's responses to the tickets it receives from the notification center. Beginning with the first calendar day of the seventh month following the entry of this Order, the Company will maintain a "no show" rate of 5 percent or less for a period of six (6) months;
- (3) The Company will provide valid contact information to the notification center and those interested contractors working in the Company's service area for a period of twelve (12) months beginning the first calendar day of the month following the entry of this Order; and
- (4) The Company will air Public Service Announcements ("PSAs") on its network in Northern and Central Virginia using the Division's C.A.R.E. message which is 30 seconds in length for a period of twelve (12) months beginning the first calendar month following the entry of this Order. The number of times the Company shall air the PSAs on its network shall be equivalent in value to the cost of \$150,000 for airing such PSAs. The number of the PSAs and the days of the week and time the PSAs are aired shall be submitted by the Company to the Division and approved by the Division. The Company shall file, with the Clerk of the Commission, with a copy to the Division, a notarized affidavit detailing the number of PSAs, and the date and time of when each PSA ran for each month, within 15 days from the last day a PSA ran in accordance with this Paragraph.

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 be, and it hereby is, accepted.
- (2) Pursuant to § 56-265.32 of the Code of Virginia, ComCast of Virginia, Inc. shall be fined in the amount of \$173,000 to settle the alleged violations of the Act referenced in Attachment A to this Order.
- (3) The sum of \$20,000 tendered contemporaneously with the entry of this Order is hereby accepted.

(4) The remaining \$153,000 may be due as outlined in paragraphs (2) through (4) on pages 2-3, supra, and may be suspended and subsequently vacated, in whole or part, provided the Company completes or satisfies the remedial actions outlined herein and files the notarized affidavit with the Clerk of the Commission with a copy to the Division as provided in paragraph (4) above in a timely manner.

(5) The failure of ComCast of Virginia, Inc. carry out any of the obligations undertaken by it herein may result in appropriate proceedings against the Company, including Commission proceedings for the imposition of fines for failure to comply with the agreement or for enforcement of the agreement.

(6) The Commission retains jurisdiction over this matter for all purposes.

**CASE NO. URS-2004-00001**  
**JUNE 21, 2004**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION  
v.  
COMCAST OF VIRGINIA, INC.

**ORDER GRANTING MOTION**

On April 13, 2004, the State Corporation Commission ("Commission") entered an Order of Settlement ("Order") wherein the Commission accepted the terms of settlement offered by Comcast of Virginia, Inc. ("Company" or "Comcast") to resolve various alleged violations of the Underground Utility Damage Prevention Act, Chapter 10.3 (§ 56-265.14 et seq.) of Title 56 of the Code of Virginia (the "Act"). Among other things, in Undertaking Paragraph (4) of the Order, Comcast agreed to air Public Service Announcements ("PSAs") on its network in Northern and Central Virginia, using the Division's C.A.R.E. message for a period of twelve (12) months beginning the first calendar month following the entry of the Order. Comcast further agreed that the number of times the Company shall air the PSAs on its network shall be equivalent in value to the cost of \$150,000 for airing such PSAs. The Company also agreed that the number of the PSAs and the days of the week and time the PSAs are aired would be submitted by the Company to the Division of Utility and Railroad Safety ("Division") and approved by the Division. Ordering Paragraph (4) of the Order provided that the remaining \$153,000 of the \$173,000 fine imposed on the Company could be suspended and subsequently vacated in whole or part provided that the Company completed the remedial actions outlined in the Order and filed a timely notarized affidavit with the Clerk of the Commission.

Comcast, by counsel, filed a Motion dated June 18, 2004, requesting that the Commission modify the Order to permit the airing of the PSAs in June 2004, instead of May 2004, for a period of twelve months. Comcast explained that the process of submission and approval of the number of PSAs and time when such PSAs were aired took longer than Comcast anticipated and resulted in the PSAs not being available to air until June 2004. Comcast also represented that counsel for the Division had authorized the Company to represent that the Division did not oppose its Motion.

NOW, UPON CONSIDERATION of the foregoing, the Commission is of the opinion and finds that Comcast's Motion should be granted, and the Order of Settlement amended to permit Comcast to commence airing the PSAs in June 2004, instead of May 2004, for a period of twelve months. However, in all other respects the directives and undertakings set forth in the April 13, 2004, Order of Settlement should remain effective.

Accordingly, IT IS ORDERED THAT:

- (1) Comcast's Motion dated June 18, 2004, is hereby granted.
- (2) Undertaking Paragraph (4) of the April 13, 2004, Order of Settlement is hereby amended to permit the Company to air PSAs on its network in Northern and Central Virginia using the Division's C.A.R.E. message which is 30 seconds in length for a period of twelve (12) months beginning the second calendar month following the entry of the April 13, 2004, Order.
- (3) In all other respects, the undertakings and directives set out in the April 13, 2004, Order of Settlement shall remain in effect.

**CASE NO. URS-2004-00022**  
**MAY 26, 2004**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION  
v.  
CENTRAL LOCATING SERVICE, LTD.,  
Defendant

**ORDER OF SETTLEMENT**

Pursuant to § 56-265.30 of the Code of Virginia, the Virginia 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 of Virginia. 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 between March 28, 2003, and October 28, 2003, listed in Attachment A, involving Central Locating Service, LTD. ("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 of Virginia;

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

(2) During the aforementioned period the Company has 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 and D of the Code of Virginia.
- (b) Failing on certain occasions to mark within the time prescribed in the Act, in violation of § 56-265.17 C and §§ 56-265.19 A and D of the Code of Virginia.
- (c) Failing on certain occasions to report to the notification center that lines had been marked or they were not in conflict with the proposed excavation, in violation of § 56-265.19 A and D of the Code of Virginia.

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 on February 3, 2004, 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 \$11,600 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.

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 be, and it hereby is, accepted.
- (2) The sum of \$11,600 tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2004-00023  
JULY 27, 2004**

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, the Virginia 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 of Virginia. 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 between May 14, 2002, and December 7, 2003, 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 of Virginia;
- (2) During the aforementioned period, the Company has 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 and D of the Code of Virginia.
  - (b) Failing on certain occasions to mark within the time prescribed in the Act, in violation of §§ 56-265.19 A and D of the Code of Virginia.
  - (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 and D of the Code of Virginia.

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 on February 3, 2004, 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 \$22,200 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.

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 be, and it hereby is, accepted.
- (2) The sum of \$22,200 tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2004-00067  
APRIL 6, 2004**

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, the Virginia 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 of Virginia. 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 12, 2003, Basic Construction Company, L.L.C., damaged a one and one-quarter inch steel gas service line operated by Virginia Natural Gas, Inc. ("Company"), located at or near 322 63rd Street, Newport News, Virginia, while excavating;
- (2) On or about August 13, 2003, the City of Newport News damaged a one and one-quarter inch steel gas service line operated by the Company, located at or near 1148 24th Street, Newport News, Virginia, while excavating;
- (3) On or about August 18, 2003, Basic Construction Company, L.L.C., damaged a one and one-quarter inch steel gas service line operated by the Company, located at or near 318 63rd Street, Newport News, Virginia, while excavating;
- (4) On or about August 19, 2003, Branscome, Inc., damaged a three-quarter inch steel gas service line operated by the Company, located at or near Freeman Drive, Hampton, Virginia, while excavating;
- (5) On or about August 20, 2003, Basic Construction Company, L.L.C., damaged a one and one-quarter inch steel gas service line operated by the Company, located at or near 315 63rd Street, Newport News, Virginia, while excavating;
- (6) On or about August 26, 2003, Basic Construction Company, L.L.C., damaged a one and one-quarter inch steel gas service line operated by the Company, located at or near 6300 Huntington Avenue, Newport News, Virginia, while excavating;
- (7) On or about November 12, 2003, Kevcor Contracting Corporation damaged a one and one-quarter inch steel gas service line operated by the Company, located at or near 915 Maryland Avenue, Suffolk, Virginia, while excavating;
- (8) On or about December 8, 2003, Newport News Water Works damaged a one and one-quarter inch steel gas service line operated by the Company, located at or near 36th Street and Wickham Avenue, Newport News, Virginia, while excavating; and
- (9) On the occasions set out in paragraphs (1) 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 of Virginia.

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 \$5,150 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 fines paid in accordance with this Order shall not be recovered in the Company's rates as part of the cost of service. Any such fines 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 Division of Public Utility Accounting.

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 be, and it hereby is, accepted.
- (2) The sum of \$5,150 tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2004-00073  
MAY 11, 2004**

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

v.

COLUMBIA GAS OF VIRGINIA, INC.,  
Defendant

**ORDER OF SETTLEMENT**

The Natural Gas Pipeline Safety Act of 1968, as amended by the Accountable Pipeline Safety and Partnership Act of 1996, and as modified by the Pipeline Safety Improvement Act of 2002, 49 U.S.C. § 60101 *et seq.* ("Act"), requires 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 Virginia 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 under § 56-5.1 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 public service corporation as that term is defined in § 56-1 of the Code of Virginia and, specifically, a natural gas company within the meaning of § 56-5.1 of the Code of Virginia; and
- (2) The Company violated the Commission's Safety Standards by the following conduct:
  - a) 49 C.F.R. § 192.197 (b) - Failing on three occasions to provide a regulator that is suitable to prevent unsafe overpressuring of the customer's appliances if the service regulator fails;
  - b) 49 C.F.R. § 192.199 (f) - Failing on six occasions to have a vent line adequately sized to prevent hammering of the valve and to prevent impairment of the relief capacity;
  - c) 49 C.F.R. § 192.273 (a) - Failing on one occasion to properly install each joint so it could sustain contraction or expansion of the piping;
  - d) 49 C.F.R. § 192.353 (a) - Failing on two occasions to protect a meter and service regulator from vehicular or other damage;
  - e) 49 C.F.R. § 192.355 (b)(l) - Failing on fourteen occasions to have vent lines that are insect resistant;
  - f) 49 C.F.R. § 192.355 (b)(2) - Failing on one occasion to locate a service regulator vent at a place where gas from the vent could escape freely into the atmosphere and away from any opening into the building;
  - g) 49 C.F.R. § 192.379 - Failing on three occasions either to lock the valve that is closed to prevent the flow of gas to the customer, install a mechanical device or fitting that will prevent the flow of gas in the service line or in the meter assembly, or physically disconnect the customer's piping from the gas supply for a new service line not in use;
  - h) 49 C.F.R. § 192.479 (a) - Failing on one occasion to clean and either coat or jacket an above ground pipeline with a material suitable for the prevention of atmospheric corrosion;
  - i) 49 C.F.R. § 192.605 (a) - Failing on one occasion to have and follow an accurate written plan for a main tie-in operation as required by the Company's Policy and Procedure 640-7(38) Section 4;
  - j) 49 C.F.R. §§ 192.605 (a) and 192.625 (f) - Failing on twenty-seven occasions to take monthly odorant readings as required by Policy & Procedure 721-6 Section 2 (Effective Date: February 21, 1992);
  - k) 49 C.F.R. § 192.619 (a)(2)(i) - Failing on one occasion to operate a system at or below its maximum allowable operating pressure;

- 1) 49 C.F.R. § 192.625 (a) - Failing on one occasion to employ a natural odorant or odorize the gas to maintain an odorant concentration so that at a concentration in air of one-fifth of the lower explosive limit, the gas is readily detectable by a person with a normal sense of smell;
- m) 49 C.F.R. § 192.727 (d) - Failing on one occasion to either lock the valve that is closed to prevent the flow of gas to the customer, install a mechanical device or fitting that will prevent the flow of gas in the service line or in the meter assembly, or physically disconnect the customer's piping from the gas supply when a service was discontinued; and,
- n) 49 C.F.R. § 192.751 (a) - Failing on one occasion to provide a fire extinguisher when a hazardous amount of gas was being vented into open air.

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 a fine to the Commonwealth of Virginia in the amount of \$96,000 which shall be paid contemporaneously with the entry of this Order. The 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, Post Office Box 1197, Richmond, VA 23218-1197;

(2) Any fines paid in accordance with this Order shall not be recovered in the Company's rates as part of CGV's cost of service. Any such fines and costs 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 Public Utility Accounting.

The Commission, being fully advised in the premises of the foregoing and 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 CGV has made a good faith effort to cooperate with the Staff during the investigation of this matter; and that, the offer of compromise and settlement should be accepted.

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 compromise and settlement made by CGV be, and it hereby is, accepted.
- (2) Pursuant to § 56-5.1 of the Code of Virginia, CGV be, and it hereby is, fined in the amount of \$96,000.
- (3) The sum of \$96,000 tendered contemporaneously with the entry of this Order is accepted.
- (4) This case is hereby dismissed, and the papers herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2004-00074  
JUNE 14, 2004**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
ATMOS ENERGY CORPORATION,  
Defendant

**ORDER OF SETTLEMENT**

The Natural Gas Pipeline Safety Act of 1968, as amended by the Accountable Pipeline Safety and Partnership Act of 1996, and as modified by the Pipeline Safety Improvement Act of 2002, 49 U.S.C. § 60101 *et seq.* ("Act"), requires 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 Virginia 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 under § 56-5.1 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"), 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 Atmos Energy Corporation ("Atmos" or "Company"), the Defendant, and alleges that:

- (1) Atmos is a public service corporation as that term is defined in § 56-1 of the Code of Virginia and, specifically, a natural gas company within the meaning of § 56-5.1 of the Code of Virginia; and
- (2) The Company violated the Commission's Safety Standards by the following conduct:

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

- a) 49 C.F.R. § 192.199 (h) - Failing on two occasions to prevent unauthorized operation of any stop valve that will make the pressure relief valve or pressure limiting device inoperative;
- b) 49 C.F.R. § 192.281 (e) -Failing to install a mechanical joint that has an internal tubular stiffener;
- c) 49 C.F.R. § 192.353 (a) - Failing on three occasions to install a meter and service regulator so that it is protected from vehicular damage;
- d) 49 C.F.R. § 192.355 (b)(l) - Failing to ensure that a service regulator vent is rain and insect resistant;
- e) 49 C.F.R. § 192.361 (d) - Failing to install a service line to minimize anticipated piping strain and external loading;
- f) 49 C.F.R. § 192.619 (a) - Failing to establish a maximum allowable operating pressure for a service line;
- g) 49 C.F.R. § 192.707 (c) - Failing to place and maintain a line marker along each section of a main and transmission line that is located above ground in an area accessible to the public; and,
- h) 49 C.F.R. § 192.707 (d)(2) - Failing to include the name of the operator on a pipeline marker.

The Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

Subsequent to the discovery of the probable violations listed above, Atmos took prompt actions to correct those probable violations that could be corrected. In addition to these prompt actions and as an offer to settle all matters arising from the allegations made against it, Atmos represents and undertakes that:

(1) The Company shall pay a fine to the Commonwealth of Virginia in the amount of \$17,500, which shall be paid contemporaneously with the entry of this Order. The 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, Post Office Box 1197, Richmond, Virginia 23218-1197;

(2) Any fines paid in accordance with this Order shall not be recovered in the Company's rates as part of its cost of service. Any such fines and costs 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 Public Utility Accounting.

The Commission being fully advised in the premises and finding sufficient basis herein for the entry of this Order, and in reliance on the Company's representations and undertakings set forth above, is of the opinion and finds that this case should be docketed; that Atmos has made a good faith effort to cooperate with the Staff during the investigation of this matter; and that the offer of compromise and settlement should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The captioned case shall be docketed and assigned Case No. URS-2004-00074.
- (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 Atmos be, and it hereby is, accepted.
- (3) Pursuant to § 56-5.1 of the Code of Virginia, Atmos be, and it hereby is, fined in the amount of \$17,500.
- (4) The sum of \$17,500 tendered contemporaneously with the entry of this Order is accepted.
- (5) This case is hereby dismissed, and the papers herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2004-00075  
JULY 21, 2004**

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

v.  
VERIZON VIRGINIA INC.,  
Defendant

**ORDER OF SETTLEMENT**

Pursuant to § 56-265.30 of the Code of Virginia, the Virginia 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 of Virginia. 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 between July 3, 2003, and October 17, 2003, listed in Attachment A, involving Verizon Virginia Inc. ("Company"), the defendant, and alleges that:

- (1) The Company is an operator as that term is defined in § 56-265.15 of the Code of Virginia;
- (2) During the aforementioned period the Company has violated the Act by the following conduct:

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

- (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 of Virginia.
- (b) Failing on certain occasions to mark within the time prescribed in the Act, in violation of § 56-265.17 C and § 56-265.19 A of the Code of Virginia.
- (c) Failing on certain occasions to report to the notification center that lines had been marked or they were not in conflict with the proposed excavation, in violation of §§ 56-265.19 A and B of the Code of Virginia.

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 on April 6, 2004, 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 \$11,600 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.

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 be, and it hereby is, accepted.
- (2) The sum of \$11,600 tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2004-00076  
JULY 27, 2004**

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, the Virginia 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 of Virginia. 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 between June 16, 2003, and December 26, 2003, 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 of Virginia;
- (2) During the aforementioned period, the Company has 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 and D of the Code of Virginia.
  - (b) Failing on certain occasions to mark within the time prescribed in the Act, in violation of § 56-265.17 C and §§ 56-265.19 A and D of the Code of Virginia.
  - (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 and D of the Code of Virginia.

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 on March 2, 2004, 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 \$22,600 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.

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 be, and it hereby is, accepted.
- (2) The sum of \$22,600 tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2004-00160  
JULY 27, 2004**

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, the Virginia 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 of Virginia. 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 between February 5, 2003, and March 18, 2004, listed in Attachment A, involving Utiliquet, 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 of Virginia;
- (2) During the aforementioned period, the Company has 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 and D of the Code of Virginia.
  - (b) Failing on certain occasions to mark within the time prescribed in the Act, in violation of § 56-265.17 C and §§ 56-265.19 A and D of the Code of Virginia.
  - (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 and D of the Code of Virginia.

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 on April 6, 2004, 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 \$9,500 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.

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 be, and it hereby is, accepted.
- (2) The sum of \$9,500 tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2004-00161  
JUNE 14, 2004**

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

v.

WASHINGTON GAS LIGHT COMPANY,  
Defendant

**ORDER OF SETTLEMENT**

The Natural Gas Pipeline Safety Act of 1968, as amended by the Accountable Pipeline Safety and Partnership Act of 1996, and as modified by the Pipeline Safety Improvement Act of 2002, 49 U.S.C. § 60101 *et seq.* ("Act"), requires 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 Virginia 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 under § 56-5.1 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"), charged with the investigation of each jurisdictional gas company's compliance with Safety Standards, has conducted various inspections of records, construction, operation, and maintenance activities involving Washington Gas Light Company ("WG or "Company"), the Defendant, and alleges that:

- (1) WG is a public service corporation as that term is defined in § 56-1 of the Code of Virginia and, specifically a natural gas company within the meaning of § 56-5.1 of the Code of Virginia; and
- (2) The Company violated the Commission's Safety Standards by the following conduct:
  - a) 49 C.F.R. § 192.355 (b)(1) - Failing on four occasions to ensure that a service regulator vent was insect resistant;
  - b) 49 C.F.R. § 192.479 (a) -Failing to clean, and coat or jacket with a material suitable for the prevention of atmospheric corrosion, a portion of a pipeline that is exposed to the atmosphere;
  - c) 49 C.F.R. § 192.605 (a) and § 192.727 (d) - Failing to have procedures relative to temporarily discontinuing service to a customer during construction as required by § 192.727 (d); and,
  - d) 49 C.F.R. § 192.751 (a) - Failing to have a fire extinguisher present while a hazardous amount of gas was being vented into open air during purging operations.

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, WG represents and undertakes that:

- (1) The Company shall pay a fine to the Commonwealth of Virginia in the amount of \$17,500, which shall be paid contemporaneously with the entry of this Order. The payment 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) Any fines paid in accordance with this Order shall not be recovered in the Company's rates as part of its cost of service. Any such fines and costs 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 Public Utility Accounting.

The Commission being fully advised in the premises and finding sufficient basis herein for the entry of this Order, and in reliance on the Company's representations and undertakings set forth above, is of the opinion and finds that this case should be docketed; that WG has made a good faith effort to cooperate with the Staff during the investigation of this matter; and that the offer of compromise and settlement should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The captioned case shall be docketed and assigned Case No. URS-2004-00161.
- (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 WG be, and it hereby is, accepted.
- (3) Pursuant to § 56-5.1 of the Code of Virginia, WG be, and it hereby is, fined in the amount of \$17,500.
- (4) The sum of \$17,500 tendered contemporaneously with the entry of this Order is accepted.
- (5) This case is hereby dismissed, and the papers herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2004-00162  
NOVEMBER 15, 2004**

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

v.

ROANOKE GAS COMPANY,  
Defendant

**ORDER OF SETTLEMENT**

The Natural Gas Pipeline Safety Act of 1968, as amended by the Accountable Pipeline Safety and Partnership Act of 1996, and as further modified by the Pipeline Safety Improvement Act of 2002, 49 U.S.C. § 60101 *et seq.* ("Act"), requires the Secretary of Transportation ("Secretary") to establish minimum federal safety standards for pipeline facilities and the transportation of gas. 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 Virginia 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 under § 56-5.1 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"), 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 the Roanoke Gas Company ("RGC" or "Company"), the Defendant, and alleges that:

(1) RGC is a public service corporation as that term is defined in § 56-1 of the Code of Virginia and, specifically a natural gas company within the meaning of § 56-5.1 of the Code of Virginia; and

(2) The Company violated the Commission's Safety Standards by the following conduct:

- a) 49 C.F.R. § 192.197 (b) - Failing to install a suitable protective device to prevent unsafe overpressuring of the customer's appliances if the service regulator fails;
- b) 49 C.F.R. § 192.225 (a) - Failing to perform a weld in accordance with welding procedures qualified to produce welds meeting the requirements of Subpart E of 49 C.F.R. Part 192;
- c) 49 C.F.R. § 192.353 (a) - Failing to install a meter and service regulator so that it is protected from vehicular damage;
- d) 49 C.F.R. § 192.355 (b)(1) - Failure of the operator to insure that a service regulator vent is rain and insect resistant;
- e) 49 C.F.R. § 192.355 (b)(2) - Failing to ensure that service regulator vents and relief vents are located at a place where gas from the vent can escape freely into the atmosphere and away from any opening into the building;
- f) 49 C.F.R. § 192.357 (a) - Failing to properly install each meter and each regulator so as to minimize anticipated stresses upon the connecting piping and the meter;
- g) 49 C.F.R. § 192.465 (a) - Failing on 28 occasions during 2003, to inspect cathodic protection test stations within the 15 month requirement;
- h) 49 C.F.R. § 192.465 (d) - Failing on 4 occasions to take prompt remedial action to correct any deficiencies indicated by the monitoring of the cathodic protection system;
- i) 49 C.F.R. § 192.481 - Failing on two occasions to reevaluate each pipeline that is exposed to the atmosphere and take remedial action whenever necessary to maintain protection against atmospheric corrosion at intervals not exceeding 3 years;
- j) 49 C.F.R. § 192.613 (a) - Failing to perform continuing surveillance of facilities to identify unusual operating and maintenance conditions;
- k) 49 C.F.R. § 192.707 (d)(2) - Failing to have the correct telephone number (including area code) where the operator can be reached at all times;
- l) 49 C.F.R. § 192.721 (b)(1) - Failing to patrol mains in places or on structures where anticipated physical movement or external loading could cause failure or leakage at intervals not exceeding 4 1/2 months, but at least four times each calendar year in business districts;
- m) 49 C.F.R. § 192.721 (b)(2) - Failing to patrol mains in places or on structures where anticipated physical movement or external loading could cause failure or leakage at intervals not exceeding 7 1/2 months, but at least twice each calendar year outside business districts; and,
- n) 49 C.F.R. § 192.751 - Failing to minimize the danger of accidental ignition by not grounding a tapping tool.

## 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, RGC represents and undertakes that:

(1) The Company shall pay a fine to the Commonwealth of Virginia in the amount of \$56,500 of which \$17,800 shall be paid contemporaneously with the entry of this Order. The remaining \$38,700 is due as outlined in Paragraph (5), below, and may be suspended in whole or in part by the Commission, provided the Company tenders the requisite certification that it has completed specific remedial actions, as set forth below in Paragraph (2) on or before the scheduled date for completion of said remedial action. At the completion of all remedial actions described below, the Commission may vacate any outstanding amounts. 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, Post Office Box 1197, Richmond, VA 23218-1197;

(2) The Company shall take the following remedial actions:

a) The Company shall paint "Dig with C.A.R.E., Call Miss Utility, 1-800-552-7001" on RGC's liquefied natural gas ("LNG") tank located at 821 Tinker Mountain Road, Daleville, Virginia, 24083, to enhance public awareness of the Underground Utility Damage Prevention Act. The Company shall maintain the aforementioned message on the tank for a period of ten years; and,

b) The Company shall upgrade the existing overpressure protection equipment at 33 commercial meter installations to comply with current federal regulations.

(3) On or before December 1, 2004, RGC shall tender to the Clerk of the Commission, with a copy to the Division of Utility and Railroad Safety, an affidavit executed by the Chairman and Chief Executive Officer of RGC, certifying that the Company has painted the message in Paragraph (2)(a) above on the Company's LNG tank.

(4) On or before June 30, 2005, RGC shall tender to the Clerk of the Commission, with a copy to the Division of Utility and Railroad Safety, an affidavit executed by the Chairman and Chief Executive Officer of RGC, certifying that the Company has completed the remedial actions set forth in Paragraph (2)(b) above.

(5) Upon timely receipt of said affidavits, the Commission may suspend up to \$38,700 of the fine amount specified in Paragraph (1) above. Should the Company fail to tender said affidavits or take the actions required by Paragraph (2), a payment of \$38,700 shall become due. In the event RGC fails to take the requisite actions required by Paragraph (2) or tender the affidavits required by Paragraphs (3) and (4), the Company shall immediately notify the Division of the reasons for its failure to accomplish the actions required by Paragraphs (2), (3), and (4) herein, and upon investigation, if the Division determines that the reason for said failure justifies a payment lower than \$38,700, it may recommend to the Commission a reduction in the amount due. The Commission shall determine the amount due. Upon the Commission's determination of the amount due, the Company shall immediately tender to the Commission that amount.

(6) Any fines paid in accordance with this Order shall not be recovered in the Company's rates as part of RGC's cost of service. Any such fines and costs 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 Public Utility Accounting.

The Commission, being fully advised in the premises and finding sufficient basis herein for the entry of this Order and in reliance on the Company's representations and undertakings set forth above, is of the opinion and finds that this case should be docketed; that RGC has made a good faith effort to cooperate with the Staff during the investigation of this matter; and that the offer of compromise and settlement should be accepted.

Accordingly, IT IS ORDERED THAT:

(1) The captioned case shall be docketed and assigned Case No. URS-2004-00162.

(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 RGC be, and it hereby is, accepted.

(3) Pursuant to § 56-5.1 of the Code of Virginia, RGC be, and it hereby is, fined in the amount of \$56,500.

(4) The sum of \$17,800 tendered contemporaneously with the entry of this Order is accepted. The remaining \$38,700 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 Paragraphs (2), (3), and (4) found on page 4 of this Order, and files the timely certification of the remedial actions as outlined herein.

(5) The Commission shall retain jurisdiction over this matter for all purposes, and this case shall be continued, pending further orders of the Commission.



**CASE NO. URS-2004-00202  
NOVEMBER 24, 2004**

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, the Virginia 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 of Virginia. 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 between May 30, 2003, and March 15, 2004, 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 of Virginia;
- (2) During the aforementioned period the Company has 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 and D of the Code of Virginia.
  - (b) Failing on certain occasions to mark within the time prescribed in the Act in violation of § 56-265.17 C, §§ 56-265.19 A, D, and H of the Code of Virginia.
  - (c) Failing on certain occasions to report to the notification center that lines had been marked or they were not in conflict with the proposed excavation in violation of §§ 56-265.19 A and D of the Code of Virginia.

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 on May 11, 2004, 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 \$11,050 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.

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 be, and it hereby is, accepted.
- (2) The sum of \$11,050 tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2004-00243  
OCTOBER 29, 2004**

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, the Virginia 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 of Virginia. 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 between March 14, 2003, and April 27, 2004, 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 of Virginia;
- (2) During the aforementioned period the Company has violated the Act by the following conduct:

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- (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 and D of the Code of Virginia.
- (b) Failing on certain occasions to mark within the time prescribed in the Act in violation of §§ 56-265.19 A and D of the Code of Virginia.
- (c) Failing on certain occasions to report to the notification center that lines had been marked or they were not in conflict with the proposed excavation in violation of §§ 56-265.19 A and D of the Code of Virginia.

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 on June 8, 2004, 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 \$8,650 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.

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 be, and it hereby is, accepted.
- (2) The sum of \$8,650 tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2004-00279  
SEPTEMBER 24, 2004**

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, the Virginia 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 of Virginia. 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 between October 9, 2003, and May 11, 2004, 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 of Virginia;
- (2) During the aforementioned period, the Company has 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 and D of the Code of Virginia.
  - (b) Failing on certain occasions to mark within the time prescribed in the Act in violation of §§ 56-265.19 A and D of the Code of Virginia.
  - (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 and D of the Code of Virginia.

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 on July 7, 2004, 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 \$10,150 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.

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 be, and it hereby is, accepted.
- (2) The sum of \$10,150 tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers herein shall be placed in the Commission's file for ended causes.

**CASE NO. URS-2004-00328  
OCTOBER 29, 2004**

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, the Virginia 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 of Virginia. 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 between March 1, 2004, and June 26, 2004, 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 of Virginia;
- (2) During the aforementioned period, the Company has 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 and D of the Code of Virginia.
  - (b) Failing on certain occasions to mark within the time prescribed in the Act in violation of § 56-265.17 C and §§ 56-265.19 A and D of the Code of Virginia.
  - (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 and D of the Code of Virginia.

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 on August 3, 2004, 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 \$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.

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 be, and it hereby is, accepted.
- (2) The sum of \$5,800 tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers herein shall be placed in the Commission's file for ended causes.

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## 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 2003 and 2004.

#### VIRGINIA CORPORATIONS

	<u>12/31/03</u>	<u>12/31/04</u>
Certificates of Incorporation issued.....	19,337	20,295
Corporations voluntarily terminated.....	2,969	2,944
Corporations involuntarily terminated.....	89	90
Corporations automatically terminated.....	16,021	13,634
Reinstatements of terminated corporations.....	4,392	4,732
Charters amended.....	2,800	2,881
Active Stock Corporations.....	144,228	147,440
Active Non-Stock Corporations.....	30,686	32,112
Total Active Virginia Corporations.....	174,914	179,552

#### FOREIGN CORPORATIONS

Certificates of Authority to do business in Virginia issued.....	4,511	4,710
Voluntary withdrawals from Virginia.....	1,244	1,132
Certificates of Authority automatically revoked.....	2,465	1,966
Certificates of Authority involuntarily revoked.....	20	29
Reentry of corporations with surrendered or revoked certificates.....	748	835
Charters amended.....	1,013	854
Active Stock Corporations.....	32,338	33,110
Active Non-Stock Corporations.....	2,050	2,140
Total Active Foreign Corporations.....	34,388	35,250
Total Active (Domestic and Foreign) Corporations.....	209,302	214,802

#### LIMITED PARTNERSHIPS

Limited Partnership Certificates filed.....	1,666	666
Limited Partnership Certificates amended.....	366	306
Limited Partnership Certificates voluntarily canceled.....	171	265
Limited Partnership Certificates involuntarily canceled.....	507	510
Total Active (Domestic and Foreign) Limited Partnerships.....	8,598	8,597

#### LIMITED LIABILITY COMPANIES

Articles of organization filed.....	24,673	31,412
Articles of organization amended.....	1,623	1,679
Articles of organization voluntarily canceled.....	1,341	1,903
Articles of organization involuntarily canceled.....	7,809	9,298
Total Active (Domestic and Foreign) Limited Liability Companies.....	84,465	105,806

#### LIMITED LIABILITY PARTNERSHIPS

Statements of registration as a Registered Limited Liability Partnership.....	76	261
Renewals of registration as a Registered Limited Liability Partnership.....	1,014	1,041
Total Active (Domestic and Foreign) Registered Limited Liability Partnerships.....	1,094	1,221

#### GENERAL PARTNERSHIPS

Total active General Partnerships filed.....	200	242
Total active General Partnerships on record.....	900	914

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

## BUSINESS TRUSTS

Articles of organization filed.....	15	49
Articles of organization amended .....	0	0
Articles of organization voluntarily canceled .....	0	0
Articles of organization involuntarily canceled.....	0	0
Total Active Business Trusts .....	15	61

**COMPARISON OF REVENUES DEPOSITED BY THE CLERK'S OFFICE  
FOR THE FISCAL YEARS ENDING JUNE 30, 2003, AND JUNE 30, 2004**

<u>General Fund</u>	<u>2003</u>	<u>2004</u>	<u>(Difference)</u>
Securities Application Fees-Utilities	\$9,725.00	\$10,300.00	\$575.00
Charter Fees	1,515,155.20	1,645,596.20	130,441.00
Entrance Fees	1,451,585.00	1,393,825.00	(57,760.00)
Filing Fees	846,657.00	880,160.00	33,503.00
Registered Name	2,830.00	3,460.00	630.00
Registered Office and Agent	0.00	0.00	0.00
Service of Process	30,480.00	34,779.25	4,299.25
Copy and Recording Fees	450,716.04	461,359.60	10,643.56
SCC Annual Report Sales	6,213.00	5,601.50	(611.50)
Uniform Commercial Code Revenues	1,619,947.00	1,754,202.67	134,255.67
Excess Fees Paid into State Treasury	193,495.43	180,288.58	(13,206.85)
Miscellaneous Sales	0.00	0.00	0.00
<b>TOTAL</b>	<u>\$6,126,803.67</u>	<u>\$6,369,572.80</u>	<u>\$242,769.13</u>
 <u>Special Fund</u>			
Domestic-Foreign Corp. Registration Fee	\$30,318,000.93	\$31,068,202.33	\$750,201.40
Limited Partnership Registration Fee	411,027.00	411,512.00	485.00
Reserved Name - Limited Partnership	16,195.00	18,630.00	2,435.00
Certificate Limited Partnership	61,325.00	55,375.00	(5,950.00)
Application Reg. Foreign LP	22,725.00	21,300.00	(1,425.00)
Reinstatement LP	15,800.00	12,550.00	(3,250.00)
Registration Fee LLC	2,524,550.00	2,653,969.50	129,419.50
Application For. Reg. LLC	188,250.00	236,875.00	48,625.00
Art of Org. Dom. LLC	2,000,700.00	3,118,840.00	1,118,140.00
AMEND, CANC, CORR. RAC, Etc. LLC	90,060.00	104,250.00	14,190.00
SCC Bad Check Fee	6,575.00	8,307.00	1,732.00
Interest on Del. Tax	0.00	7.30	7.30
Penalty on Non-Pay Fees by Due Date	741,176.10	810,586.93	69,410.83
Statement of Reg. As Domestic LLP	6,800.00	6,000.00	(800.00)
LLP Annual Continuation	51,550.00	50,000.00	(1,550.00)
Statement of Partnership Authority GP Dom	4,225.00	4,900.00	675.00
Statement of Partnership Authority GP For	400.00	375.00	(25.00)
Statement of Amendments - GP	350.00	400.00	50.00
Statement of Reg. As Foreign LLP	1,700.00	3,100.00	1,400.00
Statement of Amendment LLP	675.00	1,100.00	425.00
Reinstatement/Reentry LLC	90,800.00	120,675.00	29,875.00
Tape Sales, Misc Fees	105,000.00	73,025.00	(31,975.00)
Copies, Recording Fees	0.00	0.00	0.00
Recovery of Prior Yr Expenses	0.00	0.00	0.00
LLP Reinstatement	50.00	250.00	200.00
<b>TOTAL</b>	<u>\$36,657,934.03</u>	<u>\$38,780,230.06</u>	<u>\$2,122,296.03</u>
 <u>Valuation Fund</u>			
Corp Operations Rec Of Copy and Cert Fees	\$6,752.00	\$3,518.00	(\$3,234.00)
Recovery of Prior Yr Expenses	3,582.00	299.00	(3,283.00)
<b>TOTAL</b>	<u>\$10,334.00</u>	<u>\$3,817.00</u>	<u>(\$6,517.00)</u>

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

**Trust & Agency Fund**

Fines Imposed and Collected by SCC	\$270,560.00	\$282,038.00	\$11,478.00
Debt Set Off Collection	<u>360.00</u>	<u>0.00</u>	<u>(360.00)</u>
<b>TOTAL</b>	\$270,920.00	\$282,038.00	\$11,118.00
 <b>GRAND TOTAL</b>	 \$43,065,991.70	 \$45,435,657.86	 \$2,369,666.16

**COMPARISON OF FEES COLLECTED BY THE BUREAU OF FINANCIAL INSTITUTIONS  
FOR FISCAL YEARS ENDING JUNE 30, 2003 AND JUNE 30, 2004**

	<u>2003</u>	<u>2004</u>
Banks	\$6,352,283	\$7,765,762
Savings Institutions and Savings Banks	12,201	14,011
Consumer Finance Licensees	450,946	265,764
Credit Unions	835,928	907,741
Trust subsidiaries and Trust Companies	124,389	74,807
Industrial Loan Associations	21,696	16,151
Money Order Sellers and Transmitters	32,250	41,750
Credit Counseling Agency Licensees	11,550	11,700
Mortgage Lenders and Mortgage Brokers	1,881,247	1,856,055
Check Cashers	25,300	33,150
Payday Lenders	64,300	284,697
Miscellaneous Collections	<u>76,169</u>	<u>16,823</u>
<b>TOTAL</b>	\$9,888,259	\$11,288,411

**COMPARISON OF FEES AND TAXES COLLECTED BY THE BUREAU OF INSURANCE  
FOR THE FISCAL YEARS ENDING JUNE 30, 2003, AND JUNE 30, 2004**

<u>Kind</u>	<u>2003</u>	<u>2004</u>	Increase or <u>(Decrease)</u>
<u>General Fund</u>			
Gross Premium Taxes of Insurance Companies	\$332,797,770.18	\$351,275,578.99	\$18,477,808.81
Fraternal Benefit Societies Licenses	540.00	520.00	(20.00)
Viatical Settlement Provider Lic Fees	1,500.00	2,200.00	700.00
Viatical Settlement Broker Lic Fees	2,950.00	5,000.00	2,050.00
Hospital, Medical, and Surgical Plans and Salesmen's Licenses	0.00	0.00	0.00
Interest on Delinquent Taxes	124,960.67	205,142.28	80,181.61
Penalty on non-payment of taxes by due date	182,484.34	132,515.45	(49,968.89)
<u>Special Fund</u>			
Company License Application Fee	21,000.00	20,500.00	(500.00)
Health Maintenance Organization License Fee	0.00	0.00	0.00
Automobile Club/ Agent Licenses	6,400.00	7,500.00	1,100.00
Insurance Premium Finance Companies Licenses	11,400.00	13,600.00	2,200.00
Agents Appointment Fees	12,966,184.00	13,916,087.00	949,903.00
Surplus Lines Broker Licenses	31,135.00	43,800.00	12,665.00
Producer License Application Fees	697,425.00	706,847.00	9,422.00
Surety Bail Bondsmen License Fee	0.00	17,050.00	17,050.00
Recording, Copying, and Certifying Public Records Fee	50,369.00	59,743.50	9,374.50
Assessments To Insurance Companies for Maintenance of the Bureau of Insurance	7,202,032.06	5,666,357.65	(1,535,674.41)
Miscellaneous Revenue	1,537.17	5.00	(1,532.17)
Recovery of Prior Year Expenses	168,446.74	177,647.72	9,200.98
Fire Programs Fund	19,400,207.26	22,183,100.69	2,782,893.43
P&C Consultant License Fees	87,900.00	58,975.00	(28,925.00)
SCC Bad Check Fee	150.00	75.00	(75.00)
Managed Care Health Ins. Plan Appeals Fee	2,200.00	1,600.00	(600.00)
Appointment Fee Penalty	313,804.00	90,700.00	(223,104.00)
Administrative Penalty Payment	0.00	232,000.00	232,000.00

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Fines Imposed by State Corporation Commission	1,301,792.93	1,201,885.21	(99,907.72)
Private Review Agents	0.00	0.00	0.00
Flood Assessment Fund	165,854.36	189,166.15	23,311.79
Heat Assessment Fund	1,718,607.00	1,798,149.11	79,542.11
Fraud Assessment Fund	4,017,871.38	4,478,933.32	461,061.94
Reinsurance Intermediary Broker Fees	2,000.00	0.00	(2,000.00)
Reinsurance Intermediary Managers Fee	1,000.00	1,500.00	500.00
Managing General Agent Fees	5,000.00	6,500.00	1,500.00
MCHIP Assessment	273,721.65	241,393.77	(32,327.88)
State Publication Sales	0.00	0.00	0.00
Debt Set Off Collections	0.00	0.00	0.00
Fire Programs Fund Interest	48,204.50	30,807.02	(17,397.48)
Fraud Assessment Interest	<u>9,635.65</u>	<u>7,615.50</u>	<u>(2,020.15)</u>
<b>TOTAL</b>	<b>\$381,614,082.89</b>	<b>\$402,772,495.36</b>	<b>\$21,158,412.47</b>

**COMPARISON OF ASSESSMENT OF PUBLIC SERVICE COMPANIES  
FOR THE YEARS 2003 AND 2004**

<u>Class of Company</u>	Value of all Taxable Property Including Rolling Stock		Increase or (Decrease)
	<u>2003</u>	<u>2004</u>	
Electric Light & Power Corporations	\$17,561,787,986.00	\$17,293,328,059.00	(\$268,459,927.00)
Gas Corporations	1,405,956,046.00	1,414,931,718.00	8,975,672.00
Motor Vehicle Carriers (Rolling Stock only)	49,673,081.48	46,953,096.88	(2,719,984.60)
Telecommunications Companies	9,850,284,098.00	9,176,520,395.00	(673,763,703.00)
Water Corporations	<u>105,965,477.00</u>	<u>114,902,812.00</u>	<u>8,937,335.00</u>
<b>TOTAL</b>	<b>\$28,973,666,688.48</b>	<b>\$28,046,636,080.88</b>	<b>(\$927,030,607.60)</b>

**COMPARISON OF ASSESSMENT OF STATE TAXES OF PUBLIC SERVICE  
COMPANIES FOR THE YEARS 2003 AND 2004**

<u>Class of Company</u>	The Yearly License Tax		Increase or (Decrease)
	<u>2003</u>	<u>2004</u>	
Electric Light & Power Corporations	\$0.00	\$0.00	\$0.00
Gas Corporations	0.00	0.00	0.00
Water Corporations	<u>981,428.97</u>	<u>972,817.78</u>	<u>(8,611.19)</u>
<b>TOTAL</b>	<b>\$981,428.97</b>	<b>\$972,817.78</b>	<b>(\$8,611.19)</b>

Note: STATE TAXES ABOVE EXCLUDE License Tax for 2003 and 2004 on Electric and Gas companies. As a result of deregulation, these companies now pay a net corporate income tax and a consumption tax.

**COMPARISON OF ASSESSMENT OF ADDITIONAL ANNUAL STATE TAX  
FOR VALUATION AND RATE MAKING OF CERTAIN CLASSES OF  
UTILITY COMPANIES FOR THE YEARS 2003 AND 2004**

<u>Class of Company</u>			Increase or (Decrease)
	<u>2003</u>	<u>2004</u>	
Electric Light & Power Corporations	\$0.00	\$0.00	\$0.00
Gas Corporations	0.00	0.00	0.00
Motor Vehicle Carriers	61,446.87	57,777.71	(3,669.16)
Railroad Companies	805,089.15	649,718.26	(155,370.89)
Telecommunications Companies	10,131,556.89	10,692,879.16	561,322.27

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Virginia Pilots Association	30,816.87	32,883.27	2,066.40
Water Corporations	<u>98,142.91</u>	<u>97,400.24</u>	<u>(742.67)</u>
<b>TOTAL</b>	\$11,127,052.69	\$11,530,658.64	\$403,605.95

Railroad Companies assessed at seven-hundredths of one percent and all other companies at two-tenths of one percent.

Note: STATE TAXES ABOVE EXCLUDE Special Tax for 2003 and 2004 on Electric and Gas companies. As a result of deregulation, these companies now pay a net corporate income tax and a consumption tax.

**COMPARATIVE STATEMENT OF ASSESSED VALUES OF  
PROPERTIES OF PUBLIC SERVICE CORPORATIONS  
AS ASSESSED BY THE STATE CORPORATION COMMISSION**

<u>Cities</u>	<u>2003</u>	<u>2004</u>	<u>Increase or (Decrease)</u>
Alexandria	\$654,847,635	\$676,501,950	\$21,654,315
Bedford	9,775,506	8,581,425	(1,194,081)
Bristol	17,443,179	16,828,700	(614,479)
Buena Vista	10,783,730	9,431,083	(1,352,647)
Charlottesville	147,217,061	138,699,168	(8,517,893)
Chesapeake	789,226,481	824,735,503	35,509,022
Colonial Heights	29,802,587	29,073,609	(728,978)
Covington	18,673,682	18,296,094	(377,588)
Danville	47,871,049	46,001,882	(1,869,167)
Emporia	18,376,541	19,481,200	1,104,659
Fairfax	121,664,681	113,083,460	(8,581,221)
Falls Church	32,323,402	30,178,962	(2,144,440)
Franklin	7,988,815	7,501,078	(487,737)
Fredericksburg	76,631,870	78,948,518	2,316,648
Galax	11,501,733	14,642,940	3,141,207
Hampton	255,620,496	237,577,231	(18,043,265)
Harrisonburg	50,040,449	45,843,090	(4,197,359)
Hopewell	408,123,683	349,609,727	(58,513,956)
Lexington	14,463,650	15,910,069	1,446,419
Lynchburg	202,266,054	205,623,648	3,357,594
Manassas	63,460,370	67,702,022	4,241,652
Manassas Park	18,057,258	20,986,795	2,929,537
Martinsville	28,378,151	25,787,336	(2,590,815)
Newport News	333,382,822	325,647,742	(7,735,080)
Norfolk	652,220,718	585,338,113	(66,882,605)
Norton	26,401,917	26,547,655	145,738
Petersburg	83,900,768	85,092,612	1,191,844
Poquoson	15,281,091	12,490,949	(2,790,142)
Portsmouth	256,641,132	233,079,642	(23,561,490)
Radford	17,033,366	17,418,530	385,164
Richmond	1,002,842,557	879,360,140	(123,482,417)
Roanoke	266,366,157	255,550,916	(10,815,241)
Salem	26,708,471	25,514,232	(1,194,239)
Staunton	67,194,234	60,210,946	(6,983,288)
Suffolk	149,048,625	137,172,376	(11,876,249)
Virginia Beach	737,334,295	619,794,009	(117,540,286)
Waynesboro	78,228,957	70,175,689	(8,053,268)
Williamsburg	50,185,573	52,168,582	1,983,009
Winchester	<u>57,833,200</u>	<u>50,377,082</u>	<u>(7,456,118)</u>
<b>Total Cities</b>	\$6,855,141,946	\$6,436,964,705	(\$418,177,241)

**COMPARATIVE STATEMENT OF ASSESSED VALUES OF  
PROPERTIES OF PUBLIC SERVICE CORPORATIONS  
AS ASSESSED BY THE STATE CORPORATION COMMISSION**

<u>Counties</u>	<u>2003</u>	<u>2004</u>	<u>Increase or (Decrease)</u>
Accomack	\$231,404,090	\$206,062,858	(\$25,341,232)
Albemarle	220,542,417	187,735,159	(32,807,258)
Alleghany	78,242,581	68,275,906	(9,966,675)
Amelia	25,214,992	24,007,348	(1,207,644)
Amherst	74,128,633	69,254,483	(4,874,150)
Appomattox	32,007,888	26,024,995	(5,982,893)
Arlington	900,503,657	727,354,192	(173,149,465)
Augusta	174,482,370	158,499,859	(15,982,511)
Bath	1,381,510,916	1,215,240,363	(166,270,553)
Bedford	196,254,489	187,903,797	(8,350,692)
Bland	15,319,483	37,134,128	21,814,645
Botetourt	130,771,093	119,607,945	(11,163,148)
Brunswick	44,945,210	39,080,664	(5,864,546)
Buchanan	109,405,486	90,883,596	(18,521,890)
Buckingham	38,819,501	39,877,439	1,057,938
Campbell	192,840,080	181,469,257	(11,370,823)
Caroline	207,430,071	148,530,875	(58,899,196)
Carroll	51,219,016	85,363,199	34,144,183
Charles City	30,436,963	27,817,816	(2,619,147)
Charlotte	34,936,253	30,927,516	(4,008,737)
Chesterfield	1,216,106,399	1,212,264,595	(3,841,804)
Clarke	37,874,156	32,364,317	(5,509,839)
Craig	10,672,587	10,994,088	321,501
Culpeper	117,573,930	87,055,738	(30,518,192)
Cumberland	29,982,894	26,859,076	(3,123,818)
Dickenson	39,358,069	34,144,525	(5,213,544)
Dinwiddie	88,212,740	77,441,737	(10,771,003)
Essex	33,026,449	28,801,750	(4,224,699)
Fairfax	3,182,712,158	2,962,801,559	(219,910,599)
Fauquier	282,162,700	342,762,118	60,599,418
Floyd	38,073,823	34,562,975	(3,510,848)
Fluvanna	143,703,403	274,633,469	130,930,066
Franklin	108,506,354	118,123,081	9,616,727
Frederick	177,338,711	167,282,355	(10,056,356)
Giles	119,946,439	107,810,716	(12,135,723)
Gloucester	80,083,126	74,964,728	(5,118,398)
Goochland	77,390,138	68,840,911	(8,549,227)
Grayson	26,755,344	26,697,935	(57,409)
Greene	27,778,996	25,146,514	(2,632,482)
Greensville	26,995,746	20,260,433	(6,735,313)
Halifax	957,034,692	1,006,758,817	49,724,125
Hanover	586,255,681	566,588,686	(19,666,995)
Henrico	876,697,054	856,731,816	(19,965,238)
Henry	111,938,289	104,766,304	(7,171,985)
Highland	16,892,425	13,988,967	(2,903,458)
Isle of Wight	218,030,151	182,096,721	(35,933,430)
James City	152,045,029	143,648,196	(8,396,833)
King George	288,750,090	253,636,497	(35,113,593)
King and Queen	21,848,271	18,643,060	(3,205,211)
King William	30,710,329	27,904,817	(2,805,512)
Lancaster	31,498,632	38,101,269	6,602,637
Lee	43,790,284	50,991,056	7,200,772
Loudoun	727,012,820	819,099,266	92,086,446
Louisa	1,971,817,447	1,908,147,709	(63,669,738)
Lunenburg	26,315,305	30,838,585	4,523,280
Madison	34,728,581	29,818,267	(4,910,314)
Mathews	19,792,155	16,183,972	(3,608,183)
Mecklenburg	198,297,914	223,747,784	25,449,870
Middlesex	31,916,857	34,279,218	2,362,361
Montgomery	138,606,459	133,583,496	(5,022,963)
Nelson	69,722,803	60,792,321	(8,930,482)
New Kent	53,668,042	64,741,237	11,073,195
Northampton	34,299,134	45,412,531	11,113,397

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Northumberland	30,312,999	24,261,228	(6,051,771)
Nottoway	36,648,303	32,643,897	(4,004,406)
Orange	80,614,346	59,488,372	(21,125,974)
Page	44,020,956	40,631,128	(3,389,828)
Patrick	45,977,004	40,820,128	(5,156,876)
Pittsylvania	255,630,055	243,161,237	(12,468,818)
Powhatan	65,476,125	59,575,630	(5,900,495)
Prince Edward	46,181,105	41,653,696	(4,527,409)
Prince George	64,455,378	62,029,163	(2,426,215)
Prince William	894,051,796	1,195,596,473	301,544,677
Pulaski	73,849,748	99,071,292	25,221,544
Rappahannock	25,066,048	21,791,439	(3,274,609)
Richmond	45,575,882	38,521,346	(7,054,536)
Roanoke	205,567,557	193,645,645	(11,921,912)
Rockbridge	85,456,486	75,194,968	(10,261,518)
Rockingham	142,905,942	128,304,639	(14,601,303)
Russell	195,110,518	217,919,254	22,808,736
Scott	\$44,465,881	\$54,169,448	\$9,703,567
Shenandoah	122,130,067	110,314,236	(11,815,831)
Smyth	76,219,704	86,638,017	10,418,313
Southampton	86,363,638	84,402,318	(1,961,320)
Spotsylvania	190,439,560	196,263,429	5,823,869
Stafford	146,465,073	178,740,657	32,275,584
Surry	1,419,648,720	1,271,414,522	(148,234,198)
Sussex	44,272,309	40,885,426	(3,386,883)
Tazewell	78,468,644	86,803,296	8,334,652
Warren	50,296,861	44,893,261	(5,403,600)
Washington	191,256,549	174,804,554	(16,451,995)
Westmoreland	41,343,693	32,989,029	(8,354,664)
Wise	73,606,026	76,839,386	3,233,360
Wythe	100,275,910	109,849,508	9,573,598
York	390,360,983	404,037,050	13,676,067
<b>Total Counties</b>	<u>\$22,068,851,661</u>	<u>\$21,562,718,279</u>	<u>(\$506,133,382)</u>
<b>Total Cities &amp; Counties</b>	\$28,923,993,607	\$27,999,682,984	(\$924,310,623)

**COMPARISON OF FEES COLLECTED BY THE DIVISION OF SECURITIES  
AND RETAIL FRANCHISING FOR THE YEARS ENDING DECEMBER 31, 2003  
AND DECEMBER 31, 2004**

<u>Kind</u>	<u>2003</u>	<u>2004</u>	<u>Increase or (Decrease)</u>
Securities Act	\$7,196,902.00	\$7,530,476.38	\$333,574.38
Retail Franchising Act	360,250.00	421,950.00	61,700.00
Trademarks-Service Marks	18,455.00	27,920.00	9,465.00
Penalties	78,450.00	186,500.00	108,050.00
Global Settlement Penalties	8,453,821.00	0.00	(8,453,821.00)
Cost of Investigations	<u>30,400.00</u>	<u>54,886.00</u>	<u>24,486.00</u>
<b>TOTAL</b>	\$16,138,278.00	\$8,221,732.38	(\$7,916,545.62)

## PROCEEDINGS AND ACTIVITIES BY DIVISIONS DURING THE YEAR 2004

### DIVISION OF PUBLIC UTILITY ACCOUNTING

The following statistical data summarizes Rate Cases, Certificate Cases, Annual Informational Filings/Earnings Tests, Fuel Factor Cases, Compliance Audits, Depreciation Studies and Special Studies made by PUA in 2004.

<u>General Rate Cases</u>	
Gas Companies	2
Water and Sewer Companies	5
Other	<u>3</u>
<b>Total General Rate Cases</b>	<b>10</b>
 <u>Expedited Rate Cases</u>	
Gas Companies	3
Water Companies	<u>1</u>
<b>Total Expedited Rate Cases</b>	<b>4</b>
 <b>Total Rate Cases</b>	
<b>14</b>	
 <u>Certificate Cases</u>	
Water and Sewer Companies	<u>2</u>
 <u>Ch. 5/Certificate Cases</u>	
Electric Companies	4
Water and Sewer Companies	<u>5</u>
<b>Total Certificate Cases</b>	<b>11</b>
 <u>Annual Informational Filings/Earnings Tests</u>	
Electric Companies (Investor Owned)	2
Gas Companies	3
Water and Sewer Companies	<u>2</u>
<b>Total Annual Informational Filings</b>	<b>7</b>
 <u>Fuel Factor Cases - Electric Companies</u>	
3	
 <u>Compliance Audits</u>	
3	
 <u>Depreciation Studies</u>	
4	
 <u>Special Studies</u>	
Electric Companies	14
Electric Cooperatives	1
Gas Companies	<u>4</u>
<b>Total Special Studies</b>	<b>19</b>

During the year 2004 Division of Public Utility Accounting received applications filed under the Public Utilities Affiliates Law and the Utility Transfers Act pertaining to public utilities for processing, analysis, and study. The number and type of written reports submitted to the Commission recommending action and orders drawn are as follows:

<u>Number of Utility Transfers Act Cases</u>	
Transfer of Assets	16
Transfer of Securities or Control	34
Mergers	2
<u>Number of Affiliates Act Cases</u>	
Service Agreements	14
Power Sales	7
Asset transfer	3
Gas sales	3
Coal sales	1
License Agreement	1
Lease Agreement	<u>1</u>
<b>Total Number Of Cases</b>	<b>82</b>



## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Commission's Division of Public Utility Accounting consisted of the following personnel on December 31, 2004:

<u>Filled</u>	<u>Vacant</u>	<u>Description</u>
1		Director
2		Deputy Director
3		Manager of Audits
1		Systems Supervisor
1		Administrative Supervisor
1		Senior Office Technician
6		Principal Public Utility Accountants
1		Senior Public Utility Accountant
3		Public Utility Accountant
<u>1</u>		Public Utility Analyst
20	<u>0</u>	Total Authorized: 20

### DIVISION OF COMMUNICATIONS

The Division of Communications assists the Commission in carrying out its duties as prescribed by the Code of Virginia. It oversees the continued implementation of competition in telecommunications markets with the goal of achieving an effective regulatory environment that balances the advancement of competitive markets with the protection of consumers. The Division assists the Commission in developing, implementing, and enforcing alternatives to traditional forms of regulation as competitive markets evolve. It monitors, enforces, and makes interpretations on certain rates, tariffs, and operating procedures of investor-owned telecommunications utilities. The Division enforces service standards, assures compliance with tariff regulations, coordinates extended area service studies, enforces pay telephone regulations, and assists in carrying out provisions of the federal Telecommunications Act of 1996. The Staff testifies in rate, service, and generic hearings, and meets with the public on communications issues and problems. The Division maintains territorial maps, performs special studies, monitors construction programs, and investigates and resolves consumer inquiries and complaints. The Staff also monitors developments at the federal level and prepares Commission responses where appropriate.

At the end of 2004, there were under the supervision of the Division:

14	Incumbent Investor-owned Local Exchange Telephone Companies
193	Competitive Local Exchange Telephone Companies
136	Long Distance Telephone Companies
351	Payphone Service Providers

### SUMMARY OF 2004 ACTIVITIES

Consumer complaints and protests investigated	6,315
Tariff revisions received:	
Incumbent Local Exchange Companies	174
Competitive Local Exchange Companies	118
Interexchange Companies	105
Tariff sheets filed:	
Incumbent Local Exchange Companies	847
Competitive Local Exchange Companies	3,671
Interexchange Companies	1,258
Promotional Filings	
Incumbent Local Exchange Companies	49
Competitive Local Exchange Companies	186
Interexchange Companies	38
Cases in which staff members prepared testimony, reports, or comments	28
Certificates of Convenience and Necessity granted, amended, or canceled:	
Competitive Local Exchange Companies	38
Interexchange Companies	35
Interconnection Agreements/Amendments approved or dismissed	49
Extended Area Service studies completed or underway	2
Service surveillance and results analysis provided monthly on:	
Telephone Companies	15
Access Lines	4,948,428
Payphone registration and rules enforcement provided on:	
Local Exchange Company payphone service providers	13
Local Exchange Company payphones	25,078
Private payphone service providers	338
Private payphones	11,162
Payphone audits	466
Complaints Investigated	32
Court Cases	1
Field investigations	42

**OTHER:**

Assisted the Commission in the continued implementation and operation of the federal Telecommunications Act of 1996.  
 Continued the Collaborative Committee on local competition market-opening measures.  
 Monitored Verizon Virginia's Performance Assurance Plan:  
 - Replicating monthly results  
 - Monitored audit  
 - Evaluated waiver request for Hurricane Isabel  
 Implemented revised rules for interconnection agreements.  
 Implemented 911 rules.  
 Filed comments on IP-Enabled Services (Voice over Internet Protocol) at the Federal Communications Commission in WC Docket No. 04-36.  
 Prepared staff report on Hurricane Isabel.  
 Prepared communications section of staff report on undergrounding utility distribution lines.  
 Assisted Commission counsel with respect to formal rate, service, or generic matters.  
 Participated in matters affecting communications policy with federal agencies.  
 Pursued various activities related to the Commission's alternative plans for regulating telephone companies, including the following:  
 - Reviewed proposed service classifications for new services, and reclassifications for existing services  
 - Evaluated Individual Case Basis (ICB) and Special Assembly price filings  
 - Assisted in gathering monitoring data  
 Continued outreach activities by making presentations to trade and citizens groups, associations, telephone companies, and a legislative committee.  
 Implemented database of payphone lines.  
 Drafted revised payphone rules.  
 Attended regional Atlantic Payphone Association quarterly meetings.  
 Responded to questionnaires from the National Association of Regulatory Utility Commissioners ("NARUC") and others with respect to telecommunications matters.  
 Conducted operational reviews with Sprint, Verizon, and Cavalier.  
 Implemented revised division website.  
 Prepared guidelines for telephone companies' use in implementing the sales and use tax surcharge.  
 Managed Virginia's telephone number utilization program.  
 Worked with the Virginia Department for the Deaf and Hard of Hearing on monitoring the Telecommunications Relay Service in Virginia.  
 Several staff members were trained in conversational Spanish.  
 Staff member serves on the NARUC Staff Subcommittee on Communications.  
 Staff member serves on the NARUC Staff Subcommittee on Depreciation and Technology.  
 Staff member serves on the NARUC Staff Subcommittee on Service Quality.  
 Staff member serves on the Advisory Council for the Virginia Department for the Deaf and Hard of Hearing.

**DIVISION OF ECONOMICS AND FINANCE**

The Division of Economics and Finance performs analysis and research on economic and financial issues pertaining to utility regulation. The Division also provides analytical and research support as needed by non-utility divisions within the Commission.

The Division has ongoing responsibility for:

- issuing monthly Fuel Price Index reports;
- maintaining and issuing monthly reports for the electric utility Fuel Monitoring System;
- issuing quarterly Natural Gas Price Index reports;
- analyzing and presenting testimony on capital structure, cost of capital, and other finance-related issues in utility rate cases;
- analyzing and presenting testimony on interest expense, appropriate earnings level and other finance-related issues in electric cooperative rate cases;
- monitoring the financial condition of Virginia utilities;
- monitoring the diversification activities of holding companies with utility subsidiaries operating in Virginia;
- reviewing annual financing plans of Virginia utilities;
- analyzing utility applications for the issuance of securities and providing the Commission with recommendations;
- conducting studies of intermediate/long range issues in electric, gas and telecommunications utility regulations;
- acquiring and running analytic computer models used to simulate, project, and/or evaluate utility operations and regulatory issues;
- monitoring inter-LATA and intra-LATA telecommunications competition;
- monitoring the incumbent local exchange companies participating in the Alternative Regulatory Plans;
- monitoring new entrants to the telecommunications market;
- analyzing financial fitness of applicants seeking status as competitive local exchange and interexchange carriers, and municipal local exchange carriers;
- monitoring and maintaining files of electric utilities' operating forecasts;
- monitoring and maintaining files of gas utilities' Five Year Forecasts;
- providing statistical and graphic support for other SCC divisions;
- maintaining database management systems for preparation of economic and financial analysis in utility cases;
- maintaining a utility stock price database;
- maintaining an electric energy market price database;
- monitoring electric and natural gas retail access programs statewide and nationally;
- monitoring evolving competitive energy markets, including market power issues;
- monitoring and participating in Virginia's evolving membership into the regional transmission organization known as PJM Interconnection, LLC;
- analyzing applications for licenses to become a competitive service provider or aggregator;
- analyzing customer demand-response programs and associated trends; and
- analyzing financial fitness of non-regulated firms seeking approval to build generating facilities or gas pipelines.

**SUMMARY OF MAJOR ACTIVITIES DURING 2004**

- Presented testimony on capital structure, cost of capital and other financial issues in five investor-owned utility rate cases.
- Presented testimony on financial and competitive issues for one utility merger case.
- Completed 3 Annual Informational Filing reports for electric, gas, telephone and water utilities.
- Analyzed and processed 29 applications of utilities seeking authority to issue securities.
- Prepared reports regarding the financial condition of 17 competitive local exchange carriers, one interexchange carrier and one municipal local exchange carrier applying for certification.
- Participated in two major Federal Energy Regulatory Commission proceedings related to Regional Transmission Organizations.
- Prepared reports on applications for certificates to construct one electric generating facility.
- Began preparing testimony for two electric fuel factor proceedings.
- Prepared reports regarding the financial condition of 12 companies seeking licensure as competitive energy service providers or aggregators.
- Developed and maintained various econometric models that explain price movements in the PJM Interconnection.
- Continued participation in the collaborative committee that negotiated Verizon's duties with respect to the Telecommunications Act of 1996 and its service to competitive providers.
- Continued analysis of metrics from Verizon's Performance Appraisal Plan, measuring the levels of service provided to competitors.
- Assisted the development of rules governing electric and natural gas retail access programs regarding programs providing for exemption to minimum stay requirements and wires charges.
- Reviewed and prepared market price and price-to-compare computations for 2005 for each of the electric local distribution companies.
- Supported and monitored activities regarding the continued development of Regional Transmission Organizations and associated participation of Virginia electric utilities.
- Facilitated the continued development of Electronic Data Interchange guidelines for communication among utilities and competitive service providers in Virginia and the surrounding region.
- Represented the Commission at meetings of the North American Energy Standards Board, encompassing wholesale and retail electricity and natural gas sectors, to establish Uniform Business Practices.
- Developed the Status Report to the Legislative Transition Task Force and Governor of Virginia regarding the Development of a Competitive Retail Market for Electric Generation within the Commonwealth of Virginia.
- Developed a forecast of the consumption tax collected on electricity usage for Public Service Taxation.
- Developed a forecast of budget items for Bureau of Insurance.
- Developed with the Division of Communications a forecast of the Virginia Telecommunications relay service bank balance.
- Developed a forecast of the Clerk's office special fund collection for the Office of Commission Comptroller.
- Developed a forecast of the non-general fund revenue collections and bank balances for the Division of Securities and Retail Franchising.
- Maintained the Virginia Electronic Data Transfer website.
- Maintained a comprehensive database on competitive energy service providers.
- Participated in preparing a staff report and testimony for Sprint Telephone's complaint against the City of Bristol's local service rates.
- Participated in preparing a staff report and presented testimony regarding Verizon's application for a revised alternative regulatory plan.

**DIVISION OF ENERGY REGULATION****Activities for Calendar Year 2004**

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 allocation methods, depreciation rates and rate design philosophies; and providing expert testimony in that regard.

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, it provides the Commission with technical expertise in policy related issues including both state and national proceedings associated with industry restructuring and mergers and acquisitions of natural gas and electric utilities.

**SUMMARY OF ACTIVITIES FOR CALENDAR YEAR 2004**

Consumer Complaints, Letters of Protest, and Inquiries Received	5,124
Tariff Filings Received	121
Testimony and Reports Filed by Staff	59
Certificates of Convenience and Necessity Granted, Transferred, or Revised	71
Special Reports	5
Electric On-Site Construction Inspections	4
Electric Meter Tests Witnessed	2

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Depreciation Studies	5
Federal Energy Regulatory Commission Filing/Comments	9
Legislative Presentations	5
Community Meetings Attended	6

**BUREAU OF FINANCIAL INSTITUTIONS**

The Bureau of Financial Institutions is responsible under Title 6.1 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 order seller/money transmitter licensees, mortgage lenders and brokers, credit counseling agencies, check cashers, 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 3,227 applications for various certificates of authority as shown below:

APPLICATIONS RECEIVED AND/OR ACTED UPON  
BY THE BUREAU OF FINANCIAL INSTITUTIONS IN 2004

New Banks	2
Bank Branches	120
Bank Branch Office Relocations	8
Relocate Bank Main Office	1
Bank Mergers	4
Acquisitions Pursuant to Chapter 13 of Title 6.1	4
Acquisitions Pursuant to Chapter 15 of Title 6.1	7
Acquire a Virginia Savings Institution	2
New Bank Conversion from National Bank	1
New Private Trust Company	2
Credit Union Mergers	5
Credit Union Service Facilities	11
Move a Credit Union Office	2
Out of State Credit Union/Bus. in State	1
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New Check Cashers	54
New Payday Lenders	23
Payday Additional Offices	120
Payday Office Relocations	15
Payday Loan Other Business	23

At the end of 2004, there were under the supervision of the Bureau 87 banks with 1,129 branches, 60 Virginia bank holding companies, 19 non-Virginia bank holding companies with banking offices in Virginia, 1 independent trust company, 2 savings institutions with 2 offices, 64 credit unions, 6 industrial loan associations, 21 consumer finance companies with 222 Virginia offices, 53 money order sellers and money transmitters, 36 credit counseling agencies, 157 check cashers, 143 mortgage lenders with 491 offices, 1,029 mortgage brokers with 1,852 offices, 404 mortgage lender/brokers with 2,481 offices, and 74 payday lenders with 678 offices.

**CONSUMER SERVICES**

The Bureau received and acted upon 1,408 formal written complaints from consumers during 2004. The Bureau recovered \$213,115 on behalf of Virginia consumers.

## BUREAU OF INSURANCE REGULATION ACTIVITIES FOR THE FISCAL YEAR ENDING JUNE 30, 2004

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, and accident and sickness insurers and health maintenance organizations; the Property and Casualty Market Regulation Division regulates the activities of property and casualty insurers (automobile, homeowner's liability and property); and the Agent Regulation and Administration Division regulates the activities of insurance agents, collects various special taxes and assessments on insurance companies as well as, working in an auxiliary role to support 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 assists 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, 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, are written in understandable language, and that premiums charged are reasonable and not unfairly discriminatory.

### SUMMARY OF 2004 ACTIVITIES

New insurance companies licensed to do business in Virginia	25
Insurance company financial statements analyzed	6,583
Financial examinations of insurance companies conducted	33
Property and Casualty insurance rules, rates and form submissions	6,283
Life and Health insurance policy forms and rates submissions	7,227
Property and Casualty insurance complaints received	5,206
Life and Health insurance complaints received	3,122
Market conduct examinations completed by the Life and Health Division	17
Market conduct examinations completed by the Property and Casualty Division	3
Insurance agents and agencies licensed	120,751
Tax and assessment audits	7,994

### EXTERNAL APPEAL FISCAL YEAR 2004

Number of Cases Reviewed	162
Eligible Appeals	74
Ineligible Appeals	88
Eligibility Pending	0
Final Adverse Decision Upheld By Reviewer	35
Final Adverse Decision Overturned by Reviewer	30
MCHIP Reversed Itself	9
Appeal Decisions Pending	0
Approximate Cost Savings to Appellants	\$621,250

### 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](http://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](http://www.howcorp.com).

The Commission is the Receiver, and Commissioner of Insurance Alfred W. Gross 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 200, Building C, 7501 North Capital of Texas Highway, Austin, Texas 78731.

**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, Alfred W. Gross, 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, Receivership Operations Manager at 4200 Innsbrook Drive, Glen Allen, Virginia, or P. O. Box 85058, Richmond, Virginia 23285-5058 or by e-mail at [www.reciprocalgroup.com](http://www.reciprocalgroup.com).

## 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 Sections 13.1-501 through 13.1-527.3.

Virginia Trademark and Service Mark Act, Virginia Code Sections 59.1-92.1 through 59.1-92.21.

Virginia Retail Franchising Act, Virginia Code Sections 13.1-557 through 13.1-574.

### UNDER THE VIRGINIA SECURITIES ACT:

3	qualification applications received
109	coordination applications received
1	notification applications received
2,361	investment company filings
31	filings for exemption from registration
1,739	filings for exemption-related federal covered securities
219	broker-dealer registrations approval
2,238	broker-dealer registrations renewal
161	broker-dealer registrations denied, withdrawn, and terminated
36,214	agent registrations approval
125,923	agent registrations renewal
0	agents placed on special supervision
32,317	agent registrations denied, withdrawn, and terminated
260	investment advisor registrations approval
1,727	investment advisor registrations renewal
44	investment advisor registrations denied, withdrawn, and terminated
1,866	investment advisor representative registrations denied, withdrawn, and terminated
2,196	investment advisor representative registrations approval
7,884	investment advisor representative registrations renewal
0	orders filing and/or canceling surety bonds
4	orders granting exemptions and/or official interpretations
23	orders for subpoena of records by banks, corporations, and individuals
21	orders of show cause
17	judgments of compromise and settlement
38	final order and/or judgment
0	temporary injunction

### UNDER THE VIRGINIA TRADEMARK AND SERVICE MARK ACT:

754	applications for trademarks and/or service marks approved, renewed, or assigned
713	applications for trademarks and/or service marks denied, abandoned, expired, or withdrawn

### UNDER THE VIRGINIA RETAIL FRANCHISING ACT:

1,485	franchise registration, renewal, or post-effective amendment applications received
264	franchises denied, withdrawn, non-renewed, or terminated
7	franchise judgments of compromise and settlement
3	franchise final order and/or judgment

### TELEPHONE CALLS AND COMPLAINTS:

1,661	pending enforcement calls
323	enforcement general inquiry calls
1,044	pending registration application calls
10,017	registration general inquiry calls
1,521	pending audit calls
669	audit general inquiry calls
3,137	pending examination application calls
6,164	examination general inquiry calls
879	pending TM/SM calls
1,203	TM/SM general inquiry calls

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178	complaints resulting in investigations
37	complaints resulting in referrals
41	complaints resulting in no actions

**UNIFORM COMMERCIAL CODE**

The Clerk's Office is the Central Filing Office in the Commonwealth under Part 5 of Title 8.9A of the Uniform Commercial Code. It is charged with the duty of receiving, processing, indexing, and examining financing statements, continuation statements, amendments, assignments, releases, and termination statements filed by nationwide financial and lending institutions, state and federal agencies, the legal profession, and the general public to perfect a security interest in collateral which secures payment or performance of an obligation. The Clerk's Office also is the Central Filing Office for Federal Tax Liens.

**SUMMARY OF CALENDAR YEAR ACTIVITIES**

	<u>12/31/03</u>	<u>12/31/04</u>
Financing/Subsequent Statements Filed	84,689	84,897
Federal Tax Liens/Subsequent Liens Filed	2,852	2,762
Reels of Microfilmed documents sold	560	407

**DIVISION OF UTILITY AND RAILROAD SAFETY**

The Division of Utility and Railroad Safety assists the Commission in administering safety programs involving the jurisdictional natural gas and hazardous liquid pipeline facilities, railroads, and underground utility damage prevention. The Pipeline Safety section of the Division ensures the safe operation of natural gas and hazardous liquid pipeline facilities through inspections of facilities, review of records, and investigation of incidents. The Railroad Regulation section of the Division conducts inspections of railroad facilities including track and equipment to ensure the safe operation of jurisdictional railroads within Virginia. The Damage Prevention section investigates all reports of "probable violations" of the Underground Utility Damage Prevention Act ("Act") and presents its findings and recommendations to the Commission's Damage Prevention Advisory Committee. The Committee makes enforcement recommendations to the Commission. The Division provides free training relative to the Act to stakeholders, conducts public education campaigns, and promotes partnership amongst various parties to further underground utility damage prevention in Virginia.

**Summary of 2004 Activities**

Consumer Complaints and Inquiries Received	18
Natural Gas Safety Inspections	636
Hazardous Liquid Safety Inspections	184
Testimony and Reports	26
Special Reports	1
Pipeline Accident Investigations	24
Underground Utility Damage Reports Processed	2,115
Persons receiving Damage Prevention Training from Staff	3,522
Number of Damage Prevention educational materials disseminated	460,759
Number of railroad track units <sup>1</sup>	9,344
Number of railroad locomotive and car units <sup>2</sup>	25,496
Railroad Accident Investigations	1

<sup>1</sup> Each mile of trace, record, crossing at grade, among other things considered a track unit.

<sup>2</sup> Each locomotive, car, motive power equipment record, among others is considered a unit.

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## LIST OF CASES ESTABLISHED IN 2004

<b>BAN/BFI</b>	<b>BUREAU OF FINANCIAL INSTITUTIONS</b>
BAN20040001	Waterford Financial Services, Incorporated d/b/a First Commonwealth Funding - To relocate mortgage broker's office from 18 South George Street, Suite 228, York, PA to 195 Stock Street, Hanover, PA
BAN20040002	First NLC Financial Services, LLC - To open a mortgage lender and broker's office at 6465 Wayzata Boulevard, Suite 410, St. Louis Park, MN
BAN20040003	First NLC Financial Services, LLC - To open a mortgage lender and broker's office at 2200-A Douglas Boulevard, Roseville, CA
BAN20040004	First NLC Financial Services, LLC - To open a mortgage lender and broker's office at 1330 North Washington Street, Suite 2020, Spokane, WA
BAN20040005	First NLC Financial Services, LLC - To open a mortgage lender and broker's office at 1721 West Greentree Drive, Tempe, AZ
BAN20040006	First NLC Financial Services, LLC - To open a mortgage lender and broker's office at 12050 Pecos Street, Suite 150, Westminster, CO
BAN20040007	First NLC Financial Services, LLC - To open a mortgage lender and broker's office at 10680 Trenea Street, Suite 210, San Diego, CA
BAN20040008	First NLC Financial Services, LLC - To open a mortgage lender and broker's office at 12443 Bel-Red Road, Suite 330, Bellevue, WA
BAN20040009	Pinnacle Financial Corporation d/b/a Tristar Lending Group (In Certain Offices) - To open a mortgage lender and broker's office at 8555 16th Street, Suite 205, Silver Spring, MD
BAN20040010	Pinnacle Financial Corporation d/b/a Tristar Lending Group (In Certain Offices) - To open a mortgage lender and broker's office at 129 Main Street, Prince Frederick, MD
BAN20040011	Pinnacle Financial Corporation d/b/a Tristar Lending Group (In Certain Offices) - To open a mortgage lender and broker's office at 3130 Golansky Boulevard, Suite 201, Woodbridge, VA
BAN20040012	Heritage Mortgage Brokers, L.L.C. - To open a mortgage broker's office at 11180 Sunrise Valley Drive, Suite 205, Reston, VA
BAN20040013	Heritage Mortgage Brokers, L.L.C. - To open a mortgage broker's office at 11300 Woodbrook Lane, Reston, VA
BAN20040014	Heritage Mortgage Brokers, L.L.C. - To open a mortgage broker's office at 8093 Zepp Drive, King George, VA
BAN20040015	Heritage Mortgage Brokers, L.L.C. - To open a mortgage broker's office at 4932 Waterfowl Way, Rockville, MD
BAN20040016	H&R Block Mortgage Corporation - To open a mortgage lender and broker's office at 613 Hope Road, Eatontown, NJ
BAN20040017	Altera Home Mortgage, LLC - For a mortgage lender and broker license
BAN20040018	Winstar Mortgage Partners, Inc. d/b/a Partner Loan Services (Main Office Only) - For a mortgage lender's license
BAN20040019	First-Citizens Bank & Trust Company - To open a branch at 510 McClanahan Street, Roanoke, VA
BAN20040020	RBC Centura Bank - To open a branch at 919 East Main Street, Suite 1700, Richmond, VA
BAN20040021	Premier Community Bankshares, Inc. - To acquire Premier Bank, Inc.
BAN20040022	American Mortgage and Investment Services, Inc. - For a mortgage broker's license
BAN20040023	Charlotte Home Equity, LLC - For a mortgage lender and broker license
BAN20040024	NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 206 E. Woodlawn Road, Charlotte, NC
BAN20040025	Michigan Fidelity Acceptance Corporation d/b/a Franklin Mortgage Funding - To open a mortgage lender and broker's office at 1716 Corporate Landing Parkway, Virginia Beach, VA
BAN20040026	Primary Residential Mortgage, Inc. - To open a mortgage lender and broker's office at 343 Neff Avenue, Suite C, Harrisonburg, VA
BAN20040027	Primary Residential Mortgage, Inc. - To open a mortgage lender and broker's office at 42 Stoneridge Drive, Suite 100, Waynesboro, VA
BAN20040028	Primary Residential Mortgage, Inc. - To open a mortgage lender and broker's office at 501 Faulconer Drive, Suite 1A, Charlottesville, VA
BAN20040029	Best Rate Funding Corp. - To open a mortgage lender's office at 1407 N. Batavia Street, Suite 202, Orange, CA
BAN20040030	Best Rate Funding Corp. - To relocate mortgage lenders's office from 2901 W. MacArthur Boulevard, Santa Ana, CA to 2 MacArthur Place, Suite 800, Santa Ana, CA
BAN20040031	NovaStar Home Mortgage, Inc. - To relocate mortgage lender broker's office from 6 Gramatan Avenue, Suite 409, Mount Vernon, NY to 125 Maiden Lane, 2nd Floor, New York, NY
BAN20040032	MetAmerica Mortgage Bankers, Inc. - To relocate mortgage lender broker's office from 117 E. Piccadilly Street, Suite 100-B, Winchester, VA to 2271 Valley Avenue, Winchester, VA
BAN20040033	American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 13890 Braddock Road, Suite 304A, Centreville, VA
BAN20040034	American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 480 Four Seasons Drive, Suite 100, Charlottesville, VA
BAN20040035	American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 608 South Main Street, Culpeper, VA
BAN20040036	American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 6164 Fuller Court, Alexandria, VA
BAN20040037	American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 735 Thimble Shoals Boulevard, Suite 120, Newport News, VA
BAN20040038	American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 7201 Glen Forest Drive, Suite 204, Richmond, VA
BAN20040039	American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 1934 William St., Westwood Village, Fredericksburg, VA
BAN20040040	American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 477 Viking Drive, Suite 100, Virginia Beach, VA
BAN20040041	American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 2303 North Augusta Street, Suite E, Staunton, VA
BAN20040042	American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 6353 Center Drive, Building 8, Suite 201, Norfolk, VA
BAN20040043	American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at Arboretum Executive Suites, 300 Arboretum Place, Suite 140, Richmond, VA

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BAN20040044 American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at Route 3 and Route 33, Hartfield, VA

BAN20040045 American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 860 Greenbrier Circle, Suite 105, Chesapeake, VA

BAN20040046 American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 12801 Darby Brook Court, Suite 101, Woodbridge, VA

BAN20040047 American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 8874 Seminole Trail, Ruckersville, VA

BAN20040048 American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 1910 Erickson Avenue, 1st Floor, Harrisonburg, VA

BAN20040049 American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 2110 Ivy Road, Charlottesville, VA

BAN20040050 American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 305 Harrison Street, Suite 200, Leesburg, VA

BAN20040051 American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 3825 Leonardtown Road, Units 2 and 3, Waldorf, MD

BAN20040052 American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 7142 Columbia Gateway Drive, Columbia, MD

BAN20040053 American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 7920 Norfolk Avenue, Suite 510, Bethesda, MD

BAN20040054 American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 1703 Sykes Street, Burlington, NC

BAN20040055 American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 6230 Fairview Road, Suite 100, Charlotte, NC

BAN20040056 American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 5565 Sterrett Place, Suite 126, Columbia, MD

BAN20040057 American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 7474 Greenway Center Drive, Suite 600, Greenbelt, MD

BAN20040058 American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 1300 York Road, Suite 300, Lutherville, MD

BAN20040059 American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 735 Thimble Shoals Boulevard, Suite 120, Newport News, VA

BAN20040060 American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 817 Eastern Shore Drive, Salisbury, MD

BAN20040061 American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 5509-B West Friendly Avenue, Suite 205, Greensboro, NC

BAN20040062 American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 4700 Homewood Court, Suite 100, Raleigh, NC

BAN20040063 American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 116 Defense Highway, Suite 202, Annapolis, MD

BAN20040064 Aurora Mortgage LLC - For a mortgage broker's license

BAN20040065 City Lending Group LLC - For a mortgage broker's license

BAN20040066 Rowe Mortgage Company, LLC - For a mortgage broker's license

BAN20040067 Lisa M. Miller - For a mortgage broker's license

BAN20040068 America Financials Group Corp. - For a money order license

BAN20040069 Town & Country Mortgage, Inc. - For a mortgage broker's license

BAN20040070 Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 6767 Forest Hill Avenue, Richmond, VA

BAN20040071 Hanover Mortgage Corp. - To relocate mortgage broker's office from 115 Hanover Avenue, Suite 4, Ashland, VA to 100 Arbor Oak Drive, Suite 102, Ashland, VA

BAN20040072 K. Hovnanian American Mortgage, L.L.C. d/b/a Homebuyer's Mortgage (VA office only) - To open a mortgage lender and broker's office at 1802 Brightseat Road, Suite 300, Landover, MD

BAN20040073 Secured Funding Corporation - To open a mortgage lender and broker's office at 6363 Pecos Road, Suite 207, Las Vegas, NV

BAN20040074 Secured Funding Corporation - To open a mortgage lender and broker's office at 1825 Barrett Lakes Boulevard, Kennesaw, GA

BAN20040075 NovaStar Home Mortgage, Inc. - To relocate mortgage lender broker's office from 102C Centre Boulevard, Marlton, NJ to 200 Biddle Avenue, Newark, DE

BAN20040076 Bull Run Mortgage, Inc. - To relocate mortgage broker's office from 11309 Bacon Race Road, Woodbridge, VA to 7505 Elgar Street, Springfield, VA

BAN20040077 1st Nations Mortgage Corporation - To open a mortgage lender and broker's office at 13112 Balfour Court, Hyattsville, MD

BAN20040078 1st Nations Mortgage Corporation - To open a mortgage lender and broker's office at 9858 B Main Street, Fairfax, VA

BAN20040079 1st Nations Mortgage Corporation - To open a mortgage lender and broker's office at 43559 Suzanne Hope Way, Ashburn, VA

BAN20040080 First-Citizens Bank & Trust Company - To open a branch at 40 Catocin Circle, NE, Leesburg, VA

BAN20040081 CheckFree Corporation - To acquire 25 percent or more of American Payment Systems, Inc.

BAN20040082 New Century Mortgage Corporation d/b/a Home123 Corporation (In Certain Offices) - To open a mortgage lender and broker's office at 4835 East Cactus Road, Suite 200, Scottsdale, AZ

BAN20040083 Gateway Mortgage Group, LLC - To open a mortgage lender and broker's office at 5381 Blackwater Loop, Virginia Beach, VA

BAN20040084 Planters Bank & Trust Company of Virginia - To open a branch at 2201 Graves Mill Road, Suites C and D, Forest, VA

BAN20040085 Greenwood Properties, LLC d/b/a Greenwood Lending - To relocate mortgage broker's office from 1200 Augusta Street, Charlottesville, VA to 615 Woodbrook Drive, Charlottesville, VA

BAN20040086 Sunset Mortgage Company L.P. - To open a mortgage lender and broker's office at 1206 Laskin Road, Suite 201, Virginia Beach, VA

BAN20040087 TransLand Financial Services, Inc. - To relocate mortgage lender broker's office from 1320 DeKalb Pike, 2nd Floor, Blue Bell, PA to 7004 Butler Pike, Suite 200, Ambler, PA

BAN20040088 Professional Mortgage Group, Inc. - For a mortgage broker's license

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BAN20040089 Consumer Education Services, Inc. - To open an additional credit counseling office at 10490 Little Patuxent Parkway, Suite 350, Columbia, MD

BAN20040090 Centex Home Equity Company, LLC - To open a mortgage lender and broker's office at 200 East State Street, Suite 100, Media, PA

BAN20040091 Dominion Financial, Inc. of Delaware (Used in VA by: Dominion Financial, Inc.) - For a mortgage broker's license

BAN20040092 First Financial Mortgage Corp. of Virginia (Used in VA by: First Financial Mortgage Corporation) - For a mortgage broker's license

BAN20040093 OneStop Shopping Financial, Inc. - For a mortgage broker's license

BAN20040094 NationsOne Mortgage, Inc. - For a mortgage broker's license

BAN20040095 Franklin Mortgage Corporation - To open a mortgage broker's office at 400 Southlake Boulevard, Suite K, Richmond, VA

BAN20040096 P.V. Home Lending LLC - To relocate mortgage broker's office from 7710 B. Atlantic Avenue, Virginia Beach, VA to 1808 Brownstone Court, Virginia Beach, VA

BAN20040097 New Century Mortgage Corporation d/b/a Home123 Corporation (In Certain Offices) - To open a mortgage lender and broker's office at 2 Hampshire Street, Foxboro, MA

BAN20040098 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 6851 Oak Hall Lane, Suite 301, Columbia, MD

BAN20040099 First Residential Mortgage Corporation - To relocate mortgage broker's office from 945 N. Main Street, Marion, VA to 202 East Main Street, Marion, VA

BAN20040100 Chantilly Masonry Supplies, Inc. - To open a check casher at 25061 Elk Lick Road, Chantilly, VA

BAN20040101 Axcel Financial Corporation - For a mortgage broker's license

BAN20040102 Resource Mortgage Group, Inc. - For a mortgage broker's license

BAN20040103 Swan Financial Corporation - For a mortgage broker's license

BAN20040104 National Equity Investments, L.L.C. d/b/a American Equity Investments, L.L.C. - For a mortgage broker's license

BAN20040105 Kuranda Financial Mortgage, Incorporated - For a mortgage broker's license

BAN20040106 AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To open a mortgage broker's office at 2822 Solomons Island Road, Suite 204-2, Edgewater, MD

BAN20040107 AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To open a mortgage broker's office at 4 Harold Avenue, Latham, NY

BAN20040108 AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To open a mortgage broker's office at 605 North Causeway Boulevard, Mandeville, LA

BAN20040109 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 2912 O'Donnell Street, Baltimore, MD

BAN20040110 First Bank of Virginia (Used in VA by: First Bank) - To open a branch at 102 Wall Street, S.W., Abingdon, VA

BAN20040111 Peoples Community Bank - To open a branch at 2875 Kings Highway, Oak Grove, VA

BAN20040112 Continental Mortgage Corp. - To open a mortgage lender and broker's office at 32 Waterloo Street, Suite 115, Warrenton, VA

BAN20040113 Continental Mortgage Corp. - To open a mortgage lender and broker's office at 36 Latern Way, Portsmouth, VA

BAN20040114 James Monroe Bank - To open a branch at 3914 Centreville Road, Chantilly, VA

BAN20040115 JFH Mortgage LLC - For a mortgage broker's license

BAN20040116 Financial Consulting Services, LLC d/b/a EZ Cash - For a payday lender license

BAN20040117 The Bank of Floyd - To relocate office from 2105 Roanoke Street, Christiansburg, VA to 2145 Roanoke Street, Christiansburg, VA

BAN20040118 American Credit Counselors, Inc. d/b/a American Credit Counselors of Florida - To open a credit counseling office

BAN20040119 Four Leaf Financial Corporation - To open a mortgage lender and broker's office at 185 E. Valley Street, Abingdon, VA

BAN20040120 First Mutual Corp. - To open a mortgage lender and broker's office at 2833 O'Donnell Street, 1st. Floor, Baltimore, MD

BAN20040121 America's Mortgage Broker, L.L.C. d/b/a Affordable Home Funding - To open a mortgage lender and broker's office at 10863 Park Boulevard, Suite 5, Seminole, FL

BAN20040122 America's Mortgage Broker, L.L.C. d/b/a Affordable Home Funding - To open a mortgage lender and broker's office at 215 Regents Park, Stockbridge, GA

BAN20040123 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 6713 Lake Harbour Dr., Winterpock SC, Midlothian, VA

BAN20040124 Payday Advance, L.L.C. - To open a check casher at 2774 Greensboro Road, Martinsville, VA

BAN20040125 Primerica Financial Services Home Mortgages, Inc. - To open a mortgage broker's office at 6051-B Arlington Boulevard, Suite 200, Falls Church, VA

BAN20040126 Primerica Financial Services Home Mortgages, Inc. - To relocate mortgage broker's office from 207 South Main Street, Franklin, VA to 200 N. Franklin Street, Franklin, VA

BAN20040127 Residential Mortgage Funding Corporation (Used in VA by: Residential Mortgage Corporation) - To relocate mortgage broker's office from 1400 Mercantile Lane, Suite 242, Largo, MD to 9701 Apollo Drive, Suite 230, Largo, MD

BAN20040128 First Wholesale Mortgage Corporation - To relocate mortgage broker's office from 12653 Rocky Mountain Court, Fishers, IN to 10285 Summerlin Way, Fishers, IN

BAN20040129 Arlington Capital Mortgage Corporation d/b/a Windsor Financial Mortgage - To open a mortgage lender's office at 701 Route 73, Suite 123, Marlton, NJ

BAN20040130 Virginia Credit Union, Inc. - To open a credit union service office at 2848 Jefferson Davis Highway, Suite 600, Stafford, VA

BAN20040131 Arlington Capital Mortgage Corporation d/b/a Windsor Financial Mortgage - To open a mortgage lender's office at 1242 West Chester Pike, Goshen Professional Center, Suite 312, West Chester, PA

BAN20040132 New Century Mortgage Corporation d/b/a Home123 Corporation (In Certain Offices) - To relocate mortgage lender broker's office from 330 South Service Road, Suite 216A, Melville, NY to Two Huntington Quadrangle, Suite 1S01, Melville, NY

BAN20040133 NovaStar Home Mortgage, Inc. - To relocate mortgage lender broker's office from 743 Park Road, N.W., Washington, DC to 601 Pennsylvania Avenue, Washington, DC

BAN20040134 Branch Banking and Trust Company of Virginia - To relocate office from 13400 Booker T. Washington Highway, Franklin County, VA to intersection of Booker T. Washington Highway and Morewood Road, Moneta, VA

BAN20040135 BB&T Corporation - To acquire Republic Bancshares, Inc.

BAN20040136 Full Compass Lending Corp. (Used in VA by: First Capital Financial Services Corp.) - For a mortgage lender's license

BAN20040137 Coastal Capital Corp. - To open a mortgage lender and broker's office at 1393 Veterans Memorial Highway, Suite 214N, Hauppauge, NY

BAN20040138 F & L Marketing Enterprises LLC d/b/a Cash-2-U Payday Loans - To open a payday lender's office at 6220 Hull Street Road, Richmond, VA

BAN20040139 Bay Capital Corp. - To open a mortgage lender and broker's office at 1405 Congress Court, Annapolis, MD



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BAN20040140 GSF Mortgage Corporation - For additional mortgage authority  
 BAN20040141 Envios de Valores La Nacional Corp. - For a money order license  
 BAN20040142 Clayton Peters & Associates, Inc. d/b/a CPA Mortgage - For a mortgage broker's license  
 BAN20040143 American Freedom Mortgage, Inc. d/b/a AFMI Funding - To open a mortgage lender and broker's office at 2941 Fairview Park Drive, Suite 105, Falls Church, VA  
 BAN20040144 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 424 W. Lincoln Highway, Suite 205, Pennel, PA  
 BAN20040145 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 2120 Hillcrest Street, Orlando, FL  
 BAN20040146 NovaStar Home Mortgage, Inc. - To relocate mortgage lender broker's office from 4455 E. Camelback Road, Suite C-140, Phoenix, AZ to 4455 E. Camelback Road, Suite E100, Phoenix, AZ  
 BAN20040147 MorEquity of Nevada, Inc. (Used in VA by: MorEquity, Inc.) - To open a mortgage lender and broker's office at 850 Ridge Lake Boulevard, Suite 210, Memphis, TN  
 BAN20040148 SGB Corporation - To relocate mortgage lenders's office from 10901 Lowell Avenue, Overland Park, KS to 10895 Lowell Avenue, Executive Centre II, Suite 292, Overland Park, KS  
 BAN20040149 First Guaranty Mortgage Corporation d/b/a Broker's Edge Lending (In Certain Offices) - To relocate mortgage lender broker's office from 150 Tequesta Drive, Suite 200, Tequesta, FL to 1440 W. Indiantown Road, Suite 350, Jupiter, FL  
 BAN20040150 Chesapeake Unlimited, Inc. - For additional mortgage authority  
 BAN20040151 Premier Lending, Inc. - For a mortgage broker's license  
 BAN20040152 First Continental Mortgage and Investment Corp. - For a mortgage lender and broker license  
 BAN20040153 Equity Source Home Loans, LLC - For a mortgage lender and broker license  
 BAN20040154 HomeBridge Mortgage Bankers Corp. - For a mortgage lender and broker license  
 BAN20040155 SC Mortgage, Inc. - For a mortgage broker's license  
 BAN20040156 B.D. Nationwide Mortgage Company - For a mortgage broker's license  
 BAN20040157 KBM Financial Group, LLC - For a mortgage lender and broker license  
 BAN20040158 Allied Home Mortgage Capital Corporation - To open a mortgage lender and broker's office at 8727 Belair Road, Baltimore, MD  
 BAN20040159 National Foundation for Debt Management, Inc. d/b/a Alternative Credit Solutions - To open an additional credit counseling office at 14100 58th Street, North, Clearwater, FL  
 BAN20040160 United Financial Mortgage Corp. of Virginia - To open a mortgage lender and broker's office at 333 Metro Park North, Suite 211, Rochester, NY  
 BAN20040161 United Financial Mortgage Corp. of Virginia - To open a mortgage lender and broker's office at 6320 North Center Drive, Building 15, Suite 205, Norfolk, VA  
 BAN20040162 CREMCO, Inc. d/b/a Fast Cash Store - For a payday lender license  
 BAN20040163 Assured Financial Group, Ltd. - For a mortgage broker's license  
 BAN20040164 ComUnity Lending, Incorporated d/b/a Virginia Community Lending (McLean, Reston and Virginia Beach) - To open a mortgage lender and broker's office at 210 North 300, West, Suite 202, Cedar City, UT  
 BAN20040165 Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 10669 Wolf Drive, Huntley, IL  
 BAN20040166 Diamond G, Inc. d/b/a Diamond G Check Advance - To open a payday lender's office at 710 Shawnee Avenue, Suite 3, Big Stone Gap, VA  
 BAN20040167 Hamilton Funding Corp. - To relocate mortgage broker's office from 1610 Leeds Castle Drive, Vienna, VA to 20 Pidgeon Hill Drive, Suite 104, Sterling, VA  
 BAN20040168 Metrocities Mortgage, LLC - To relocate mortgage lender broker's office from 3300 Flintwood Court, Herndon, VA to 19238 Kepharts Mill Terrace, Landsdowne, VA  
 BAN20040169 Williamsburg Mortgage, Incorporated - For a mortgage broker's license  
 BAN20040170 Cooperative Enterprises, Inc. d/b/a Cooperative Mortgage - For a mortgage broker's license  
 BAN20040171 Independent Financial Mortgage Inc. - For a mortgage lender and broker license  
 BAN20040172 The Kirney Group, Inc. - For a mortgage broker's license  
 BAN20040173 Credit Foundation of America - To open a credit counseling office  
 BAN20040174 Citizens Bank and Trust Company - To open a branch at 10001 Courtview Lane, Chesterfield County, VA  
 BAN20040175 First Community Bancshares, Inc. - To acquire PCB Bancorp, Inc.  
 BAN20040176 NovaStar Home Mortgage, Inc. - To relocate mortgage lender broker's office from 430 West Mohammad Ali Boulevard, Louisville, KY to 513 S. Fifth Street, Louisville, KY  
 BAN20040177 Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To relocate mortgage lender broker's office from 3212 Cutshaw Avenue, Suite 204B, Richmond, VA to 3212 Cutshaw Avenue, Suite 207, Richmond, VA  
 BAN20040178 Check into Cash of Virginia, LLC d/b/a Check into Cash - To open a payday lender's office at 1008 Portsmouth Boulevard, Suite B, Suffolk, VA  
 BAN20040179 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 1 Orchard Road, Suite 210, Lake Forest, CA  
 BAN20040180 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 20545 Center Ridge Road, Suite 212, Rocky Rover, OH  
 BAN20040181 GSF Mortgage Corporation - To open a mortgage broker's office at 920 Providence Road, Suite 405, Towson, MD  
 BAN20040182 GSF Mortgage Corporation - To open a mortgage broker's office at 140 St. John Street, Haure de Grace, MD  
 BAN20040183 Prosperity Funding, Inc. (Used in VA by: First Residential Mortgage, Inc.) - For a mortgage broker's license  
 BAN20040184 Custom Mortgage Solutions, Inc. - For a mortgage lender and broker license  
 BAN20040185 Town and Country Financial Services, Inc., Town and Country Mortgage and Financial Services, Inc. - To open a mortgage broker's office at 6279 Franconia Road, Suite B, Alexandria, VA  
 BAN20040186 Tosh of Utah, Inc. (Used in VA by: Tosh, Inc.) d/b/a Check City Check Cashing - To open a payday lender's office at 1064 Independence Boulevard, Virginia Beach, VA  
 BAN20040187 Community Mortgage Services Corporation - To open a mortgage broker's office at 8523 Midlothian Turnpike, Richmond, VA  
 BAN20040188 QC Financial Services, Inc. d/b/a Quik Cash - To open a payday lender's office at 6832-B Midlothian Turnpike, Richmond, VA  
 BAN20040189 AEGIS Wholesale Corporation - To open a mortgage lender's office at 2470 Windy Hill Road, Suite 303, Marietta, GA  
 BAN20040190 Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 573 A. Southlake Boulevard, Richmond, VA  
 BAN20040191 ComUnity Lending, Incorporated d/b/a Virginia Community Lending (McLean, Reston and Virginia Beach) - To relocate mortgage lender broker's office from 25 South Grove Street, Suite 305, Elgin, IL to 870 E. Higgins Road, Suite 138F, Schaumburg, IL

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BAN20040192	Paula Reynolds Haynes d/b/a Colonial Mortgage Company of Virginia - To relocate mortgage broker's office from 633 Main Street, Danville, VA to 531 Main Street, Danville, VA
BAN20040193	Richard Tocado Companies, Inc. - To relocate mortgage broker's office from 15800 John J. Delaney Drive, Suite 400, Charlotte, NC to 15720 John J. Delaney Drive, Suite 500, Charlotte, NC
BAN20040194	Amerifund Financial, Inc. d/b/a All Fund Mortgage - To relocate mortgage lender broker's office from 4641 Montgomery Avenue, Suite 515, Bethesda, MD to 7111 Thomas Branch Drive, Bethesda, MD
BAN20040195	Addison Mortgage Services, Inc. - To relocate mortgage broker's office from 34 Dawn Lane, Hampton, VA to 131 Kingsway, 2nd Floor, Hampton, VA
BAN20040196	U.S. Mortgage Finance Corp. - To relocate mortgage lenders's office from 901 Dulaney Valley Road, Suite 801, Towson, MD to 1922 Greenspring Drive, Suite 4, Timonium, MD
BAN20040197	First-Citizens Bank & Trust Company - To open a branch at 3205 Plank Road, Fredericksburg, VA
BAN20040198	Time Square Market Inc. - To open a check casher at 210 N. County Drive, Waverly, VA
BAN20040199	ClearView Mortgage, Inc. - For a mortgage broker's license
BAN20040200	Fernando Damaia d/b/a TG Financial - For a mortgage broker's license
BAN20040201	Atlantic Home Loans, Inc. - For a mortgage lender and broker license
BAN20040202	Old Merchants Mortgage, Inc. d/b/a Old Merchants Mortgage Bankers - For a mortgage lender and broker license
BAN20040203	Residential Finance Corporation - For a mortgage lender and broker license
BAN20040204	Rogal Real Estate, LLC - For a money order license
BAN20040205	Residential Home Loan Centers, LLC - For a mortgage broker's license
BAN20040206	Loan Link Financial Services, Inc. (Used in VA by: Loan Link Financial Services) - To relocate mortgage lender broker's office from 12020 Sunrise Valley Drive, Reston, VA to 21395 Keane Court, Ashburn, VA
BAN20040207	Loan Link Financial Services, Inc. (Used in VA by: Loan Link Financial Services) - To open a mortgage lender and broker's office at 26800 Aliso Viejo Parkway, Suite 100, Aliso Viejo, CA
BAN20040208	Primary Residential Mortgage, Inc. - To open a mortgage lender and broker's office at 6200 Blue Sage Lane, Upper Marlboro, MD
BAN20040209	Primary Residential Mortgage, Inc. - To relocate mortgage lender broker's office from 7459 Westcreek Court, Springfield, VA to 7011 Calamo Street, Suite 205, Springfield, VA
BAN20040210	NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 101 East Williamsburg Road, Sandston, VA
BAN20040211	Home Star Mortgage Services, LLC - To open a mortgage lender's office at 2055 Sugarloaf Circle, Suite 200, Duluth, GA
BAN20040212	American Home Mortgage Corp. d/b/a MortgageSelect - To relocate mortgage lender broker's office from 280 Wall Street, 2nd Floor, Kingston, NY to 889 Grant Avenue, 2nd Floor, Lake Katrine, NY
BAN20040213	Mortgage Sense, Inc. - To relocate mortgage broker's office from 1403 Howardsville Road, Staunton, VA to 12 Sunset Boulevard, Staunton, VA
BAN20040214	Mortgage Advantage, Inc. - To relocate mortgage broker's office from 7613 Standish Place, Suite A, Rockville, MD to 7611 Standish Place, Rockville, MD
BAN20040215	Pinnacle Financial Corporation d/b/a Tristar Lending Group (In Certain Offices) - To open a mortgage lender and broker's office at 3613D Chain Bridge Road, Fairfax, VA
BAN20040216	Pinnacle Financial Corporation d/b/a Tristar Lending Group (In Certain Offices) - To open a mortgage lender and broker's office at 816 Thayer Avenue, Silver Spring, MD
BAN20040217	Pinnacle Financial Corporation d/b/a Tristar Lending Group (In Certain Offices) - To open a mortgage lender and broker's office at 701 Melvin Avenue, Annapolis, MD
BAN20040218	Pinnacle Financial Corporation d/b/a Tristar Lending Group (In Certain Offices) - To open a mortgage lender and broker's office at 579 Baltimore Annapolis Boulevard, Severna Park, MD
BAN20040219	Provident Bankshares Corporation - To acquire Southern Financial Bancorp, Inc. Warrenton, VA
BAN20040220	Debt Management Credit Counseling Corp. - To open a credit counseling office
BAN20040221	Mortgage Bancorp, LLC - For a mortgage lender and broker license
BAN20040222	1st Dominion Mortgage, L.L.C. - For a mortgage broker's license
BAN20040223	Branch Banking and Trust Company of Virginia - To open a branch at 250 Pantops Mountain Road, Albemarle County, VA
BAN20040224	NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 8440 Market Street, Boardman, OH
BAN20040225	NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 3240-D Juan Tabo Street, Suite 7, Albuquerque, NM
BAN20040226	Cremco, Inc. d/b/a Fast Cash Store - To open a check casher at 702 South Main Street, Marion, VA
BAN20040227	Coldwell Banker Mortgage Corporation - To open a mortgage lender's office at 6426 Maddox Boulevard, Chincoteague, VA
BAN20040228	Coldwell Banker Mortgage Corporation - To open a mortgage lender's office at 37054 State Line Road, Greenbackville, VA
BAN20040229	Apex Mortgage Services, L.L.C. - To open a mortgage broker's office at 13612 Brandy Oaks Road, Chesterfield, VA
BAN20040230	SLM Mortgage Corporation-VA d/b/a Sallie Mae Home Loans - To open a mortgage lender and broker's office at 610 Thimble Shoals Boulevard, Suite 303-D, Newport News, VA
BAN20040231	American Residential Funding, Inc. - To relocate mortgage lender broker's office from 12529 Balley Drive, N.E., Lowell, MI to 485 Pettis Avenue, S.E., Ada, MI
BAN20040232	Roy D. Hansen Mortgage Company, Inc. - To relocate mortgage broker's office from 203 Burgess Avenue, Alexandria, VA to 2911 Holly Street, Alexandria, VA
BAN20040233	Provident Bank of Maryland - To merge into it Southern Financial Bank
BAN20040234	Talmadge D. Clayton, Jr. - For a mortgage broker's license
BAN20040235	Generation V, Inc. - For a mortgage broker's license
BAN20040236	American Mortgage Express Financial Corp. - For a mortgage lender and broker license
BAN20040237	American Home Equity Corporation - For a mortgage lender and broker license
BAN20040238	Statewide Trust Mortgage Company (Used in VA by: Statewide Trust, Inc.) - For a mortgage broker's license
BAN20040239	Allied Cash Advance Virginia LLC d/b/a Allied Cash Advance - To open a payday lender's office at 1850 Tappahannock Boulevard, Suite 8A, Tappahannock, VA
BAN20040240	Allied Cash Advance Virginia LLC d/b/a Allied Cash Advance - To open a payday lender's office at 73 S. Airport Drive, Unit 2, Richmond, VA
BAN20040241	Q. C. & G. Financial, Inc. d/b/a Ace America's Cash Express - To open a payday lender's office at 4222 East Little Creek Road, Norfolk, VA

BAN20040242 Q. C. & G. Financial, Inc. d/b/a Ace America's Cash Express - To open a payday lender's office at 1333 Poindexter Street, Suite 2, Chesapeake, VA

BAN20040243 Q. C. & G. Financial, Inc. d/b/a Ace America's Cash Express - To open a payday lender's office at 720 Church Street, Suite 2A, Norfolk, VA

BAN20040245 Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To open a mortgage broker's office at 20 East 3rd Street, Sterling, IL

BAN20040246 Alcovia Mortgage LLC - To open a mortgage broker's office at 413 South Monroe Avenue, Covington, VA

BAN20040247 Southern Trust Mortgage, LLC d/b/a Middleburg Mortgage (2 Norfolk Offices) - To relocate mortgage lender broker's office from 1156 Bowman Road, Suite 103, Mt. Pleasant, SC to 171 Church Street, Suite 210, Charleston, SC

BAN20040248 Ace Global Funds Transfer L.L.C. - For a money order license

BAN20040249 Service First Home Mortgage, Inc. - For a mortgage broker's license

BAN20040250 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 809 Whispering Village, Ballwin, MOBAN20040251 Primary Capital Advisors LC - For a mortgage lender's license

BAN20040252 CitiFinancial, Inc. - To open a mortgage lender's office at 1100-142 Armory Drive, Franklin, VA

BAN20040253 CitiFinancial, Inc. - To open a mortgage lender's office at 3408 Virginia Avenue, Collinsville, VA

BAN20040254 CitiFinancial, Inc. - To open a mortgage lender's office at 798 Southpark Boulevard, Suite 30, Colonial Heights, VA

BAN20040255 CitiFinancial, Inc. - To open a mortgage lender's office at 601 Meadowbrook Shopping Center, Culpeper, VA

BAN20040256 CitiFinancial, Inc. - To open a mortgage lender's office at 204 Westover Drive, Danville, VA

BAN20040257 CitiFinancial, Inc. - To open a mortgage lender's office at 7115 Leesburg Pike, Suite 102, Falls Church, VA

BAN20040258 CitiFinancial, Inc. - To open a mortgage lender's office at 1506 S. Main Street, Unit 10, Farmville, VA

BAN20040259 CitiFinancial, Inc. - To open a mortgage lender's office at 2189 Cunningham Drive, Hampton, VA

BAN20040260 CitiFinancial, Inc. - To open a mortgage lender's office at 2225 Lakeside Drive, Unit C-1, Lynchburg, VA

BAN20040261 CitiFinancial, Inc. - To open a mortgage lender's office at 7460 Lee Highway, Radford, VA

BAN20040262 CitiFinancial, Inc. - To open a mortgage lender's office at 7112-A Hull Street Road, Richmond, VA

BAN20040263 CitiFinancial, Inc. - To open a mortgage lender's office at 4019 Halifax Road, Suite B, South Boston, VA

BAN20040264 CitiFinancial, Inc. - To open a mortgage lender's office at 800 E. Main Street, Suite 330, Wytheville, VA

BAN20040265 CitiFinancial, Inc. - To open a mortgage lender's office at 5386 Kemps River Drive, Suite 108, Virginia Beach, VA

BAN20040266 CitiFinancial, Inc. - To open a mortgage lender's office at 3129 Mechanicsville Turnpike, Richmond, VA

BAN20040267 CitiFinancial, Inc. - To open a mortgage lender's office at 2522 Jefferson Highway, Suite 102, Waynesboro, VA

BAN20040268 GPM7, LLC - For a money order license

BAN20040269 AEGIS Lending Corporation d/b/a Amalgamated Mortgage (Bethesda MD Office Only) - To relocate mortgage lender broker's office from 525 Plymouth Road, Suite 301, Plymouth Meeting, PA to 620 W. Germantown Pike, Suite 370, Plymouth Meeting, PA

BAN20040270 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 20202 Highway 59 North, Suite 105, Humble, TX

BAN20040271 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 9380 McKnight Road, Suite 206, Pittsburgh, PA

BAN20040272 Golden Heart Mortgage LLC - For a mortgage broker's license

BAN20040273 Opus Home Equity Services, Inc. - For a mortgage lender and broker license

BAN20040274 Allied Home Mortgage Capital Corporation - To open a mortgage lender and broker's office at 36 West Water Street, Toms River, NJ

BAN20040275 Allied Home Mortgage Capital Corporation - To relocate mortgage lender broker's office from 6501 Mechanicsville Turnpike, Suite 200, Mechanicsville, VA to 3317 West Hundred Road, Chester, VA

BAN20040276 Sun's Oil, Inc. d/b/a Route 29 Express - To open a check casher at 9486 James Madison Highway, Warrenton, VA

BAN20040277 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 1260 Scottsville Road, 2nd Floor, Rochester, NY

BAN20040278 Atlas Mortgage & Financial Services, Inc. - To relocate mortgage broker's office from 6041 Collinstone Drive, Glen Allen, VA to 5312 Hillshire Way, Glen Allen, VA

BAN20040279 Loans and Mortgages, LLC - To open a mortgage broker's office at 4235 Dale Boulevard, Woodbridge, VA

BAN20040280 Gateway Mortgage Group, LLC - To open a mortgage lender and broker's office at 4008 Harvest Crest Drive, Richmond, VA

BAN20040281 Gateway Mortgage Group, LLC - To open a mortgage lender and broker's office at 4345 Ivymount Court, Suite 45, Annandale, VA

BAN20040282 Advocate Mortgage Group, Inc. - To relocate mortgage lender broker's office from 16 S. Calvert Street, Suite 203, Baltimore, MD to 720 S. Montford Avenue, Baltimore, MD

BAN20040283 Casa Blanca Mortgage, Inc. d/b/a Shearson Mortgage - To relocate mortgage lender broker's office from 1038 N. Maclay Avenue, Suite 1, San Fernando, CA to 21700 Oxnard Street, Suite 600, Woodland Hills, CA

BAN20040284 Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 150 Little Falls Street, Suite 204, Falls Church, VA

BAN20040285 Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 3004 Berkmar Drive, Charlottesville, VA

BAN20040286 American Home Mortgage Lenders, Inc. d/b/a Veterans Mortgage - For a mortgage broker's license

BAN20040287 SIRVA Mortgage, Inc. - To open a mortgage lender's office at 1 Parklawn Drive, Bethel, CT

BAN20040288 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 6760 Tussing Road, Suite 210, Reynoldsburg, OH

BAN20040289 Allied Home Mortgage Capital Corporation - To open a mortgage lender and broker's office at 30 Main Street, Toms River, NJ

BAN20040290 NovaStar Home Mortgage, Inc. - To relocate mortgage lender broker's office from 6913 Wynmeadow Drive, Stone Mountain, GA to 4001 Presidential Parkway, Atlanta, GA

BAN20040291 NovaStar Home Mortgage, Inc. - To relocate mortgage lender broker's office from 1340 S.E. Maynard Road, Suite 203, Cary, NC to 204 C. Colonades Way, Cary, NC

BAN20040292 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To relocate mortgage lender broker's office from 604 Fryar Place, Chesapeake, VA to 345 Abbedale Court, Carmel, IN

BAN20040293 Loren W. Robinson, Inc. d/b/a Nationwide Mortgage Group - To relocate mortgage lender broker's office from 31271 Via Parra, San Juan Capistrano, CA to 800 S. El Camino Real, Suite 200, San Clemente, CA

BAN20040294 Grayhawk Mortgage Corporation - To relocate mortgage broker's office from 3 Metro Bethesda Center, Suite 700, Bethesda, MD to 2300 M Street, N.W., Suite 800, Washington, DC

BAN20040295 United Equity LLC - For a mortgage lender and broker license

BAN20040296 Covenant Mortgage and Investment Group, Ltd. - For a mortgage broker's license

BAN20040297 Sher Financial Group, Inc. d/b/a Citizens Trust Mortgage Corporation - For a mortgage broker's license

BAN20040298 Breakwater Mortgage Corp. - For a mortgage broker's license

BAN20040299 First Houston Mortgage, LP (Used in VA by: First Houston Mortgage, Ltd.) - For a mortgage lender's license

BAN20040300 American Nationwide Mortgage Company, Inc. - To open a mortgage lender and broker's office at 942 North Main Street, Suite 26, Akron, OH

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BAN20040301 American Nationwide Mortgage Company, Inc. - To open a mortgage lender and broker's office at 34100 Center Ridge Road, Suite 40, North Ridgeville, OH

BAN20040302 American Nationwide Mortgage Company, Inc. - To open a mortgage lender and broker's office at 30311 Clemens Road, Suite 5, Westlake, OH

BAN20040303 American Nationwide Mortgage Company, Inc. - To open a mortgage lender and broker's office at 21360 Center Ridge Road, Rocky River, OH

BAN20040304 American Nationwide Mortgage Company, Inc. - To open a mortgage lender and broker's office at 34100 Center Ridge Road, Suite 70, North Ridgeville, OH

BAN20040305 MortgageStar, Inc. - To open a mortgage lender and broker's office at 3408 Dunran Road, Baltimore, MD

BAN20040306 TrustMor Mortgage Company d/b/a Doiquality.Com - To open a mortgage lender and broker's office at 520 Eastpark Court, Sandston, VA

BAN20040307 Credit Suisse First Boston Financial Corporation - To open a mortgage lender's office at Iron Mountain Records Management, 106 or 100 Harbor Drive, Jersey City, NJ

BAN20040308 HomeSouth Mortgage Services, Inc. - To open a mortgage lender and broker's office at 14983 Moneta Road, Moneta, VA

BAN20040309 ComUnity Lending, Incorporated d/b/a Virginia Community Lending (McLean, Reston and Virginia Beach) - To open a mortgage lender and broker's office at 4836 Brownsboro Center, Louisville, KY

BAN20040310 American Mortgage Express Corp. - To relocate mortgage lender broker's office from 1930 E. Marlton Pike, Suite A-7, Cherry Hill, NJ to 317-319 William Street, Fredericksburg, VA

BAN20040311 Accredited Home Lenders, Inc. - To relocate mortgage lender's office from 300 E. Sonterra Boulevard, Suite 250, San Antonio, TX to 12500 San Pedro Avenue, Suite 300, San Antonio, TX

BAN20040312 Heritage Home Funding Corp. - To relocate mortgage broker's office from 440 West Jubal Early Drive, Suite 110, Winchester, VA to 2509 Valley Avenue, Winchester, VA

BAN20040313 NexTag, Inc. - To relocate mortgage broker's office from 1300 S. El Camino Real, Suite 201, San Mateo, CA to 1300 South El Camino Real, Suite 600, San Mateo, CA

BAN20040314 MortgageIT, Inc. d/b/a MIT Lending (In Certain Offices) - To relocate mortgage lender broker's office from 300 E. Business Way, Cincinnati, OH to 1253 Kemper Meadow, Suite 125, Cincinnati, OH

BAN20040315 America's Best Lending Network, Inc. - To relocate mortgage broker's office from 2315 N. Andrews Avenue, Wilton Manors, FL to 6261 N.W. 6th Way, Suite 202, Ft. Lauderdale, FL

BAN20040316 Atlas Mortgage Funding Corporation - For a mortgage lender and broker license

BAN20040317 Tristate Mortgage, LLC - For a mortgage broker's license

BAN20040318 HomeLoan Advisors.Com, Inc. (Used in VA by: HomeLoan Advisors.Com) - For a mortgage lender and broker license

BAN20040319 Allied Home Mortgage Corporation - For a mortgage lender's license

BAN20040320 Castle Point Mortgage, Inc. - To open a mortgage lender and broker's office at 6 Campus Drive, Parsippany, NJ

BAN20040321 MortgageTree Lending Corporation (Used in VA by: MortgageTree Lending) - To open a mortgage lender's office at 9639 Dr. Perry Road, Suite 108N, Ijamsville, MD

BAN20040322 American Mortgage Group, LLC - For a mortgage broker's license

BAN20040323 E-Loan, Inc. - To relocate mortgage lender broker's office from 5875 Arnold Road, Dublin, CA to 6230 Stoneridge Mall Road, Pleasanton, CA

BAN20040324 Lincoln Mortgage Associates L.L.C. d/b/a Lincoln Financial Mortgage - To relocate mortgage lender broker's office from 211 Rock Hill Road, Suite 203, Bala Cynwyd, PA to 1556 Bristol Pike, Bensalem, PA

BAN20040325 Lincoln Mortgage Associates L.L.C. d/b/a Lincoln Financial Mortgage - To relocate mortgage lender broker's office from 44 Zion Road, Suite 200, Egg Harbor Township, NJ to 47 North Franklin Turnpike, Ramsey, NJ

BAN20040326 ESECONDMORTGAGE.COM, INC. d/b/a Dollar Realty Mortgage - To open a mortgage lender and broker's office at 5915 Beneva Road, Sarasota, FL

BAN20040327 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 210 Ambriar Plaza, Amherst, VA

BAN20040328 USA-Mortgage Solutions, Inc. - To relocate mortgage broker's office from 6218 Old Franconia Road, Alexandria, VA to 6749 Anders Terrace, Springfield, VA

BAN20040329 Farmers Bank, Windsor, Virginia - To relocate office from 1238 Holland Road, Suite 104, Suffolk, VA to 1008 West Washington Street, Suffolk, VA

BAN20040330 Reliance Lending Inc. - To relocate mortgage lender broker's office from 7801 Bristow Drive, Annandale, VA to 7700 Little River Turnpike, Suite 201, Annandale, VA

BAN20040331 American Residential Funding, Inc. - To relocate mortgage lender broker's office from 314 Main Street, Clayton, NC to 8386-101 Six Forks Road, Raleigh, NC

BAN20040332 Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To relocate mortgage broker's office from 5533 NC Highway 42, West, Garner, NC to 100 Butternut Lane, Clayton, NC

BAN20040333 Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To relocate mortgage broker's office from 9351 Common Brook Road, Suites 203 and 205, Owings Mills, MD to 9351 Lakeside Drive, Suites 203 and 205, Owings Mills, MD

BAN20040334 Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To relocate mortgage broker's office from 1515 Mockingbird Lane, Suite 712, Charlotte, NC to 1917 West Innes Street, Suite 601, Salisbury, NC

BAN20040335 Skyline Financial Corp. - For a mortgage lender and broker license

BAN20040336 TMG Real Estate and Financial Services, LLC d/b/a First Omni Mortgage Lending - For a mortgage lender's license

BAN20040337 HomeTrust Mortgage, Inc. - For a mortgage broker's license

BAN20040338 Monarch Bank - To open a branch at 318 West 21st Street, Norfolk, VA

BAN20040339 Mortgage Resources and Insurance Services, Inc. - To relocate mortgage lender broker's office from 377 Carowinds Boulevard, Suite 204, Fort Mill, SC to 377 Carowinds Boulevard, Suite 101, Fort Mill, SC

BAN20040340 Nationwide Advantage Mortgage Company - To open a mortgage lender's office at One Nationwide Plaza, Columbus, OH

BAN20040341 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 102 Dunsmore Road, Verona, VA

BAN20040342 Universal Credit Corporation of VA d/b/a The Cash Company of Bristol, VA - To open a payday lender's office at 736 North Beaverdam Avenue, Suite B, Damascus, VA

BAN20040343 Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 822 Springvale Road, Great Falls, VA

BAN20040344 H&R Block Mortgage Corporation - To open a mortgage lender and broker's office at 23550 Center Ridge Road, Suite 7, West Lake, OH

BAN20040345 Latino Check Cashing ,LLC - To open a check casher at 5867 Columbia Pike, Falls Church, VA  
 BAN20040346 Foxchase Mortgage Corporation - For a mortgage broker's license  
 BAN20040347 Synergy Financial Management Corporation - For a mortgage broker's license  
 BAN20040348 Ameri Exchange Inc. - For a money order license  
 BAN20040349 Capital Center, L.L.C. d/b/a CapCenter - To open a mortgage lender and broker's office at 520 Eastpark Court, Sandston, VA  
 BAN20040350 Center Street Mortgage, LLC - To open a mortgage broker's office at 8075 Knightshades Drive, Manassas, VA  
 BAN20040351 Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To open a mortgage broker's office at 906 Main Street, Suite 210, Cincinnati, OH  
 BAN20040352 Fidelity Mortgage of Virginia Inc. (Used in VA by: Fidelity Mortgage Inc.) - To relocate mortgage lender broker's office from 8044 Montgomery Road, Suite 460, Cincinnati, OH to 9075 Centre Pointe Drive, Building 3, Suite 450, West Chester, OH  
 BAN20040353 American Mortgage Company of Kentucky, LLC - To relocate mortgage broker's office from 245 E. New Street, Suite 212, Kingsport, TN to 110 East Mountcastle Drive, Suite 4, Johnson City, TN  
 BAN20040354 Hazelwood Financial Services, Inc. - For a mortgage broker's license  
 BAN20040355 Charter Capital LLC - For a mortgage lender and broker license  
 BAN20040356 Consumer Plus Mortgage Corporation - For a mortgage broker's license  
 BAN20040357 RHR Mortgage of America, LLC d/b/a Barna Financial - For a mortgage lender and broker license  
 BAN20040358 NextDoor Mortgage Corporation - To relocate mortgage broker's office from 5699 Columbia Pike, Suite 201, Falls Church, VA to 7202 Arlington Boulevard, Suite 300, Falls Church, VA  
 BAN20040359 Noble & Noble Financial Associates, Inc. - To open a mortgage broker's office at 470-C S. Commerce Avenue, Front Royal, VA  
 BAN20040360 First Community Mortgage Inc. - To relocate mortgage broker's office from 8200 Professional Place, Suite 114, Lanham, MD to 8201 Corporate Drive, Suite 740, Landover, MD  
 BAN20040361 Nationwide Lending Corporation - To open a mortgage lender and broker's office at 8683 West Sahara Avenue, Suite 130, Las Vegas, NV  
 BAN20040362 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 3804-A Gunn Highway, Tampa, FL  
 BAN20040363 U.S. Funding Corporation - For a mortgage broker's license  
 BAN20040364 Peter M. Cutler d/b/a Proton Capital Group - For a mortgage broker's license  
 BAN20040365 Old Virginia Mortgage, Inc. - For a mortgage lender and broker license  
 BAN20040366 Old Dominion Mortgage, LLC - For a mortgage broker's license  
 BAN20040367 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 5994 W. Las Positas Boulevard, Suite 117, Pleasanton, CA  
 BAN20040368 Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To open a mortgage broker's office at 4201 North Damen Avenue, Chicago, IL  
 BAN20040369 Amerigroup Mortgage Corporation (Used in VA by: Mortgage Investors Corporation) - To open a mortgage lender's office at 4707 Distribution Drive, Tampa, FL  
 BAN20040370 Pinnacle Financial Corporation d/b/a Tristar Lending Group (In Certain Offices) - To open a mortgage lender and broker's office at 3501 East Frontage Road, Tampa, FL  
 BAN20040371 Alcova Mortgage LLC - To open a mortgage broker's office at 2965 Colonnade Drive, Suite 100, Roanoke, VA  
 BAN20040372 East West Mortgage Company, Inc. - To open a mortgage lender and broker's office at 13800 Coppermine Road, Suite 356, Herndon, VA  
 BAN20040373 Gateway Funding Diversified Mortgage Services, L.P. - To relocate mortgage lender's office from 500 Office Center Drive, Suite 325, Fort Washington, PA to 300 Welsh Road, Building 5, Horsham, PA  
 BAN20040374 Plaza Check Cashing, LLC - To open a check casher at 1658 Virginia Beach Boulevard, Virginia Beach, VA  
 BAN20040375 Sunset Mortgage Company L.P. - To open a mortgage lender and broker's office at 20010 Fisher Avenue, Unit E, Poolesville, MD  
 BAN20040376 Home Star Mortgage Services, LLC - To open a mortgage lender's office at 27442 Portola Parkway, Suite 140, Foothill Ranch, CA  
 BAN20040377 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To relocate mortgage lender broker's office from 593 Southlake Boulevard, Suite E, Richmond, VA to 301 Southlake Boulevard, Suite 101, Richmond, VA  
 BAN20040378 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 13007 Taxi Drive, Woodbridge, VA  
 BAN20040379 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 1360 Sarno Road, Suite C, Melbourne, FL  
 BAN20040380 AmTrust Mortgage Corporation - To open a mortgage lender's office at 11299 Owings Mills Boulevard, Owings Mills, MD  
 BAN20040381 Express Check Advance of Virginia, LLC d/b/a Express Check Advance - To open a payday lender's office at 1707 Parkview Drive, Chesapeake, VA  
 BAN20040382 Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To open a mortgage broker's office at 2444 Highway 120, Suite 203, Duluth, GA  
 BAN20040383 Executive Financial Services Company - For a mortgage broker's license  
 BAN20040384 USA Mortgage Funding, LLC - For a mortgage broker's license  
 BAN20040385 GMAC Mortgage Corporation d/b/a Ditech.Com - To open a mortgage lender and broker's office at 8093 Zepp Drive, King George, VA  
 BAN20040386 GMAC Mortgage Corporation d/b/a Ditech.Com - To open a mortgage lender and broker's office at 10507 Bent Tree Drive, Fredericksburg, VA  
 BAN20040387 Fast Payday Loans, Inc. - To open a payday lender's office at 8212 Centreville Road, Manassas, VA  
 BAN20040388 Fast Payday Loans, Inc. - To open a payday lender's office at 13700 Warwick Boulevard, Newport News, VA  
 BAN20040389 Home Loan Corporation - To open a mortgage lender and broker's office at 733 A and B East Market Street, Harrisonburg, VA  
 BAN20040390 Community Home Mortgage, LLC d/b/a Community Mortgage Group, LLC - To open a mortgage broker's office at 560 Neff Avenue, Suite 300, Harrisonburg, VA  
 BAN20040391 America's Mortgage Broker, L.L.C. d/b/a Affordable Home Funding - To relocate mortgage lender broker's office from 2635 Towngate Court, Richmond, VA to 107 West Broad Street, Suite 305, Richmond, VA  
 BAN20040392 Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To relocate mortgage broker's office from 14456 Old Mill Road, Suite 101, Upper Marlboro, MD to 9200 Basil Court, Suite 217, Largo, MD  
 BAN20040393 Beneficial Discount Co. of Virginia - To relocate mortgage lenders' office from Olde Towne Marketplace, Williamsburg, VA to 137 Monticello Avenue, Williamsburg Shopping Center, Williamsburg, VA

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BAN20040394	Beneficial Mortgage Co. of Virginia - To relocate mortgage lender broker's office from Olde Towne Marketplace, Williamsburg, VA to 137 Monticello Avenue, Williamsburg Shopping Center, Williamsburg, VA
BAN20040395	Beneficial Virginia Inc. - To relocate consumer finance office from Olde Towne Marketplace, Williamsburg, VA to 137 Monticello Avenue, Williamsburg Shopping Center, Williamsburg, VA
BAN20040396	Equity United Mortgage Corporation - To open a mortgage broker's office at 1420 Spring Hill Road, Suite 600, McLean, VA
BAN20040397	Northstar Lending, Inc. - To relocate mortgage broker's office from 337 Edwin Drive, Suite 200, Virginia Beach, VA to 4455 South Boulevard, Suite 330, Virginia Beach, VA
BAN20040398	NEHA Inc. d/b/a A1 Check Cashing - To open a check casher at 13666 Jefferson Davis Highway, Woodbridge, VA
BAN20040399	CFS Mortgage, Inc. (Used in VA by: Consolidated Financial Services, Inc.) - For a mortgage broker's license
BAN20040400	Peoples Trust Mortgage, LLC d/b/a Peoples Choice Mortgage - For additional mortgage authority
BAN20040401	Home Team Mortgage, Inc. - For a mortgage lender and broker license
BAN20040402	Newport News Shipbuilding Employees' Credit Union, Inc. - To open a credit union service office at 2425 Taylor Road, Chesapeake, VA
BAN20040403	Newport News Shipbuilding Employees' Credit Union, Inc. - To open a credit union service office at 1463 North Main Street, Suffolk, VA
BAN20040404	AmTrust Mortgage Corporation - To open a mortgage lender's office at 1853 Piedmont Road, Suite 205, Marietta, GA
BAN20040405	AmTrust Mortgage Corporation - To open a mortgage lender's office at 8 Reservoir Circle, Suite 200, Baltimore, MD
BAN20040406	Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To open a mortgage broker's office at 1899-C Billings Gate Circle, Richmond, VA
BAN20040407	NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 1000 Parkforty Plaza, Suite 300, Durham, NC
BAN20040408	NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 2332 D Street, Suite A, LaVerne, CA
BAN20040409	Gateway Funding Diversified Mortgage Services, L.P. - To open a mortgage lender's office at 4101 Cox Road, Suite 320, Glen Allen, VA
BAN20040410	Gateway Funding Diversified Mortgage Services, L.P. - To open a mortgage lender's office at 4330 Ridgewood Center Drive, Woodbridge, VA
BAN20040411	Q. C. & G. Financial, Inc. d/b/a Ace America's Cash Express - To open a payday lender's office at 3020 East Princess Anne Street, Norfolk, VA
BAN20040412	Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 8205 Spring Hill Lane, McLean, VA
BAN20040413	Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 11583 Lake Newport Road, Reston, VA
BAN20040414	Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To relocate mortgage broker's office from 4632-B South 36th Street, Arlington, VA to 262 Murtha Street, Alexandria, VA
BAN20040415	American Mortgage Express Corp. - To relocate mortgage lender broker's office from 1609 Vauxhall Road, Union, NJ to 100 Centre Boulevard, Suite 104, Marlton, NJ
BAN20040416	American Mortgage Express Corp. - To relocate mortgage lender broker's office from 377 Route 17 South, Suite 410, Hasbrouck Heights, NJ to 900 3rd Street, Neptune Beach, FL
BAN20040417	Madison Investment Advisors, LLC d/b/a Madison Mortgages - To open a mortgage broker's office at 3618 Brambleton Avenue, Suite C, Roanoke, VA
BAN20040418	Madison Investment Advisors, LLC d/b/a Madison Mortgages - To open a mortgage broker's office at 3 Boar's Head Lane, Suite D, Charlottesville, VA
BAN20040419	The New York Mortgage Company, LLC d/b/a mortgageline.com - To open a mortgage lender's office at 3929 Old Lee Highway, Fairfax, VA
BAN20040420	The New York Mortgage Company, LLC d/b/a mortgageline.com - To open a mortgage lender's office at 780 Lynnhaven Parkway, Suite 360, Virginia Beach, VA
BAN20040421	The New York Mortgage Company, LLC d/b/a mortgageline.com - To open a mortgage lender's office at 1919 Commerce Drive, Suite 230, Hampton, VA
BAN20040422	The New York Mortgage Company, LLC d/b/a mortgageline.com - To open a mortgage lender's office at One Research Court, Rockville, MD
BAN20040423	Ronald L. Price, Jr. d/b/a The Mortgage Center - To open a mortgage broker's office at 305 Harrison Street, Leesburg, VA
BAN20040424	ComUnity Lending, Incorporated d/b/a Virginia Community Lending (McLean, Reston and Virginia Beach) - To open a mortgage lender and broker's office at 2903 Aspen Drive, Suite A, Loveland, CO
BAN20040425	EVV Mortgage, LLC - For a mortgage lender and broker license
BAN20040426	Mortgage City Corporation - For a mortgage broker's license
BAN20040427	Real Estate Mortgage Network, Inc. - For a mortgage lender's license
BAN20040428	Branch Banking and Trust Company of Virginia - To open a branch at 2500 Valley Avenue, Winchester, VA
BAN20040429	The Bank of Marion d/b/a Tri-Cities Community Bank a branch of The Bank of Marion - To open a branch at 101 East Main Street, Marion, VA
BAN20040430	ComUnity Lending, Incorporated d/b/a Virginia Community Lending (McLean, Reston and Virginia Beach) - To open a mortgage lender and broker's office at 231 East Main Street, Suite 221, Round Rock, TX
BAN20040431	American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 121 N. 9th Street, DeKalb, IL
BAN20040432	K. Hovnanian American Mortgage, L.L.C. d/b/a Homebuyer's Mortgage (VA office only) - To open a mortgage lender and broker's office at 3501 Electronics Way, W. Palm Beach, FL
BAN20040433	Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To open a mortgage broker's office at 1200 Route 22, East, Suite 2000, Bridgewater, NJ
BAN20040434	NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 89 North Main Street, Medford, NJ
BAN20040435	Woodbury Mortgage Company, L.L.C. - To open a mortgage broker's office at 2358 Plank Road, Suite B, Fredericksburg, VA
BAN20040436	MortgageStar, Inc. - To open a mortgage lender and broker's office at 7110 Rock Ridge Lane, Suite E, Alexandria, VA
BAN20040437	MortgageStar, Inc. - To open a mortgage lender and broker's office at 2423 Maryland Avenue, Baltimore, MD
BAN20040438	Magsamen Incorporated d/b/a Covington Cash - To open a payday lender's office at 532 Main Street, Clifton Forge, VA
BAN20040439	Roy D. Hansen Mortgage Company, Inc. - To relocate mortgage broker's office from 6504 Virginia Hills Avenue, Alexandria, VA to 6032 Old Telegraph Road, Alexandria, VA
BAN20040440	Sunshine Mortgage Corporation - To relocate mortgage lender broker's office from 507 Ocean Boulevard, Suite 2, St. Simons Island, GA to 1331 Ocean Boulevard, Suite 103, St. Simons Island, GA

BAN20040441 Howard Voight d/b/a Neighborhood Check Exchange - To relocate payday lender's office from 2404 Princess Anne Road, Virginia Beach, VA to 3870 Holland Road, Virginia Beach, VA

BAN20040442 Summit Mortgage, LLC - For a mortgage lender and broker license

BAN20040443 Carsdirect Mortgage Services, Inc. - For a mortgage lender and broker license

BAN20040444 America First Mortgage, Inc. - For a mortgage broker's license

BAN20040445 The Mortgage Edge, Inc. - For a mortgage broker's license

BAN20040446 Home Star Mortgage Services, LLC - To open a mortgage lender's office at 111 Wood Avenue South, 1st Floor, Iselin, NJ

BAN20040447 WEI Mortgage Corporation - To relocate mortgage broker's office from 15200 Shady Grove Road, Suite 107, Rockville, MD to 15200 Shady Grove Road, Suite 206, Rockville, MD

BAN20040448 Tower Mortgage Corporation - To relocate mortgage broker's office from 6797 N. High Street, Suite 211, Worthington, OH to 5880 Cleveland Avenue, Columbus, OH

BAN20040449 Blue Ridge Mortgage Co. of Virginia (Used in VA by: Blue Ridge Mortgage Company, Inc.) - For a mortgage broker's license

BAN20040450 Republic Mortgage LLC - To open a mortgage lender and broker's office at 8955 E. Pinnacle Peak Road, Suite 103, Scottsdale, AZ

BAN20040451 AEGIS Wholesale Corporation - To open a mortgage lender's office at 2470 Windy Hill Road, Suite 305, Marietta, GA

BAN20040452 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 920 West Broad Street, Suite C, Falls Church, VA

BAN20040453 Primary Residential Mortgage, Inc. - To open a mortgage lender and broker's office at 2620 Regatta Drive, Suite 102, Las Vegas, NV

BAN20040454 Homestead Funding Corp. - To open a mortgage lender and broker's office at 4050 Innslake Drive, Suite 133, Glen Allen, VA

BAN20040455 Carol J. Summers t/a Summers Mortgage Services - To relocate mortgage broker's office from 529 S. Atlantic Avenue, Virginia Beach, VA to 5703 Ocean Front Avenue, Virginia Beach, VA

BAN20040456 DeepGreen Financial, Inc. - For a mortgage lender and broker license

BAN20040457 Topflight Mortgage, LLC - For a mortgage broker's license

BAN20040458 Piedmont Credit Union - To relocate credit union office from 306 Poplar Street, Danville, VA to 366 Piney Forest Road, Danville, VA

BAN20040459 New Horizon Credit Union - To open a credit union service office at 14419 Chantilly Crossing Lane, Chantilly, VA

BAN20040460 American Payment Holdco, Inc. - To acquire 25 percent or more of American Payment Systems, Inc.

BAN20040461 Heritage Mortgage Brokers, L.L.C. - To open a mortgage broker's office at 4422 Lafayette Boulevard, Fredericksburg, VA

BAN20040462 American Residential Funding, Inc. - To open a mortgage lender and broker's office at 5911 Heil Avenue, Suite B, Huntington Beach, CA

BAN20040463 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 1787 East Fort Union Boulevard, Suite 100, Salt Lake City, UT

BAN20040464 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 2501 E. Piedmont Road, Suite 201, Marietta, GA

BAN20040465 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 200 Garden City Plaza, Suite 505, Garden City, NY

BAN20040466 American Cash Center, Inc. (Used in VA by: B & L Management, Inc.) - To open a payday lender's office at 302 East Third Street, Farmville, VA

BAN20040467 Weststar Mortgage, Inc. - To open a mortgage lender and broker's office at 1320 Central Park Boulevard, Suite 211, Fredericksburg, VA

BAN20040468 U.S. Lending, LLC - To relocate mortgage broker's office from 6800 Backlick Road, Suite 204, Springfield, VA to 8344 Traford Lane, Springfield, VA

BAN20040469 Sterling Financial Corp. of Virginia - To relocate mortgage broker's office from 3536 Brambleton Avenue, S.W., Suite 5, Roanoke, VA to 4227 Colonial Avenue, Suite 1-A, Roanoke, VA

BAN20040470 Honduras Express Inc. - To open a check casher at 7018 Commerce Street, Springfield, VA

BAN20040471 Times Real Estate, Inc. d/b/a Times Finance - For a mortgage broker's license

BAN20040472 Nations Home Loans, LLC - For a mortgage broker's license

BAN20040473 Industrial Credit of Canada, Ltd. - For a mortgage lender and broker license

BAN20040474 Prescott Funding, LLC - For a mortgage lender's license

BAN20040475 Homequest Capital Funding, LLC - For a mortgage lender and broker license

BAN20040476 Cash Now, LLC - For a payday lender license

BAN20040477 Bank of the James Financial Group, Inc. - To acquire Bank of the James

BAN20040478 Sunset Mortgage Company L.P. - To open a mortgage lender and broker's office at 20010 Fisher Avenue, Unit B, Poolesville, MD

BAN20040479 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 1621 Columbia Boulevard, St. Helens, OR

BAN20040480 Benchmark Mortgage Inc. - To open a mortgage lender and broker's office at 4656 Honeygrove Road, Virginia Beach, VA

BAN20040481 Superior Lending, LLC - To relocate mortgage broker's office from 1144 Canton Street, Suite 208, Roswell, GA to 1080 Holcomb Bridge Road, Building 100, Suite 135, Roswell, GA

BAN20040482 Intercoastal Mortgage Company - To relocate mortgage lender broker's office from 11334 Lee Highway, Fairfax, VA to 45675 Terminal Drive, Sterling, VA

BAN20040483 Anthony B. Billue d/b/a Anthony B. Billue, C.P.A. - For a mortgage broker's license

BAN20040484 Millenium Mortgage LLC - For a mortgage broker's license

BAN20040485 Capital Markets LLC - For a mortgage broker's license

BAN20040486 Olympia Funding, Inc. - To open a mortgage broker's office at 5201 Apple Leaf Court, Richmond, VA

BAN20040487 Michael O. Crawford d/b/a Michael O. Crawford Financial Resources - To relocate mortgage broker's office from 9358 Main Street, Manassas, VA to 9420 Developers Drive, Manassas, VA

BAN20040488 Frank J. Weaver, Inc. d/b/a Atlantic Home Equity - To relocate mortgage lender broker's office from 110 Old Padonia Road, Suite 202, Cockeysville, MD to 170 Lakefront Drive, Hunt Valley, MD

BAN20040489 Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 406 Oakmears Crescent, Virginia Beach, VA

BAN20040490 Financial Exchange Company of Virginia, Inc. - To conduct a payday lending business where a tax preparation business will also be conducted

BAN20040491 Financial Resource Center, Inc. - For a mortgage broker's license

BAN20040492 Origen Financial, Inc. - To acquire 25 percent or more of Origen Financial L.L.C.

BAN20040493 Catocin Mortgage, L.L.C. - To open a mortgage broker's office at 7027 Manahoa Place, Gainesville, VA

BAN20040494 Pinnacle Financial Corporation d/b/a Tristar Lending Group (In Certain Offices) - To open a mortgage lender and broker's office at 7925 Jones Branch Drive, Suite 400, McLean, VA

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BAN20040495	Check Advance of Virginia, LLC d/b/a Pay Day USA - To open a payday lender's office at #2 Magic Mart Plaza, U.S. Route 460, Pearisburg, VA
BAN20040496	Check Advance of Virginia, LLC d/b/a Pay Day USA - To open a payday lender's office at 720 B East Riverside Drive, North Tazewell, VA
BAN20040497	Payday USA of Virginia, LLC d/b/a Payday USA - To open a payday lender's office at 4656 Princess Anne Road, Woodtide Shopping Center, Virginia Beach, VA
BAN20040498	Payday USA of Virginia, LLC d/b/a Payday USA - To open a payday lender's office at 105 Robeson Street, Farmville, VA
BAN20040500	Ngocdung Thi Vu - For a mortgage broker's license
BAN20040501	Backbay Holding Company, LLC d/b/a Backbay Mortgage Company - For a mortgage lender and broker license
BAN20040502	WMC Investment Corporation - To acquire 25 percent or more of WMC Mortgage Corp.
BAN20040503	America's Choice Mortgage, Inc. - For additional mortgage authority
BAN20040504	Union Bankshares Corporation - To acquire Guaranty Financial Corporation
BAN20040505	Primary Residential Mortgage, Inc. - To open a mortgage lender and broker's office at 13017 Taxi Drive, Dale City, VA
BAN20040506	American Business Mortgage Services, Inc. - To open a mortgage lender's office at 3168 Braverton Street, Suites 280-380, Edgewater, MD
BAN20040507	Realty Mortgage Corporation d/b/a RealNET Financial - To open a mortgage lender's office at 6440 Wasatch Boulevard, Suite 120, Salt Lake City, UT
BAN20040508	Bay Capital Corp. - To open a mortgage lender and broker's office at 5594 Backlick Road, 2nd Floor, Springfield, VA
BAN20040509	Nationwide Financial Corp. - To open a mortgage lender and broker's office at 12816 Poplar Creek Drive, Fairfax, VA
BAN20040510	AEGIS Wholesale Corporation - To open a mortgage lender's office at 6900 Wedgwood Road, Suite 145, Maple Grove, MN
BAN20040511	Madison Equities, Inc. - For a mortgage broker's license
BAN20040512	United States Mortgage and Finance, LLC - For a mortgage broker's license
BAN20040513	Amazon Mortgage & Financial, L.L.C. - For a mortgage broker's license
BAN20040514	Acclaimed Financial Group, Inc. - For a mortgage broker's license
BAN20040515	Douglas P. Sherman - To acquire 25 percent or more of Watermark Financial Partners, Inc.
BAN20040516	WECCU Credit Union - To open a credit union service office at 210 Westvaco Road, Low Moor, VA
BAN20040517	Southern Community Financial Corp. - To acquire Southern Community Bank & Trust, Midlothian, VA
BAN20040518	Olympic National Bancorp., Inc. (Used in VA by: Olympic National Bancorp.) d/b/a Olympic Ban - For a mortgage broker's license
BAN20040519	Green Leaf Mortgage Corp. - For a mortgage broker's license
BAN20040520	Woodbury Mortgage Company, L.L.C. - For additional mortgage authority
BAN20040521	Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 9200 Basil Court, Suite 100, Upper Marlboro, MD
BAN20040522	Community Development Group, Inc. of Delaware v/a Community Mortgage Company - To relocate mortgage broker's office from 7023 Little River Turnpike, Suite 300, Annandale, VA to 7900 Westpark Drive, McLean, VA
BAN20040523	CitiFinancial Services, Inc. - To conduct a consumer finance business where retail savings plans will be sold
BAN20040524	Commonwealth Mortgage Corporation - To open a mortgage broker's office at 51 Coaling Road, Troutville, VA
BAN20040525	Southern Star Mortgage Corp. - To open a mortgage lender and broker's office at 99 The Plaza, Atlantic Beach, NY
BAN20040526	Southern Star Mortgage Corp. - To open a mortgage lender and broker's office at 2380 Hempstead Turnpike, East Meadow, NY
BAN20040527	Southern Star Mortgage Corp. - To open a mortgage lender and broker's office at 360 Sunrise Highway, Suite B, West Babylon, NY
BAN20040528	Southern Star Mortgage Corp. - To open a mortgage lender and broker's office at 47 East Montauk Highway, Lindenhurst, NY
BAN20040529	Allstate Mortgage, Inc. - To open a mortgage broker's office at 13562 Jefferson Davis Highway, Suite 100, Woodbridge, VA
BAN20040530	P & P Financial Group, Inc. - To open a mortgage broker's office at 4231 Markham Street, Suite 203, Annandale, VA
BAN20040531	Potomac Lending LLC - To open a mortgage broker's office at 42 Carrollton Road, Sterling, VA
BAN20040532	River City Mortgage, L.L.C. - To relocate mortgage broker's office from 8002 Discovery Drive, Campbell Building, Richmond, VA to 9507 Hull Street Road, Rockwood Office Park, Suite A, Richmond, VA
BAN20040533	Sampson Mortgage, LLC - To relocate mortgage broker's office from 1151 Cavalier Boulevard, Portsmouth, VA to 2924 Aaron Drive, Chesapeake, VA
BAN20040534	Michael L. Shirley d/b/a Lighthouse World Mortgage Company - To relocate mortgage broker's office from 111 Ford Avenue, Suite 2, Kingsport, TN to 4041 Fort Henry Drive, Kingsport, TN
BAN20040535	Affordable Mortgage Corporation - To relocate mortgage broker's office from 7629 Williamson Road, Suite 7, Roanoke, VA to 6701 Peters Creek Road, Suite 111, Roanoke, VA
BAN20040536	MortgageStar, Inc. - To relocate mortgage lender broker's office from 300 Riverwood Court, Suite 202, Virginia Beach, VA to 1837 Mable Lane, Virginia Beach, VA
BAN20040537	MortgageStar, Inc. - To relocate mortgage lender broker's office from 4860 Cox Road, Suite 200, Glen Allen, VA to Hungarybrook Shopping Center, 1282 North Concord Avenue, Richmond, VA
BAN20040538	First Direct Mortgage, Inc. - To relocate mortgage broker's office from 481 Lynette Street, Gaithersburg, MD to 14804 Physicians Lane, Suite 121, Rockville, MD
BAN20040539	Continental Mortgage Corp. - To relocate mortgage lender broker's office from 8500 Leesburg Pike, Suite 203, Vienna, VA to 8521 Leesburg Pike, Suite 300, Vienna, VA
BAN20040540	Principal Residential Mortgage, Inc. - To relocate mortgage lender broker's office from 6000 Piazza Main Street, Suite 6012, Voorhees, NJ to 4 A Eves Drive, Suite 112, Marlton, NJ
BAN20040541	First Securities Financial Services, Inc. - For a mortgage broker's license
BAN20040542	City Wide Mortgage Limited Liability Company - For a mortgage broker's license
BAN20040543	Evergreen Services Inc. - To open a payday lender's office at 7400 Gainesville Village Square, Gainesville, VA
BAN20040544	Evergreen Services Inc. - To open a payday lender's office at 13734 Jefferson Davis Highway, Woodbridge, VA
BAN20040545	Evergreen Services Inc. - To open a payday lender's office at 10526 Lomond Drive, Manassas, VA
BAN20040546	Alcova Mortgage LLC - To open a mortgage broker's office at 4415 Pheasant Ridge Road, S.W., Suite 102, Roanoke, VA
BAN20040547	NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 300 East Business Way, Cincinnati, OH
BAN20040548	Homestead Funding Corp. - To open a mortgage lender and broker's office at 345 North Road, North Chelmsford, MA
BAN20040549	Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 1206 Laskin Road, Suite 208, Virginia Beach, VA
BAN20040550	Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 7611 Little River Turnpike, Suite 400W, Annandale, VA
BAN20040551	Primerica Financial Services Home Mortgages, Inc. - To relocate mortgage broker's office from 6495 New Hampshire Avenue, Hyattsville, MD to 9601 Baltimore Avenue, Suite A-4, College Park, MD



BAN20040552	Capital Financial Home Equity, LLC - To relocate mortgage lender broker's office from 392 Battlefield Boulevard, South, Suite 202, Chesapeake, VA to 870 Greenbrier Circle, Suite 200, Chesapeake, VA
BAN20040553	MortgageStar, Inc. - To relocate mortgage lender broker's office from 11454 Corinthia Court, Woodbridge, VA to 12067 Great Bridge Road, Woodbridge, VA
BAN20040554	Bernice B. Brown d/b/a Gemris Group - For a mortgage broker's license
BAN20040555	Brooks Financial Group, LLC - For a mortgage broker's license
BAN20040556	Atlantic Bay Mortgage Group, L.L.C. - To open a mortgage lender and broker's office at 612 Village Drive, Unit 32, Virginia Beach, VA
BAN20040557	Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 1760 Reston Parkway, Suite 306, Reston, VA
BAN20040558	Aggressive Mortgage Corp. - To open a mortgage broker's office at 916 West Broad Street, Falls Church, VA
BAN20040559	Aggressive Mortgage Corp. - To relocate mortgage broker's office from 14961 Washington Street, Haymarket, VA to 14945 Washington Street, Haymarket, VA
BAN20040560	Anykind Check Cashing, LC - To conduct a payday lending business where a tax preparation business will also be conducted
BAN20040561	TransCommunity Bankshares Incorporated - To acquire Bank of Louisa, N.A.
BAN20040562	WEI Mortgage Corporation - For additional mortgage authority
BAN20040563	Global Mortgage Group, Inc. - For additional mortgage authority
BAN20040564	Equity Consultants, LLC - For additional mortgage authority
BAN20040565	Federated First Mortgage Corporation d/b/a Fedfirst Mortgage Corporation - For a mortgage lender's license
BAN20040566	Douglas Mortgage LLC - For a mortgage broker's license
BAN20040567	Fidelity Mortgage Services, Inc. - To relocate mortgage broker's office from 5842 Hubbard Drive, Rockville, MD to 5828 Hubbard Drive, Rockville, MD
BAN20040568	ADCO Financial Mortgage Services, Inc. - To relocate mortgage lenders's office from 311 Day Avenue, Roanoke, VA to 331 King George Avenue, Suite A, Roanoke, VA
BAN20040569	Option One Mortgage Corporation - To relocate mortgage lender broker's office from 1600 Parkwood Circle, S.E., Suite 645, Atlanta, GA to 1600 Parkwood Circle, S.E., Suite 500, Atlanta, GA
BAN20040570	CUNA Mutual Mortgage Corporation - To open a mortgage lender's office at 8410 Murphy Drive, Middleton, WI
BAN20040571	Premium Capital Funding LLC d/b/a BLS Funding - To open a mortgage lender and broker's office at 1000 East Hillsboro Boulevard, Deerfield Beach, FL
BAN20040572	AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To open a mortgage broker's office at 11906 Manchester Road, Suite 107, St. Louis, MO
BAN20040573	AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To open a mortgage broker's office at 8940 Centerpointe Drive, Baldwinsville, NY
BAN20040574	Fast Payday Loans, Inc. - To open a payday lender's office at 1903 South Main Street, Harrisonburg, VA
BAN20040575	Fast Payday Loans, Inc. - To open a payday lender's office at 1401 South Military Highway, Chesapeake, VA
BAN20040576	Fast Payday Loans, Inc. - To open a payday lender's office at 4320 Virginia Beach Boulevard, Virginia Beach, VA
BAN20040577	Fast Payday Loans, Inc. - To open a payday lender's office at 533 East Little Creek Road, Suite A, Norfolk, VA
BAN20040578	Fast Payday Loans, Inc. - To open a payday lender's office at 3802 Mount Vernon Avenue, Alexandria, VA
BAN20040579	Financial Exchange Company of Virginia, Inc. - To conduct a payday lending business where an electronic tax filing business will also be conducted
BAN20040580	Bank of Virginia - To open a branch at 11730 Hull Street Road, Midlothian, VA
BAN20040581	Mortgage Professionals of Virginia, LLC - For a mortgage broker's license
BAN20040582	Johnson David Lewis - To acquire 25 percent or more of U.S. Lending, LLC
BAN20040583	Southern Star Mortgage Corp. - To open a mortgage lender and broker's office at 99 Jericho Turnpike, Suite 200, Jericho, NY
BAN20040584	Fortune Mortgage Company d/b/a BORROW123.COM - To open a mortgage lender and broker's office at 5515 Cherokee Avenue, Suite 402, Alexandria, VA
BAN20040585	Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 491 1/2 East Waterloo Road, Suite 100, Akron, OH
BAN20040586	Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 3195 Old Washington Road, Waldorf, MD
BAN20040587	Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 6021 University Boulevard, Suite 230, Ellicott City, MD
BAN20040588	ComUnity Lending, Incorporated d/b/a Virginia Community Lending (McLean, Reston and Virginia Beach) - To open a mortgage lender and broker's office at 6153 Fairmont Avenue, Suite 204, San Diego, CA
BAN20040589	Alexander S. Ramsay, III d/b/a RamsCourt Mortgage - To relocate mortgage broker's office from 1001 Charles Street, Fredericksburg, VA to 2001 Lafayette Boulevard, Fredericksburg, VA
BAN20040590	MortgageTree Lending Corporation (Used in VA by: MortgageTree Lending) - To open a mortgage lender's office at 620 S. Main Street, Bel Air, MD
BAN20040591	Citywide Mortgage Corporation - To open a mortgage lender and broker's office at 100 Carpenter Drive, Suite 205, Sterling, VA
BAN20040592	American Residential Funding, Inc. - To open a mortgage lender and broker's office at 100 North Washington Street, Suite 208, Falls Church, VA
BAN20040593	Advance America, Cash Advance Centers of Virginia, Inc. d/b/a Advance America, Cash Advance Centers - To open a payday lender's office at 9502 Chamberlayne Road, Suite 16, Mechanicsville, VA
BAN20040594	Advance America, Cash Advance Centers of Virginia, Inc. d/b/a Advance America, Cash Advance Centers - To open a payday lender's office at 5556 Staples Mill Place, Suite C, Woodbridge, VA
BAN20040595	Advance America, Cash Advance Centers of Virginia, Inc. d/b/a Advance America, Cash Advance Centers - To open a payday lender's office at 3071 Lauderdale Drive, Richmond, VA
BAN20040596	Advance America, Cash Advance Centers of Virginia, Inc. d/b/a Advance America, Cash Advance Centers - To open a payday lender's office at 6278 A Arlington Bouevard, Falls Church, VA
BAN20040597	Pinnacle Mortgage Company USA (Used in VA by: Pinnacle Mortgage Company) - For a mortgage lender's license
BAN20040598	Chong H. Kim d/b/a W & M Market - To open a check casher at 930 W. Pembroke Avenue, Hampton, VA
BAN20040599	Elsa Barahona d/b/a Elsa's Jewelry - To open a check casher at 4010 Meadowdale Boulevard, Richmond, VA
BAN20040600	Prime Care Credit Union, Incorporated - To open a credit union service office at 830 Kempsville Road, Sentara Leigh Hospital, Norfolk, VA
BAN20040601	Aggressive Mortgage Corp. - For additional mortgage authority

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BAN20040602 Market Mortgage Inc. (Used in VA by: Superior Mortgage Inc.) - To open a mortgage broker's office at 430 First Avenue, North, Suite 216, Minneapolis, MN

BAN20040603 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 135 Hanbury Road, Suite A, Chesapeake, VA

BAN20040604 CH Mortgage Services, LLC - To open a mortgage lender and broker's office at 3302 Wyndham Circle, Alexandria, VA

BAN20040605 O'Neill Mortgage Corporation - To relocate mortgage lender broker's office from 108 Second Street, N.E., Charlottesville, VA to 408 E. Market Street, Unit 204, Charlottesville, VA

BAN20040606 Capital Financial Inc. - To relocate mortgage lender broker's office from 10304 Shesue Street, Great Falls, VA to 8300 Boone Boulevard, Suite 500, Vienna, VA

BAN20040607 Monroe Mortgage Inc. - To relocate mortgage broker's office from 184 Business Park Drive, Suite 207, Virginia Beach, VA to 1001 Timber Neck Mall, Chesapeake, VA

BAN20040609 NovaStar Home Mortgage, Inc. - To relocate mortgage lender broker's office from 3009 Wildflower Drive, La Plata, MD to 102 Centennial Street, Suite 103, La Plata, MD

BAN20040610 Equitable Trust Mortgage Corporation - For a mortgage lender and broker license

BAN20040611 First American Mortgage Trust - For a mortgage lender's license

BAN20040612 Virginia Mortgage Associates, Inc. - For a mortgage broker's license

BAN20040613 Scott Jay Eisgrau - To acquire 25 percent or more of American Home Loan, Inc.

BAN20040614 The South Financial Group, Inc. - To acquire Community National Bank, Pulaski

BAN20040615 Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To open a mortgage lender and broker's office at 1904 Byrd Avenue, Suite 337, Richmond, VA

BAN20040616 Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To open a mortgage lender and broker's office at 2019 Cunningham Drive, Suite 218A, Hampton, VA

BAN20040617 Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To open a mortgage lender and broker's office at 101 Pelham Commons Boulevard, Greenville, SC

BAN20040618 Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To open a mortgage lender and broker's office at 1400 Rockville Pike, Rockville, MD

BAN20040619 Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To open a mortgage lender and broker's office at 1289 Browns Mill Court, Herndon, VA

BAN20040620 Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To open a mortgage lender and broker's office at 3113 W. Marshall Street, Suite 2F, Richmond, VA

BAN20040621 Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To relocate mortgage lender broker's office from 8494 Charnwood Court, Manassas, VA to 9300 Peabody Street, Suite 206, Manassas, VA

BAN20040622 Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To relocate mortgage lender broker's office from 4873 S. Oliver Drive, Suite 101, Virginia Beach, VA to 621 Lynnhaven Parkway, Suite 260, Virginia Beach, VA

BAN20040623 Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To relocate mortgage lender broker's office from 1301 Seminole Boulevard, Suite 140, Largo, FL

BAN20040624 Mortgage Lenders of America, L.L.C. - To relocate a mortgage lender broker's office from 1200 Woodruff Road, Suite A-3, Greenville, SC to 1200 Woodruff Road, Suite H-5, Greenville, SC

BAN20040625 Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 10440 Little Patuxent Parkway, Suite 300, Columbia, MD

BAN20040626 Primary Residential Mortgage, Inc. - To open a mortgage lender and broker's office at 9011 Arboretum Parkway, Richmond, VA

BAN20040627 Primary Residential Mortgage, Inc. - To open a mortgage lender and broker's office at 8000 Corporate Center Drive, Suite 115, Charlotte, NC

BAN20040628 Coastal Capital Corp. - To open a mortgage lender and broker's office at 1700 Galloping Hill Road, 2nd Floor, Kenilworth, NJ

BAN20040629 Allied Home Mortgage Capital Corporation - To open a mortgage lender and broker's office at 3809 Faragut Avenue, Suite 201, Kensington, MD

BAN20040630 Allied Home Mortgage Capital Corporation - To open a mortgage lender and broker's office at 33 Kensington Parkway, Suite 25, Abingdon, MD

BAN20040631 ComUnity Lending, Incorporated d/b/a Virginia Community Lending (McLean, Reston and Virginia Beach) - To open a mortgage lender and broker's office at 6046 Cornerstone Court, West, Suite 214, San Diego, CA

BAN20040632 M-Point Mortgage Services, LLC - To relocate mortgage lender broker's office from 751 Miller Drive, Suite D-2, Leesburg, VA to 2 Pidgeon Hill Dr., Suite 340, Office #14, Sterling, VA

BAN20040633 Delwar, Inc. d/b/a Metro Check Cashers Plus - To open a check casher at 7251 Maple Place, Annandale, VA

BAN20040634 Oh. J Market Corporation - To open a check casher at 920 Kecoughtan Road, Hampton, VA

BAN20040635 M-Point Mortgage Services, LLC - To open a mortgage lender and broker's office at 2217 Princess Anne Street, Suite 218-1, Fredericksburg, VA

BAN20040636 Centex Home Equity Company, LLC - To relocate mortgage lender broker's office from 185 Plains Road, Suite 301W, Milford, CT to 476 Wheelers Farm Road, 1st Floor, Milford, CT

BAN20040637 Financial Mortgage, Inc. - To open a mortgage lender and broker's office at 21135 Whitfield Place, Unit 207, Sterling, VA

BAN20040638 Founders Mortgage Group Incorporated - For a mortgage broker's license

BAN20040639 Charter Mortgage LLC - For a mortgage broker's license

BAN20040640 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 1560 Sawgrass Corporate Parkway, 4th Floor, Sunrise, FL

BAN20040641 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 302 North Main Street, Suffolk, VA

BAN20040642 New Century Mortgage Corporation d/b/a Home123 Corporation (In Certain Offices) - To open a mortgage lender and broker's office at 630 Freedom Business Center, 3rd Floor, King of Prussia, PA

BAN20040643 Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 304 Wooster Street, Marietta, OH

BAN20040644 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To relocate mortgage lender broker's office from 301 Mallory Station Road, Suite B, Franklin, TN to 109 Holiday Court, Unit D-9, Franklin, TN

BAN20040645 Amerigroup Mortgage Corporation (Used in VA by: Mortgage Investors Corporation) - To relocate mortgage lender's office from 7310 Ritchie Highway, Suite 414, Glen Burnie, MD to 9841 Broken Land Parkway, Suite 208, Columbia, MD

BAN20040646 Maniflo Money Exchange Inc. - For a money order license

BAN20040647 Dollar Wise Mortgage Corporation - For a mortgage broker's license

BAN20040648 Black & Grey Corporation - For a mortgage broker's license

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BAN20040649 Capital Mortgage LLC - For a mortgage broker's license  
 BAN20040650 ECI Loan.com, Inc. (Used in VA by: Equity Concepts, Inc.) - For a mortgage lender and broker license  
 BAN20040651 Avantor Capital LLC - For a mortgage lender's license  
 BAN20040652 Aurora Mortgage LLC - For additional mortgage authority  
 BAN20040653 Highlands Community Bank - To open a branch at 1501 Main Street, Clifton Forge, VA  
 BAN20040654 First Guaranty Mortgage Corporation d/b/a Broker's Edge Lending (In Certain Offices) - To open a mortgage lender and broker's office at 5303 Spectrum Drive, Suite D, Frederick, MD  
 BAN20040655 Sampson Mortgage, LLC - To relocate mortgage broker's office from 1315 S. Glenburnie Road, Suite C-13, New Bern, NC to 313 Clifton Street, Suite G, Greenville, NC  
 BAN20040656 American Eagle Mortgage Corporation - To open a mortgage broker's office at 494 Franklin Avenue, Suite 101, Palmerton, PA  
 BAN20040657 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 3330 Cumberland Boulevard, Suite 500, Atlanta, GA  
 BAN20040658 Atlantic Bay Mortgage Group, L.L.C. - To open a mortgage lender and broker's office at 612 Village Drive, Unit 126, Virginia Beach, VA  
 BAN20040659 American Cash Exchange Enterprise of Virginia, L.L.C. - To conduct a payday lending business where prepaid cell phone service will be sold  
 BAN20040660 American Cash Exchange Enterprise of Virginia, L.L.C. - To conduct a payday lending business where prepaid internet service will be sold  
 BAN20040661 Bunny's Pawn Shop, Incorporated - To open a check casher at 111 W. Washington Street, Suffolk, VA  
 BAN20040662 ABC Mortgage Corporation - For a mortgage lender and broker license  
 BAN20040663 Homeowners Mortgage Enterprises, Inc. - For a mortgage lender's license  
 BAN20040664 Bourdeau Financial Inc. - For a mortgage broker's license  
 BAN20040665 Michael R. Berte - To acquire 25 percent or more of Home Capital, Inc.  
 BAN20040666 Advance America, Cash Advance Centers of Virginia, Inc. d/b/a Advance America, Cash Advance Centers - To open a payday lender's office at 5760 Northampton Boulevard, Suite 106, Virginia Beach, VA  
 BAN20040667 Advance America, Cash Advance Centers of Virginia, Inc. d/b/a Advance America, Cash Advance Centers - To open a payday lender's office at 10158 West Broad Street, Suite 10, Glen Allen, VA  
 BAN20040668 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 2121 Dove Ridge Drive, Virginia Beach, VA  
 BAN20040669 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 7605 Sheffield Village Lane, Lorton, VA  
 BAN20040670 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 15825 Crabbs Branch Way, Suite 100, Rockville, MD  
 BAN20040671 Southern Star Mortgage Corp. - To open a mortgage lender and broker's office at 1981 Marcus Avenue, Suite 140, Lake Success, NY  
 BAN20040672 MortgageStar, Inc. - To open a mortgage lender and broker's office at 3824 Larchwood Drive, Virginia Beach, VA  
 BAN20040673 New Century Mortgage Corporation d/b/a Home123 Corporation (In Certain Offices) - To open a mortgage lender and broker's office at 4300 Marketpointe Drive, Suite 560, Bloomington, MN  
 BAN20040674 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 4547 Everhard Road, N.W., North Canton, OH  
 BAN20040675 The Money Centre, LTD. - To relocate mortgage broker's office from 212 W. Main Street, Suite 204 B, Salisbury, MD to 100 North Division Street, Salisbury, MD  
 BAN20040676 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To relocate mortgage lender broker's office from 11540 N. Community House Road, Charlotte, NC to 7239 Pineville Matthews Road, Suite 100, Building D, Charlotte, NC  
 BAN20040677 PPTC, L.L.C. - To establish a private trust company  
 BAN20040678 CapitalMAC, LLC - For a mortgage broker's license  
 BAN20040679 First Interstate Financial Corp. - For a mortgage lender and broker license  
 BAN20040680 Allegiance Mortgage Services LLC - For a mortgage broker's license  
 BAN20040681 Silver Construction Capital, L.L.C. - To open a mortgage lender and broker's office at 1182 Martinsburg Pike, Office Suite Two, Winchester, VA  
 BAN20040682 Fieldstone Mortgage Company d/b/a Broad Street Mortgage Co. - To open a mortgage lender and broker's office at 5825 Allentown Road, Camp Springs, MD  
 BAN20040683 ComUnity Lending, Incorporated d/b/a Virginia Community Lending (McLean, Reston and Virginia Beach) - To open a mortgage lender and broker's office at 204 E. Arlington Boulevard, Suite M, Greenville, NC  
 BAN20040684 Home Loan Corporation - To open a mortgage lender and broker's office at 2350 North Belt East, Suite 850, Houston, TX  
 BAN20040685 Weststar Mortgage, Inc. - To open a mortgage lender and broker's office at 10300 Spotsylvania Avenue, Fredericksburg, VA  
 BAN20040686 First Choice Financial Corporation of Georgia (Used in VA by: First Choice Financial Corporation) - To open a mortgage broker's office at 3473 Satellite Boulevard, Suite 200, Duluth, GA  
 BAN20040687 Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 1738 Elton Road, Suite 220, Silver Spring, MD  
 BAN20040688 Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To open a mortgage lender and broker's office at 505 S. Independence Boulevard, Suite 202, Virginia Beach, VA  
 BAN20040689 Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To open a mortgage lender and broker's office at 8428 Page Boulevard, St. Louis, MO  
 BAN20040690 Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To open a mortgage lender and broker's office at 200 High Street, Suite 402, Portsmouth, VA  
 BAN20040691 Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To open a mortgage lender and broker's office at 7771 Roseberry Farm Drive, Manassas, VA  
 BAN20040692 Wilmington Finance, Inc. - To relocate mortgage lender broker's office from 6258 Preston Avenue, Livermore, CA to 7455 Longard Road, Livermore, CA  
 BAN20040693 H&R Block Mortgage Corporation - To relocate mortgage lender broker's office from 7702 Woodland Center Boulevard, Suite 100, Tampa, FL to 4520 Seedling Circle, Tampa, FL  
 BAN20040694 Patriot Mortgage LLC - To relocate mortgage broker's office from 14890 Washington Street, Haymarket, VA to 213 South King Street, Leesburg, VA  
 BAN20040695 Weststar Mortgage, Inc. - To open a mortgage lender and broker's office at 206-C Temple Avenue, Colonial Heights, VA

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BAN20040696 FesteCapital Mortgage Ltd. - For a mortgage broker's license  
 BAN20040697 Innovex Mortgage, Inc. - For a mortgage lender and broker license  
 BAN20040698 Flaherty Financial, Inc. - For a mortgage broker's license  
 BAN20040699 Fast Payday Loans, Inc. - To open a payday lender's office at 7445 Tidewater Drive, Norfolk, VA  
 BAN20040700 Fast Payday Loans, Inc. - To open a payday lender's office at 1420 Armory Drive, Franklin, VA  
 BAN20040701 Fast Payday Loans, Inc. - To open a payday lender's office at 5200 George Washington Highway, Portsmouth, VA  
 BAN20040702 Primary Residential Mortgage, Inc. - To relocate mortgage lender broker's office from 6200 Blue Sage Lane, Upper Marlboro, MD to 9200 Basil Court, Suite 217, Largo, MD  
 BAN20040703 AEGIS Wholesale Corporation - To open a mortgage lender's office at 10220 S.W. Greenburg Road, Suite 320, Portland, OR  
 BAN20040704 MortgageStar, Inc. - To open a mortgage lender and broker's office at 1050 Temple Avenue, Colonial Heights, VA  
 BAN20040705 East West Mortgage Company, Inc. - To open a mortgage lender and broker's office at 380 Maple Avenue, Suite 302B, Vienna, VA  
 BAN20040706 Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To open a mortgage lender and broker's office at 7260 Beverly Manor Drive, Annandale, VA  
 BAN20040707 American Internet Mortgage, Inc. d/b/a AimLoan.com - For a mortgage lender and broker license  
 BAN20040708 Loudoun Lenders LLC - To open a mortgage broker's office at 3273 Dutchmill Court, Oakton, VA  
 BAN20040709 Loan America, Inc. - To open a mortgage lender and broker's office at 1590 N. Roberts Road, Suite 307, Kennesaw, GA  
 BAN20040710 Atlantic Bay Mortgage Group, L.L.C. - To open a mortgage lender and broker's office at 4010 Wake Forest Road, Raleigh, NC  
 BAN20040711 Cornerstone Mortgage, Inc. - To open a mortgage broker's office at 6300 Corbin Woods Court, Haymarket, VA  
 BAN20040712 DL King, LLC d/b/a King\$ Ca\$h Advance\$ - To open a payday lender's office at 23208 Airport Street, Petersburg, VA  
 BAN20040713 Optimum Mortgage Group, LLC - To open a mortgage lender and broker's office at 1200 Haywood Road, Greenville, SC  
 BAN20040714 Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To open a mortgage lender and broker's office at 10891 Alyssa Lane, Waldorf, MD  
 BAN20040715 Guardian Loan Company of Massapequa, Inc. - To open a mortgage lender's office at 49 River Street, Milford, CT  
 BAN20040716 AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To open a mortgage broker's office at 749 Illine Drive, Monroeville, PA  
 BAN20040717 Jon Julian t/a Mortgage Funding of Virginia - To relocate mortgage broker's office from 696 Warrenton Road, Fredricksburg, VA to 9623 Post Oak Road, Spotsylvania, VA  
 BAN20040718 Accredited Home Lenders, Inc. - To open a mortgage lender's office at 8200 Preston Court, Suite 1, Jessup, MD  
 BAN20040719 Accredited Home Lenders, Inc. - To open a mortgage lender's office at 790 The City Drive, Suite 200, Orange, CA  
 BAN20040720 Accredited Home Lenders, Inc. - To open a mortgage lender's office at 16550 West Bernardo Drive, San Diego, CA  
 BAN20040721 Accredited Home Lenders, Inc. - To open a mortgage lender's office at 17089 Via Del Campo, 2nd Floor, San Diego, CA  
 BAN20040722 Accredited Home Lenders, Inc. - To open a mortgage lender's office at 12310 World Trade Drive, Suite 101, San Diego, CA  
 BAN20040723 Accredited Home Lenders, Inc. - To relocate mortgage lender's office from 80 Orville Drive, Suite 100, Bohemia, NY to 1300 Veterans Memorial Highway, Suite 300, Hauppauge, NY  
 BAN20040724 Trian, LLC - For a mortgage lender's license  
 BAN20040725 Marely Mortgage, Inc. - For a mortgage broker's license  
 BAN20040726 Magellan Capital Mortgage, LLC - To open a mortgage broker's office at 1056 Mycroft Court, Sterling, VA  
 BAN20040727 Equity United Mortgage Corporation - To open a mortgage broker's office at 11260 Roger Bacon Drive, Suite 404, Reston, VA  
 BAN20040728 CMG Mortgage, Inc. d/b/a Pacific Guarantee Mortgage - To open a mortgage lender and broker's office at 1032 West North Street, Morristown, TN  
 BAN20040729 Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 12721 Darby Brooke Court, Suite 202, Woodbridge, VA  
 BAN20040730 Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 6901 Old Keene Mill Road, Springfield, VA  
 BAN20040731 Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 11006 West Broad Street, Richmond, VA  
 BAN20040732 American Residential Funding, Inc. - To open a mortgage lender and broker's office at 16141 Swingley Ridge Road, Suite 109, Chesterfield, MO  
 BAN20040733 Home Acceptance Corporation - To relocate mortgage broker's office from 4502 Starkey Road, S.W., Suite 8, Roanoke, VA to 5711 Peters Creek Road, Suite 200, Roanoke, VA  
 BAN20040734 Guardian Mortgage Partners, LLC - For a mortgage broker's license  
 BAN20040735 Star Mortgage, Inc. - For a mortgage broker's license  
 BAN20040736 Southern Star Mortgage Corp. - To open a mortgage lender and broker's office at 1047 West Montauk Highway, West Babylon, NY  
 BAN20040737 Southeast Funding, Inc. d/b/a Chesapeake Bay Mortgage Funding - To relocate mortgage broker's office from 1520 Stone Moss Court, Suite 303, Virginia Beach, VA to 4068 Lake Ridge Circle, Virginia Beach, VA  
 BAN20040738 Capital Financial Home Equity, LLC - To open a mortgage lender and broker's office at 10 Dunn Circle, Hampton, VA  
 BAN20040739 NewStar Mortgage, Inc. - For a mortgage broker's license  
 BAN20040740 Veterans Home Mortgage, Inc. - For a mortgage broker's license  
 BAN20040741 J.T. Ferrick Mortgage LLC - To relocate mortgage broker's office from 13712 Frankford Circle, Suite 100, Centreville, VA to 6811 Hartwood Lane, Centreville, VA  
 BAN20040742 J.T. Ferrick Mortgage LLC - To open a mortgage broker's office at 3700 Andover Lane, Fredericksburg, VA  
 BAN20040743 Primary Residential Mortgage, Inc. - To open a mortgage lender and broker's office at 470 South 900 East, Suite 250, Salt Lake City, UT  
 BAN20040744 Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 1540 Apperson Drive, Salem, VA  
 BAN20040745 Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To open a mortgage lender and broker's office at 220-A Outlet Pointe Boulevard, Columbia, SC  
 BAN20040746 Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To open a mortgage lender and broker's office at 2315 Alstead Lane, Bowie, MD  
 BAN20040747 Peoples Bank of Virginia - To open a branch at 14431-14441 Sommerville Court, Midlothian, VA  
 BAN20040748 Accurate Mortgage, Inc. - For a mortgage broker's license  
 BAN20040749 Frontline Lending Corporation - For a mortgage lender and broker license  
 BAN20040750 MicroFinance International Corporation - For a money order license  
 BAN20040751 Michael Allen Karp - To acquire 25 percent or more of Gateway Funding Diversified Mortgage Services, L.P.  
 BAN20040752 Catinella Family Partnership - To acquire 25 percent or more of Gateway Funding Diversified Mortgage Services, L.P.  
 BAN20040753 Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 6329 Halsey Road, McLean, VA

BAN20040754 QC Financial Services, Inc. d/b/a Quik Cash - To open a payday lender's office at 731-F J. Clyde Morris Boulevard, Newport News, VA

BAN20040755 Advisa Mortgage Corporation - To relocate mortgage broker's office from 1951-H Evelyn Byrd Avenue, Harrisonburg, VA to 4104 Quarles Court, Harrisonburg, VA

BAN20040756 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at Five Concourse Parkway, Suite 3000, Atlanta, GA

BAN20040757 Dynamic Funding, Inc. - For a mortgage lender and broker license

BAN20040758 American General Financial Services (NC), Inc. (Used in VA by: American General Financial Services, Inc.) - For a mortgage lender's license

BAN20040759 Franklin Financial Group Inc. - For a mortgage broker's license

BAN20040760 Tailwind Mortgage, LLC - For a mortgage broker's license

BAN20040761 USA Patriot Mortgage LLC - For a mortgage broker's license

BAN20040762 Coastal First Mortgage, Inc. - For a mortgage broker's license

BAN20040763 TransStar Corporation d/b/a TransStar Financial Services - For a mortgage broker's license

BAN20040764 James Monroe Bank - To open a branch at 7900 Sudley Road, Prince William County, VA

BAN20040765 Granite City Mortgage, Incorporated - For a mortgage broker's license

BAN20040766 First Washington Mortgage LLC - For a mortgage broker's license

BAN20040767 Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To open a mortgage broker's office at 950 N. Milwaukee Avenue, Glenview, IL

BAN20040768 Southern Star Mortgage Corp. - To open a mortgage lender and broker's office at 300 Wheeler Road, Suite 201, Hauppauge, NY

BAN20040769 Equity United Mortgage Corporation - To open a mortgage broker's office at 8252 Red Carnation Court, Lorton, VA

BAN20040770 GMAC Mortgage Corporation d/b/a Ditech.Com - To open a mortgage lender and broker's office at 143 Beaver Dam Reach, Rehoboth Beach, DE

BAN20040771 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To relocate mortgage lender broker's office from 13007 Taxi Drive, Woodbridge, VA to 12700 Black Forest Lane, Woodbridge, VA

BAN20040772 Premier Mortgage Funding, Inc. - To relocate mortgage broker's office from 3004 Berkmar Drive, Charlottesville, VA to 125 Riverbend Drive, Suite 2, Charlottesville, VA

BAN20040773 Montgomery Capital Mortgage Corporation (Used in VA by: Montgomery Capital Corporation) - To relocate mortgage broker's office from 2 East Rolling Crossroads, Suite 259, Catonsville, MD to 7004 Security Boulevard, Suite 210, Windsor Mill, MD

BAN20040774 CashNet, Inc. d/b/a Cash Advance Centers - To relocate a payday lender's office from 56 South Gate Square, Colonial Heights, VA to 4924-B Chamberlayne Avenue, Richmond, VA

BAN20040775 Advantage Funding, LLC - For a mortgage broker's license

BAN20040776 Universal Mortgages, LLC - For a mortgage broker's license

BAN20040777 A.A. Financial & Mortgage, Inc. - To open a mortgage broker's office at 464 Herndon Parkway, Suites 117 and 118, Herndon, VA

BAN20040778 Heritage Mortgage Brokers, L.L.C. - To open a mortgage broker's office at 9420 Developers Drive, Manassas, VA

BAN20040779 Bridge Capital Corporation - To open a mortgage lender and broker's office at 1124 W. South Jordan Parkway, Suite B, South Jordan, UT

BAN20040780 U.S. Mortgage Corporation of Virginia (Used in VA by: U.S. Mortgage Corporation) - To open a mortgage lender and broker's office at 260 West Main Street, Bayshore, NY

BAN20040781 AEGIS Wholesale Corporation - To open a mortgage lender's office at 2701 Troy Center Drive, Suite 460, Troy, MI

BAN20040782 American Nationwide Mortgage Company, Inc. - To open a mortgage lender and broker's office at 3864 Center Road, Suites A-11 and A-12, Brunswick Hills, OH

BAN20040783 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 5101 River Road, Suite 103, Bethesda, MD

BAN20040784 Advance America, Cash Advance Centers of Virginia, Inc. d/b/a Advance America, Cash Advance Centers - To open a payday lender's office at 6325 Multiplex Drive, Centreville, VA

BAN20040785 Capital Assets Financial, Inc. - To relocate mortgage broker's office from 15014 Washington Street, Haymarket, VA to 6630 Jefferson Street, Suite 7, Haymarket, VA

BAN20040786 Global Service Enterprises, Inc. d/b/a Global Financial Services - To relocate mortgage broker's office from 5540 Connecticut Avenue N.W., Suite. 200, Washington, DC to 6931 Arlington Boulevard, Suite 501, Bethesda, MD

BAN20040787 America's Mortgage Broker, L.L.C. d/b/a Affordable Home Funding - To relocate mortgage lender broker's office from 215 Regents Park, Stockbridge, GA to 78 Atlanta Street, Suite 104, McDonough, GA

BAN20040788 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 211 Broadway, Methuen, MA

BAN20040789 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 3601 W. Alexis Road, Suite 215, Toledo, OH

BAN20040790 Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 5020 Nicholson Court, Suite 210, Kensington, MD

BAN20040791 First County Mortgage Services Incorporated - To open a mortgage lender and broker's office at 4000 Horizon Way, Irving, TX

BAN20040792 Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 4954 Sunset Lane, Annandale, VA

BAN20040793 New Peoples Bank, Inc. - To open a branch at 2302 Second Street, Richlands, VA

BAN20040794 First County Mortgage Services Incorporated - To open a mortgage lender and broker's office at 1555 W. Walnut Hill Lane, Irving, TX

BAN20040795 Commonsense Mortgage Inc. d/b/a First Solution Lending - For additional mortgage authority

BAN20040796 Myers Park Mortgage, Inc. - For a mortgage lender's license

BAN20040797 Avid Financial Group, Inc. (Used in VA by: Avid Mortgage, Inc.) - For a mortgage broker's license

BAN20040798 Eagle Fidelity, Inc. - For a money order license

BAN20040799 Wilmington Finance, Inc. - To open a mortgage lender and broker's office at 262 Chapman Road, Suite 200, Newark, DE

BAN20040800 ComUnity Lending, Incorporated d/b/a Virginia Community Lending (McLean, Reston and Virginia Beach) - To open a mortgage lender and broker's office at 740 North 530 East, Orem, UT

BAN20040801 Tower Mortgage Corporation - To open a mortgage broker's office at 20 Executive Park West, Suite 2017, Atlanta, GA

BAN20040802 Agency Mortgage Corporation - To open a mortgage lender's office at 115-117 West State Street, Media, PA

BAN20040803 Dominion First Mortgage Corporation - To open a mortgage broker's office at 9930 Liberia Avenue, Manassas, VA

BAN20040804 New Century Mortgage Corporation d/b/a Home123 Corporation (In Certain Offices) - To relocate mortgage lender broker's office from 5340 W. Kennedy Boulevard, Suite 215, Tampa, FL to 3109 West Martin Luther King Boulevard, Suite 300, Tampa, FL

BAN20040805 Sunset Mortgage Company L.P. - To relocate mortgage lender broker's office from 142 W. York Street, Suite 807, Norfolk, VA to 10699 Courthouse Road, Fredericksburg, VA

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BAN20040806	Emerald Financial Group LLC - To relocate mortgage broker's office from 5706 Turney Road, Suite 201, Garfield Heights, OH to 6505 Rockside Road, Suite 400, Independence, OH
BAN20040807	American Residential Funding, Inc. - To relocate mortgage lender broker's office from 12 Hughes Street, Suite D-106, Irvine, CA to 62 LaPerla, Foothill Ranch, CA
BAN20040808	A-1 Mortgage Corporation - To relocate mortgage broker's office from 4401 Elan Court, Annandale, VA to 7312-D McWhorter Place, Annandale, VA
BAN20040809	Nationwide Financial Group LLC - To relocate mortgage broker's office from 1646 William Hapton Way, Mount Pleasant, SC to 4130 Faber Place Drive, Suite 202, North Charleston, SC
BAN20040810	Renu Financial Services Inc. - To open a check casher at 334-B W. Lee Highway, Warrenton, VA
BAN20040811	SouthTrust Bank - To open a branch at 10791 West Broad Street, Glen Allen, VA
BAN20040812	Millenium Mortgage, Inc. - For a mortgage broker's license
BAN20040813	Russell W. Owens, Jr. - For a payday lender license
BAN20040814	Pinnacle Funding, Inc. (Used in VA by: Pinnacle Mortgage, Inc.) - For a mortgage lender and broker license
BAN20040815	Credit Suisse First Boston Financial Corporation - To open a mortgage lender's office at Iron Mountain Records Management, 22 Kimberly Road, East Brunswick, NJ
BAN20040816	Atlantic Bay Mortgage Group, L.L.C. - To open a mortgage lender and broker's office at 4010 Wake Forest Road, Raleigh, NC
BAN20040817	MortgageIT, Inc. d/b/a MIT Lending (In Certain Offices) - To open a mortgage lender and broker's office at 687 Highland Avenue, Needham, MA
BAN20040818	MortgageIT, Inc. d/b/a MIT Lending (In Certain Offices) - To open a mortgage lender and broker's office at 33 Flying Point Road, Suite 250, Southampton, NY
BAN20040819	AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To open a mortgage broker's office at 1628 East State Street, Hermitage, PA
BAN20040820	Allied Home Mortgage Capital Corporation - To open a mortgage lender and broker's office at 3108 N. Parham Road, Suite 502B, Richmond, VA
BAN20040821	NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 600 Columbia Avenue, Suite 4, Lexington, SC
BAN20040822	First Homestead Funding Corporation - To relocate mortgage broker's office from 11501 Georgia Avenue, Suite 104, Wheaton, MD to 11501 Georgia Avenue, Suite 200, Wheaton, MD
BAN20040823	Heartland Home Finance, Inc. - To relocate mortgage lender broker's office from 2370 Route 70, Suite 308, Cherry Hill, NJ to 2370 Route 70, Suite 410, Cherry Hill, NJ
BAN20040824	The Credit People Company - To open a mortgage broker's office at 466 Herndon Parkway, Unit 216, Herndon, VA
BAN20040825	Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 535 Central Avenue, Suite 300, St. Petersburg, FL
BAN20040826	Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 1517 Ritchie Highway, Suite 1-G, Arnold, MD
BAN20040827	Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 945 Nottingham Lakes Road, Conway, SC
BAN20040828	Creve Coeur Mortgage Associates Inc. - To relocate mortgage lender's office from 11525 Olde Cabin Road, Creve Coeur, MO to 1150 Hanley Industrial Court, Brentwood, MO
BAN20040829	Fairfax Mortgage Investments Inc. - To relocate mortgage lender broker's office from 4616 Princess Anne Road, Virginia Beach, VA to 1157 S. Military Highway, Suite 103, Chesapeake, VA
BAN20040830	Consumer Mortgage Services Incorporated - To open a mortgage lender and broker's office at Regent Information Storage, 460 Eagleview Boulevard, Exton, PA
BAN20040831	Fieldstone Mortgage Company d/b/a Broad Street Mortgage Co. - To open a mortgage lender and broker's office at 281 Independence Boulevard, Suite 442, Virginia Beach, VA
BAN20040832	Virginia Credit Union, Inc. - To merge into it Petersburg City Employees Federal Credit Union
BAN20040833	Buckeye Check Cashing of Virginia, Inc. d/b/a Check\$mart - To open a payday lender's office at 706 Airline Boulevard, Portsmouth, VA
BAN20040834	Equity Services of Virginia, Inc. d/b/a Affordable Funding - To open a mortgage lender and broker's office at 110-C Applecross Road, Pinehurst, NC
BAN20040835	Ibex Networks, Inc. - For a mortgage lender and broker license
BAN20040836	Vista Home Mortgage, LLC - For a mortgage broker's license
BAN20040837	First Alliance Mortgage Corporation - For a mortgage broker's license
BAN20040838	The Mortgage Store Financial, Inc. - For additional mortgage authority
BAN20040839	H & R Mortgage, Inc. - For a mortgage broker's license
BAN20040840	Christopher Galley d/b/a Advanced Mortgage Services - For a mortgage broker's license
BAN20040841	Vertex Financial Group, Inc. - For a mortgage broker's license
BAN20040842	Integrity Home Funding, LLC - For a mortgage lender and broker license
BAN20040843	Americorp Credit Corporation - To open a mortgage lender and broker's office at 2401 East Katella Avenue, Suite 330, Anaheim, CA
BAN20040844	Home Consultants, Inc. d/b/a HCI Mortgage - To open a mortgage lender and broker's office at 1206 Laskin Road, Suite 201, Virginia Beach, VA
BAN20040845	AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To open a mortgage broker's office at 10038 Vanderbilt Circle, Rockville, MD
BAN20040846	AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To open a mortgage broker's office at 417 Oella Avenue, Baltimore, MD
BAN20040847	TransLand Financial Services, Inc. - To open a mortgage lender and broker's office at 4704 Driver Court, Virginia Beach, VA
BAN20040848	Cornerstone Mortgage, Inc. - To open a mortgage broker's office at 14565 Truro Parish Court, Centreville, VA
BAN20040849	Mortgage Access Corp. d/b/a Weichert Financial Services - To relocate mortgage lender's office from 10201 Main Street, Fairfax, VA to 10201 Lee Highway, Suite 140, Fairfax, VA
BAN20040850	Village Mortgage Corporation - To relocate mortgage broker's office from 19562 Club House Road, Montgomery Village, MD to 7521 Oyster Bay Way, Montgomery Village, MD
BAN20040851	Solutions Mortgage, Inc. - To relocate mortgage broker's office from 7206 Hull Street Road, Suite 202, Richmond, VA to 7140 Hull Street Road, Richmond, VA
BAN20040852	W.C. Financial, Inc. - To relocate mortgage broker's office from 1488 Selworthy Road, Potomac, MD to 250 B Market Street, East, Gaithersburg, MD

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BAN20040853 Lifetime Mortgage, Inc. - To relocate mortgage broker's office from 4920 W. Broad Street, Richmond, VA to 2611 N. Parham Road, 2nd Floor, Richmond, VA

BAN20040854 Millennium Financial Group, Inc. - For a mortgage broker's license

BAN20040855 Lincoln Mortgage Associates L.L.C. d/b/a Lincoln Financial Mortgage - To relocate mortgage lender broker's office from 5000 Tilghman Street, Suite 120, Allentown, PA to 1013 Brookside Road, Allentown, PA

BAN20040856 Lincoln Mortgage Associates L.L.C. d/b/a Lincoln Financial Mortgage - To relocate mortgage lender broker's office from 6 Saint Albans Avenue, Suite 6A, Newtown Square, PA to 2173 McDade Boulevard, Suite A, Holmes, PA

BAN20040857 Pinnacle Financial Corporation d/b/a Tristar Lending Group (In Certain Offices) - To open a mortgage lender and broker's office at 9781 South Meridian Boulevard, Suite 220, Englewood, CO

BAN20040858 Pinnacle Financial Corporation d/b/a Tristar Lending Group (In Certain Offices) - To open a mortgage lender and broker's office at 28170 North Main Street, Suite C, Daphne, AL

BAN20040859 AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To open a mortgage broker's office at 749 Illini Drive, Monroeville, PA

BAN20040860 Prestige Financial Group, Inc. - To relocate mortgage broker's office from 13016 Point Pleasant Drive, Fairfax, VA to 44110 Ashburn Village Boulevard, Suite 247, Ashburn, VA

BAN20040861 WMHP Corporation d/b/a Royal Check Cashing - To open a check casher at 4118 Mount Vernon Avenue, Alexandria, VA

BAN20040862 SunTrust Bank - To open a branch at 2110 John Rolfe Parkway, Henrico County, VA

BAN20040863 Tidewater Home Mortgage Group Inc. - For a mortgage broker's license

BAN20040864 Steven M. Romagnolo - To acquire 25 percent or more of Newport Financial Corporation

BAN20040865 LoanCity.Com, Inc. (Used in VA by: LoanCity.Com) - To open a mortgage lender's office at 8322 Chapel Lake Court, Annandale, VA

BAN20040866 Allied Cash Advance Virginia LLC d/b/a Allied Cash Advance - To open a payday lender's office at 5000 Nine Mile Road, Suite A, Richmond, VA

BAN20040867 Allied Cash Advance Virginia LLC d/b/a Allied Cash Advance - To open a payday lender's office at 18245 Forest Road, Unit #9, Forest, VA

BAN20040868 Allied Cash Advance Virginia LLC d/b/a Allied Cash Advance - To open a payday lender's office at 7124 Mechanicsville Turnpike, Space P, Mechanicsville, VA

BAN20040869 Allied Cash Advance Virginia LLC d/b/a Allied Cash Advance - To open a payday lender's office at 870 Tanyard Road, Unit 8, Rocky Mount, VA

BAN20040870 MortgageMecca Inc. - To relocate mortgage broker's office from 5901 Falls of Neuse Road, Suite 201, Raleigh, NC to 807 Spring Forest Road, Suite 2000, Raleigh, NC

BAN20040871 Southern Trust Mortgage, LLC d/b/a Middleburg Mortgage (2 Norfolk Offices) - To relocate mortgage lender broker's office from 690 Berkmar Crossing, Charlottesville, VA to 682 Berkmar Circle, Unit 2-D, Charlottesville, VA

BAN20040872 Sun Coast Mortgage of Delmarva, LLC - To relocate mortgage broker's office from 5700 Coastal Highway, Ocean City, MD to 7510B Coastal Highway, Ocean City, MD

BAN20040873 Allied Home Mortgage Capital Corporation - To relocate mortgage lender broker's office from 5833 Richmond Tappahannock Highway, Aylett, VA to 5833 Richmond Tappahannock Highway, Suite 107-B, Aylett, VA

BAN20040874 Wilmington Finance, Inc. - To open a mortgage lender and broker's office at 650 Ten Rod Road, North Kingston, RI

BAN20040875 Home Star Mortgage Services, LLC - To open a mortgage lender's office at 3 Neshaminy Interplex, Offices #27C, #45 and #46, Suite 301, Trevoise, PA

BAN20040876 Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 4920 Niagara Road, Suite 402, College Park, MD

BAN20040877 Great Lakes Financial Corporation - To relocate mortgage broker's office from 192 Ohio River Boulevard, Suite 100, Ambridge, PA to 192 Ohio River Boulevard, Suite 3, Ambridge, PA

BAN20040878 Provident Bankshares Corporation - To acquire Southern Financial Bancorp, Inc., Warrenton, VA

BAN20040879 Fidelity Mutual Mortgage Company (Used in VA by: Fidelity First Mortgage Company) - For a mortgage broker's license

BAN20040880 One Mortgage Network Inc. - For a mortgage lender and broker license

BAN20040881 Advent Mortgage, LLC - For a mortgage lender and broker license

BAN20040882 M.C. Mortgage LLC - For a mortgage broker's license

BAN20040883 First Saratoga Funding, Inc. - For a mortgage broker's license

BAN20040884 MacArthur & Baker International, Inc. d/b/a MBI Mortgage Funding - For a mortgage lender and broker license

BAN20040885 Franklin Mortgage LLC - For a mortgage broker's license

BAN20040886 Middleburg Mortgage Corporation - For a mortgage broker's license

BAN20040887 Madison Funding, Inc. - For additional mortgage authority

BAN20040888 Bing Sing D. Wang - To acquire 25 percent or more of Lifetime Financial Services, LLC

BAN20040889 Southern Community Bank & Trust - To open a branch at 13521 Waterford Place, Chesterfield County, VA

BAN20040890 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 19 King Philip Avenue, Bristol, RI

BAN20040891 TriBeCa Lending Corp. - To open a mortgage lender and broker's office at 5950 Symphony Woods Road, Suite 415, Columbia, MD

BAN20040892 First NLC Financial Services, LLC - To open a mortgage lender and broker's office at 6 Blackstone Valley Place, Building 4, Lincoln, RI

BAN20040893 First NLC Financial Services, LLC - To open a mortgage lender and broker's office at 250 Centerville Road, Unit 16, Warwick, RI

BAN20040894 6:10 Services d/b/a Debt-Free America - To open an additional credit counseling office at 8355 Aero Drive, Suite 200, San Diego, CA

BAN20040895 ComUnity Lending, Incorporated d/b/a Virginia Community Lending (McLean, Reston and Virginia Beach) - To relocate mortgage lender broker's office from 4836 Brownsboro Center, Louisville, KY to 4876 Brownsboro Center, Louisville, KY

BAN20040896 Summit Mortgage Corporation d/b/a Summit Home Mortgage Inc. - To open a mortgage lender and broker's office at 281 Independence Boulevard, Suite 202, Virginia Beach, VA

BAN20040897 Wyndham Capital Mortgage, Inc. - To relocate mortgage broker's office from 2815 Coliseum Centre Drive, Suite 100, Charlotte, NC to 2709 Water Ridge Parkway, Suite 500, Charlotte, NC

BAN20040898 CH Mortgage Company I, Ltd., L.P. (Used in VA by: DHI Mortgage Company, Ltd.) - To open a mortgage lender and broker's office at 12357 Riata Trace Parkway, Suite C225, Austin, TX

BAN20040899 Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To open a mortgage lender and broker's office at 6301 Baberton Court, Charlotte, NC

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BAN20040900	Amerifund Financial, Inc. d/b/a All Fund Mortgage - To relocate mortgage lender broker's office from 6495 New Hampshire Avenue, Suite 202, Hyattsville, MD to 6495 New Hampshire Avenue, Suite 300, Hyattsville, MD
BAN20040901	Edward A. Cairo - To relocate mortgage broker's office from 822 S.W. 33rd Place, Boynton Beach, FL to 100 E. Linton Boulevard, Suite 501 A, Delray Beach, FL
BAN20040902	Scott Thomas Haslock - To acquire 25 percent or more of Eastern Residential Mortgage, LLC
BAN20040903	Bayside Mortgage Services, Inc. - For a mortgage broker's license
BAN20040904	New Logic Mortgage, LLC - For a mortgage broker's license
BAN20040905	Northside Mortgage Group LLC - For a mortgage broker's license
BAN20040906	Skyline Mortgage Group, L.C. - For additional mortgage authority
BAN20040907	Nationwide Mortgage Concepts, LLC - For a mortgage lender and broker license
BAN20040908	Georgetown Mortgage, Inc. - For a mortgage lender and broker license
BAN20040909	Ace Cash Express, Inc. - For a money order license
BAN20040910	Garden State Consumer Credit Counseling, Inc. - To open an additional credit counseling office at 47 Orient Way, First Floor, Rutherford, NJ
BAN20040911	Allied Home Mortgage Capital Corporation - To open a mortgage lender and broker's office at 408 Craine Highway, Unit #9, Glen Burnie, MD
BAN20040912	American Residential Funding, Inc. - To open a mortgage lender and broker's office at 3614 Sprucedale Drive, Annandale, VA
BAN20040913	Allpointe, LLC - To relocate mortgage broker's office from 333 Technology Drive, Suite 280, Canonsburg, PA to 375 Southpointe Boulevard, Suite 100, Canonsburg, PA
BAN20040914	Mortgage Source LLC - For a mortgage lender and broker license
BAN20040915	Downs Financial, Inc. - For a mortgage lender's license
BAN20040916	TM Mortgage Corporation - To open a mortgage broker's office at 9204 Church Street, Manassas, VA
BAN20040917	New Century Mortgage Corporation d/b/a Home123 Corporation (In Certain Offices) - To open a mortgage lender and broker's office at 1100 The American Road, Morris Plains, NJ
BAN20040918	Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To open a mortgage broker's office at 30559 Pinetree Road, Suite 203, Pepper Pike, OH
BAN20040919	Pallavi, Inc. d/b/a Petersburg Market Place - To open a check casher at 2706 South Crater Road, Petersburg, VA
BAN20040920	iwayloan, L.P. - For a mortgage lender and broker license
BAN20040921	Banagricola De El Salvador, Inc. - For a money order license
BAN20040922	America Trust Mortgage Corp. - For additional mortgage authority
BAN20040923	Network Funding, L.P. - For additional mortgage authority
BAN20040924	Greentree Mortgage Company, L.P. - For additional mortgage authority
BAN20040925	Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 222 King Street, Suite 100, Keysville, VA
BAN20040926	Chase Home Funding, Inc. - To open a mortgage broker's office at 1121-B Lockwood Drive, Silver Spring, MD
BAN20040927	Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To open a mortgage lender and broker's office at 5850 San Felipe, Suite 495, Houston, TX
BAN20040928	MortgageStar, Inc. - To open a mortgage lender and broker's office at 1601 Whistling Duck Drive, Upper Marlboro, MD
BAN20040929	Oak Street Mortgage LLC - To open a mortgage lender and broker's office at 1601 Trapelo Road, Suite 255, Waltham, MA
BAN20040930	Buckeye Check Cashing of Virginia, Inc. d/b/a CheckSmart - To open a payday lender's office at 4503 West Broad Street, Richmond, VA
BAN20040931	MAS Associates, LLC d/b/a Equity Mortgage Lending - To relocate mortgage lender broker's office from 305 W. Chesapeake Avenue, Suite L-80, Towson, MD to 305 W. Chesapeake Avenue, Suite 310, Towson, MD
BAN20040932	Superior Mortgage Corporation - To relocate mortgage lender broker's office from 320 South Main Street, 2nd Floor, Emporia, VA to 409 West Atlantic Street, Emporia, VA
BAN20040933	Jams-01, Inc. d/b/a Home Savings & Trust Mortgage - To relocate mortgage lender broker's office from 11417 Sunset Hills Road, Suite 228, Reston, VA to 3701 Pender Drive, Suite 150, Fairfax, VA
BAN20040934	Premier Mortgage Funding, Inc. - To relocate mortgage broker's office from 11350 Random Hills Road, Suite 800, Fairfax, VA to 3921 Old Lee Highway, Unit 71 C, Fairfax, VA
BAN20040935	Sunset Mortgage Company L.P. - To open a mortgage lender and broker's office at 142 West York Street, Suite 807, Norfolk, VA
BAN20040936	First Savings Mortgage Corporation d/b/a Portfolio Funding Group - To relocate mortgage lender broker's office from 1950 Old Gallows Road, Eighth Floor, Vienna, VA to 8444 Westpark Drive, Suite 400, McLean, VA
BAN20040937	Salem Financial, LC - To relocate mortgage broker's office from 22226 Timberlake Road, Lynchburg, VA to 701 Leesville Road, Lynchburg, VA
BAN20040938	Assured Financial Group, Ltd. - To relocate mortgage broker's office from 1450 Namozine Road, Church Road, VA to 2001 Snead Avenue, Colonial Heights, VA
BAN20040939	Stuart Finance & Small Loan Corp. - To relocate consumer finance office from 106 Rycove Street, Stuart, VA to 19266 JEB Stuart Highway, Stuart, VA
BAN20040940	Best Marketing, LLC d/b/a Paramax Mortgage - To relocate mortgage broker's office from 7800 Belleflower Drive, Springfield, VA to 7909 S. Run View, Springfield, VA
BAN20040941	Nations Home Mortgage Corporation - For a mortgage lender and broker license
BAN20040942	Vaiana Financial, Inc. - For a mortgage broker's license
BAN20040943	Apex Mortgage Brokers, Inc. - For a mortgage broker's license
BAN20040944	Mortgage Unlimited, LLC d/b/a Mortgage Unlimited - For a mortgage broker's license
BAN20040945	Ronald E. Umberger II and Sheri L. Wedmore d/b/a New Hope Mortgage - For a mortgage broker's license
BAN20040946	Corporacion Financiera de la Nueva Generacion, Inc. - For a money order license
BAN20040947	Union Mortgage, Inc. - For a mortgage broker's license
BAN20040948	Total Home Mortgage LLC - For a mortgage broker's license
BAN20040949	Patton and Associates Mortgage Loans, Inc. - For a mortgage broker's license
BAN20040950	MortgageStar, Inc. - To open a mortgage lender and broker's office at 733 15th Street, Suite 527, Washington, DC
BAN20040951	MortgageStar, Inc. - To open a mortgage lender and broker's office at 5604 Albright Drive, Virginia Beach, VA
BAN20040952	MortgageStar, Inc. - To open a mortgage lender and broker's office at 80 Dent Road, Stafford, VA
BAN20040953	Americorp Credit Corporation - To open a mortgage lender and broker's office at 711 W. 17th Street, Unit E-8, Costa Mesa, CA



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BAN20040954 American Mortgage Express Corp. - To open a mortgage lender and broker's office at 8555 16th Street, Suite 205, Silver Spring, MD  
 BAN20040955 American Mortgage Express Corp. - To open a mortgage lender and broker's office at 1609 Vauxhall Road, Union, NJ  
 BAN20040956 Revolutionary Mortgage Company - To relocate mortgage broker's office from 843-I Quince Orchard Boulevard, Gaithersburg, MD to 9099 Ridgefield Drive, Suite 104, Frederick, MD  
 BAN20040957 Pinetree Mortgage Company, LLC - To relocate mortgage broker's office from 7023 Little River Turnpike, Suite 403, Annandale, VA to 7023 Little River Turnpike, Suite 300, Annandale, VA  
 BAN20040958 The Mortgage Centre, Inc. - To open a mortgage lender and broker's office at 104 Archway Court, Lynchburg, VA  
 BAN20040959 1st 2nd Mortgage Company of N.J., Inc. - To open a mortgage lender and broker's office at 7115 Leesburg Pike, Suite 100, Falls Church, VA  
 BAN20040960 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 2924 Jerman Town Road, Oakton, VA  
 BAN20040961 David Marc Schwartz - To acquire 25 percent or more of Eastern Residential Mortgage, LLC  
 BAN20040962 21st Century Capital Corp. - For a mortgage broker's license  
 BAN20040963 Choice Financing Services, Inc. - For a mortgage broker's license  
 BAN20040964 American Mortgage Center, L.L.C. - For a mortgage broker's license  
 BAN20040965 Columbia Financial, LLC d/b/a Columbia Mortgage - For a mortgage broker's license  
 BAN20040966 American Liberty Loans Inc. - For a mortgage broker's license  
 BAN20040967 HomeSouth Mortgage Corporation - For a mortgage lender and broker license  
 BAN20040968 Cimarron Mortgage Company d/b/a The Mortgage Warehouse - For a mortgage lender and broker license  
 BAN20040969 Mubarak Corporation d/b/a Euro Market - Chevron - To open a check casher at 6318 Leesburg Pike, Falls Church, VA  
 BAN20040970 MCNB Bank and Trust Co. - To open a branch at 1015 Claypool Mall Road, Cedar Bluff, VA  
 BAN20040971 INSAF Corporation - For a money order license  
 BAN20040972 DuPont Community Credit Union - To open a credit union service office at 1140 Shenandoah Village Drive, Waynesboro, VA  
 BAN20040973 DuPont Community Credit Union - To open a credit union service office at 2201 North Augusta Street, Staunton, VA  
 BAN20040974 Primary Residential Mortgage, Inc. - To open a mortgage lender and broker's office at 12000 Fenwick Drive, Indian Trail, NC  
 BAN20040975 Advance America, Cash Advance Centers of Virginia, Inc. d/b/a Advance America, Cash Advance Centers - To open a payday lender's office at 13995 Wards Road, Suite D, Lynchburg, VA  
 BAN20040976 Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 24 Ruffian Drive, Stafford, VA  
 BAN20040977 Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 10814 King Nobel Lane, Bealeton, VA  
 BAN20040978 First Home Mortgage Corporation - To open a mortgage lender and broker's office at 1750 Tysons Boulevard, 4th Floor, McLean, VA  
 BAN20040979 First Home Mortgage Corporation - To relocate mortgage lender broker's office from 7939 Honeygo Boulevard, Baltimore, MD to 8003 Corporate Drive, Suite A, Baltimore, MD  
 BAN20040980 CH Mortgage Services, LLC - To relocate mortgage lender broker's office from 2930 Biscayne Boulevard, Miami, FL to 630 Alton Road, Suite 901, Miami Beach, FL  
 BAN20040981 Residential Mortgage Center, Inc. - To relocate mortgage lender broker's office from 6110 Executive Boulevard, Suite 1090, Rockville, MD to 2400 Research Boulevard, Suite 395, Rockville, MD  
 BAN20040982 First American Mortgage Services, Inc. - To relocate mortgage broker's office from 302 East Davis Street, Culpeper, VA to 118 Donmoor Court, Garner, NC  
 BAN20040983 Freedom Mortgage Corporation - To open a mortgage lender and broker's office at 6224 Colchester Road, Fairfax, VA  
 BAN20040984 Atlantic Bay Mortgage Group, L.L.C. - To open a mortgage lender and broker's office at 2147 Old Greenbrier Road, Chesapeake, VA  
 BAN20040985 Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To relocate mortgage lender broker's office from 3212 Cutshaw Avenue, Suite 204B, Richmond, VA to 3212 Cutshaw Avenue, Suite 207, Richmond, VA  
 BAN20040986 ComUnity Lending, Incorporated d/b/a Virginia Community Lending (McLean, Reston and Virginia Beach) - To open a mortgage lender and broker's office at 1525 East Main Street, Suite A, Santa Maria, CA  
 BAN20040987 Credit Union Family Service Centers, Ltd. (Used in VA by: Service Centers Corporation) - To open a check casher at 1118 W. Broad Street, Falls Church, VA  
 BAN20040988 CheckFree Services Corporation - For a money order license  
 BAN20040989 Viridian Lending, LLC - For a mortgage broker's license  
 BAN20040990 Platinum Funding, LLC - For a mortgage broker's license  
 BAN20040991 Easy Financial Services LLC - For a payday lender license  
 BAN20040992 The Millennium Mortgage, Inc. - For a mortgage broker's license  
 BAN20040993 N A NationWide Mortgage Corp (Used in VA by: N A NationWide Mortgage) - For a mortgage lender and broker license  
 BAN20040994 HCG North America, LLC - For a mortgage lender and broker license  
 BAN20040995 JRS Funding, Inc. d/b/a Direct Mortgage Source - For a mortgage broker's license  
 BAN20040996 GMAC Mortgage Corporation d/b/a Ditech.Com - To open a mortgage lender and broker's office at 416 US1, Youngsville, NC  
 BAN20040997 GMAC Mortgage Corporation d/b/a Ditech.Com - To open a mortgage lender and broker's office at 2000 South Main Street, Wake Forest, NC  
 BAN20040998 GMAC Mortgage Corporation d/b/a Ditech.Com - To open a mortgage lender and broker's office at 911-A Paverstone Drive, Raleigh, NC  
 BAN20040999 Ideal Mortgage Bankers, Ltd. - For a mortgage lender and broker license  
 BAN20041000 GMAC Mortgage Corporation d/b/a Ditech.Com - To open a mortgage lender and broker's office at 1008 D Big Oak Court, Knightdale, NC  
 BAN20041001 GMAC Mortgage Corporation d/b/a Ditech.Com - To open a mortgage lender and broker's office at 307 South Salem Street, Apex, NC  
 BAN20041002 Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 11465 Waterview Cluster, Reston, VA  
 BAN20041003 Allstate Mortgage, Inc. - For additional mortgage authority  
 BAN20041004 Cash Services Inc. d/b/a Cash N Go - To open a check casher at 4624 King Street, Alexandria, VA  
 BAN20041005 Residential Mortgage Solutions, Inc. of South Carolina (Used In VA by: Residential Mortgage Solutions, Inc.) - For a mortgage broker's license  
 BAN20041006 U S Mortgage & Investment Services, Inc. - For a mortgage broker's license  
 BAN20041007 Access Home Mortgages LLC - For a mortgage broker's license  
 BAN20041008 Dominion Mortgage LLC - For a mortgage lender's license

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BAN20041009	Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To open a mortgage broker's office at 5744 Fairwood Drive, Acworth, GA
BAN20041010	Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To open a mortgage broker's office at 11350 McCormick Road, Executive Plaza IV, Suite 200A, Hunt Valley, MD
BAN20041011	Apple Valley Mortgage, LLC - To open a mortgage broker's office at Apple Blossom Mall, 1850 AppleBlossom Drive, Winchester, VA
BAN20041012	Valley Broker Services, Inc. d/b/a VBS Mortgage - To relocate mortgage broker's office from 2950 South Main Street, Harrisonburg, VA to 370 A Neff Avenue, Harrisonburg, VA
BAN20041013	American Mortgage Network, Inc. - To relocate mortgage lender's office from 9020 Stoney Point Parkway, 4th Floor, Richmond, VA to 3975 Fair Ridge Drive, Suite 250, Fairfax, VA
BAN20041014	AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To open a mortgage broker's office at 201 Winston Avenue, Colonial Heights, VA
BAN20041015	AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To open a mortgage broker's office at 12000 Biscayne Boulevard, Suite 703, Miami, FL
BAN20041016	Mortgage.Close.com, Inc. - To relocate mortgage broker's office from 625 The City Drive, Suite 305, Orange, CA to 625 The City Drive, Suite 365, Orange, CA
BAN20041017	Nations Home Funding, Inc. - To open a mortgage lender and broker's office at 11431 Woolington Road, Great Falls, VA
BAN20041018	Harborside Financial Network, Inc. - For a mortgage lender and broker license
BAN20041019	Saab Financial Corp. d/b/a Saab Mortgage - For additional mortgage authority
BAN20041020	Potomac Glen Mortgage Corporation - For a mortgage broker's license
BAN20041021	Bethesda Home Mortgage, LLC - For a mortgage broker's license
BAN20041022	Joseph E. Spriggs - For a mortgage broker's license
BAN20041023	Spectrum Funding Corporation - To open a mortgage broker's office at 5541 Parliament Drive, Professional Building, Suite 106, Virginia Beach, VA
BAN20041024	Alcova Mortgage LLC - To open a mortgage broker's office at 6423 Millhiser Avenue, Richmond, VA
BAN20041025	ETrust Mortgage Corporation - To relocate mortgage broker's office from 13110 Rose Petal Circle, Herndon, VA to 22660 Philomont Ridge Court, Ashburn, VA
BAN20041026	Primary Residential Mortgage, Inc. - To open a mortgage lender and broker's office at 2207 Eastchester Drive, Suite 101, High Point, NC
BAN20041027	Advance America, Cash Advance Centers of Virginia, Inc. d/b/a Advance America, Cash Advance Centers - To open a payday lender's office at 2548 Sheila Lane, Richmond, VA
BAN20041028	Advance America, Cash Advance Centers of Virginia, Inc. d/b/a Advance America, Cash Advance Centers - To open a payday lender's office at 13480 Dumfries Road, Manassas, VA
BAN20041029	Advance America, Cash Advance Centers of Virginia, Inc. d/b/a Advance America, Cash Advance Centers - To open a payday lender's office at 12056 North Shore Drive, Reston, VA
BAN20041030	United Equity LLC - To open a mortgage lender and broker's office at 10732 Red Dahlia Drive, Woodstock, MD
BAN20041031	United Equity LLC - To open a mortgage lender and broker's office at 2315-8 Boston Street, Baltimore, MD
BAN20041032	Blue Ridge Mortgage, L.L.C. - To relocate mortgage lender broker's office from 916 Main Street, Suite 400, Lynchburg, VA to 916 Main Street, Suite 450, Lynchburg, VA
BAN20041033	Salem Financial, LC - To open a mortgage broker's office at 311 West Main Street, Suite C, Bedford, VA
BAN20041034	Virginia Mortgage Services, Inc. - To open a mortgage broker's office at 8191 Brook Road, Suite J, Richmond, VA
BAN20041035	Montgomery Capital Mortgage Corporation (Used in VA by: Montgomery Capital Corporation) - To relocate mortgage broker's office from 7310 McWhorter Place, Suite D, Annandale, VA to 710 West Broad Street, Suite 205, Falls Church, VA
BAN20041036	Consumer Mortgage Services Incorporated - To open a mortgage lender and broker's office at 3545 Ellicott Mills Drive, Suite 310, Ellicott City, MD
BAN20041037	Option One Mortgage Corporation - To open a mortgage lender and broker's office at 10490 Little Patuxent Parkway, Suite 500, Columbia, MD
BAN20041038	Optima Funding Group, Inc. - To open a mortgage broker's office at 4216 Evergreen Lane, Suite 116, Annandale, VA
BAN20041039	Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 6371 Little River Turnpike, Suite 200, Alexandria, VA
BAN20041040	1st Financial, Inc. - To relocate mortgage lender broker's office from 2014 Industrial Drive, Annapolis, MD to 703 Bestgate Road, Annapolis, MD
BAN20041041	Trustworthy Mortgage Corporation - To relocate mortgage broker's office from 15800 Crabbs Branch Way, Suite 260, Rockville, MD to 15850 Crabbs Branch Way, Suite 300, Rockville, MD
BAN20041042	First Capital Funding, LLC - For a mortgage broker's license
BAN20041043	Union Bank and Trust Company - To open a branch at 11101 Hull Street Road, Midlothian, VA
BAN20041044	Mariners Capital Inc. (Used in VA by: Mariners Capital) - For additional mortgage authority
BAN20041045	MSM Processing Solutions, Inc. - For a mortgage broker's license
BAN20041046	Commonwealth Mortgage Associates, Inc. - For a mortgage broker's license
BAN20041047	Satterwhite Mortgage Services Inc. - For a mortgage broker's license
BAN20041048	Century Financial Group Inc. d/b/a 1st Century Mortgage - To open a mortgage broker's office at 7400 Beaufont Springs Drive, Suite 300, Richmond, VA
BAN20041049	Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To open a mortgage lender and broker's office at 2704 Grayland Avenue, Richmond, VA
BAN20041050	Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To open a mortgage lender and broker's office at 9901 Ridgemore Drive, Charlotte, NC
BAN20041051	Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To relocate mortgage lender broker's office from 10891 Alyssa Lane, Waldorf, MD to 3957 St. Charles Parkway, Suite 200, Gateway Plaza, Waldorf, MD
BAN20041052	DL King, LLC d/b/a King'S Ca\$h Advance\$ - To open a payday lender's office at Collinsville Shopping Center, 2688 Virginia Avenue, Collinsville, VA
BAN20041053	The Young Team, Inc. - For a mortgage broker's license
BAN20041054	Assured Lending Corporation - For a mortgage lender's license
BAN20041055	Prestige Financial Group of Florida, Inc. (Used in VA by: Prestige Financial Group, Inc.) - For a mortgage lender and broker license

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BAN20041056	The Bank of Fincastle - To open a branch at American Way Village, corner of Independence Boulevard and Freedom Lane, Bedford, VA
BAN20041057	Bank of Floyd - To open a branch at 4309 Starkey Road, Roanoke County, VA
BAN20041058	Anykind Check Cashing, LC d/b/a Check City - To relocate a payday lender's office from 3906 Hull Street, Richmond, VA to 3920 Hull Street, Richmond, VA
BAN20041059	TransLand Financial Services, Inc. - To open a mortgage lender and broker's office at 406 Oakmeads Crescent, Suite 102, Virginia Beach, VA
BAN20041060	Evergreen Financial Services Inc. d/b/a Evergreen Mortgage Company - To relocate mortgage broker's office from 6800 Paragon Place, Suite 415, Richmond, VA to 3904 Springfield Road, Richmond, VA
BAN20041061	Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To open a mortgage lender and broker's office at 9339 Breamore Court, Laurel, MD
BAN20041062	Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To open a mortgage lender and broker's office at 3 Koger Center, Suite 101, Norfolk, VA
BAN20041063	Monday Mortgage Corporation - To relocate mortgage broker's office from 8818 Royal Doulton Lane, Fairfax, VA to 9221 Topaz Street, Fairfax, VA
BAN20041064	Bozzuto Mortgage Company - To relocate mortgage broker's office from 6401 Golden Triangle Drive, Suite 150, Greenbelt, MD to 7850 Walker Drive, Suite 100, Greenbelt, MD
BAN20041065	Bay Capital Corp. - To open a mortgage lender and broker's office at 15145 Brandy Road, Culpeper, VA
BAN20041066	Capital Mortgage Finance Corp. - To open a mortgage lender and broker's office at 11042 Nicholas Lane, Unit B-102 of Ocean Pines Village Square, Ocean Pines, MD
BAN20041067	Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 755 Hungerford Drive, Rockville, VA
BAN20041068	Allied Home Mortgage Capital Corporation - To open a mortgage lender and broker's office at 1027 Main Street, Altavista, VA
BAN20041069	Bay Capital Corp. - To open a mortgage lender and broker's office at 4926C Eisenhower Avenue, Alexandria, VA
BAN20041070	Fidelity Bancorp Funding, Inc. - For a mortgage lender and broker license
BAN20041071	Onyx Financial Services, Inc. d/b/a Onyx Financial Services - For a mortgage broker's license
BAN20041072	Mid-Atlantic Financial Services, Inc. - For a mortgage lender's license
BAN20041073	Cash Out Mortgage Corp. - For a mortgage broker's license
BAN20041074	Patriot Mortgage Company of America, Inc. - For a mortgage broker's license
BAN20041075	David Scolamiero d/b/a Integrated Financial - For a mortgage broker's license
BAN20041076	Superior Home Mortgage Corporation (Used in VA by: Superior Mortgage Corporation) - To open a mortgage lender and broker's office at 111 Howard Boulevard, Suite 211, Mt. Arlington, NJ
BAN20041077	Allied Cash Advance Virginia LLC d/b/a Allied Cash Advance - To open a payday lender's office at 2886-A Airline Boulevard, Portsmouth, VA
BAN20041078	Superior Home Mortgage Corporation (Used in VA by: Superior Mortgage Corporation) - To open a mortgage lender and broker's office at 900 E. Eighth Avenue, Suite 300, King of Prussia, PA
BAN20041079	ClearView Mortgage, Inc. - To open a mortgage broker's office at 64 W. Eagle Road, Havertown, PA
BAN20041080	International Mortgage Corporation - To open a mortgage lender and broker's office at 2105 Lorna Ridge Lane, Suite 201, Birmingham, AL
BAN20041081	Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 6804 Stone Maple Terrace, Centreville, VA
BAN20041082	Destiny Mortgage Group, Inc. - To open a mortgage broker's office at 751 Rockville Pike, Unit 30B, Rockville, MD
BAN20041083	Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To relocate mortgage broker's office from 129 Main Street, Prince Frederick, MD to 50 Jibsail Drive, Prince Frederick, MD
BAN20041084	Recovery Financial Services LLC - For a mortgage broker's license
BAN20041085	Optimum Mortgage Group, LLC - To relocate mortgage lender broker's office from 10430 Harris Oaks Boulevard, Suite K, Charlotte, NC to 8801 J.M. Keynes Drive, Suite 320, Charlotte, NC
BAN20041086	Check into Cash of Virginia, LLC d/b/a Check into Cash - To open a payday lender's office at 8005 Creighton Parkway, Suite B, Mechanicsville, VA
BAN20041087	L.A.P. Holdings LLC - To open a mortgage broker's office at 66 West Mercury Boulevard, Suite 1, Hampton, VA
BAN20041088	Security First Funding Corporation (Used in VA by: Security First Funding) - To open a mortgage broker's office at 4420 Breezy Bay Circle, Suite 101, Richmond, VA
BAN20041089	Security First Funding Corporation (Used in VA by: Security First Funding) - To open a mortgage broker's office at 8157 Old Calvary Drive, Suite 206, Mechanicsville, VA
BAN20041090	Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 409 Apperson Drive, Salem, VA
BAN20041091	Prosperity Mortgage Company - To relocate mortgage lender broker's office from 5224 Indian River Road, Suite 118, Virginia Beach, VA to 963 Providence Square, Virginia Beach, VA
BAN20041092	Union Bank and Trust Company - To open a branch at 13644 Hull Street Road, Midlothian, VA
BAN20041093	Baltimore Trust Company - To merge into it Farmers & Merchants Bank-Eastern Shore
BAN20041094	Darrell Green Mortgage, LLC - For a mortgage broker's license
BAN20041095	Child and Family Services, Inc. - To open a credit counseling office
BAN20041096	Nations Home Corporation d/b/a First American Lending Corp. - For a mortgage lender and broker license
BAN20041097	Premier Mortgage Solutions, Inc. - For a mortgage broker's license
BAN20041098	AccessAmerica Mortgage, LLC - For a mortgage broker's license
BAN20041099	Virginia Commerce Bank - To open a branch at 7901 Richmond Highway, Fairfax County, VA
BAN20041100	Accredited Home Lenders, Inc. - To open a mortgage lender's office at 8081 Royal Ridge Parkway, Suite 175, Irving, TX
BAN20041101	Accredited Home Lenders, Inc. - To open a mortgage lender's office at 100 Roscommon Drive, Suite 122, Middletown, CT
BAN20041102	Accredited Home Lenders, Inc. - To open a mortgage lender's office at 11590 Century Boulevard, Suite 210, Springdale, OH
BAN20041103	Accredited Home Lenders, Inc. - To relocate mortgage lender's office from 4040 Blackburn Lane, Suite 200, Burtonsville, MD to 7085 Samuel Morse Drive, Suite 100, Columbia, MD
BAN20041104	Piedmont Credit Union - To merge into it Cordan Federal Credit Union
BAN20041105	The Mortgage Center Inc. - To open a mortgage broker's office at 104 Archway Court, Lynchburg, VA
BAN20041106	Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 118 Creekside Lane, Winchester, VA

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BAN20041107 Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 822 Coachway, Annapolis, MD

BAN20041108 Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 7310 Ritchie Highway, Glen Burnie, MD

BAN20041109 Premier Mortgage Funding, Inc. - To relocate mortgage broker's office from 6021 University Boulevard, Suite 230, Ellicott City, MD to 6011 University Boulevard, Suite 340, Ellicott City, MD

BAN20041110 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 159 Delaware Avenue, Suite 218, Delmar, NY

BAN20041111 Baldwin Financial, LLC - To relocate mortgage broker's office from 1680 East Gude Drive, Suite 304, Rockville, MD to 841-F and G Quince Orchard Boulevard, Gaithersburg, MD

BAN20041112 Network Funding, L.P. - To open a mortgage lender's office at 2821 Teakwood Lane, Plano, TX

BAN20041113 Allied Home Mortgage Capital Corporation - To open a mortgage lender and broker's office at 468 Main Street, Suite 400A, Abingdon, VA

BAN20041114 AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To open a mortgage broker's office at 7361 McWhorther Place, Suite 310, Annandale, VA

BAN20041115 Primary Residential Mortgage, Inc. - To open a mortgage lender and broker's office at 16316 Old Orchard Road, Silver Spring, MD

BAN20041116 ComUnity Lending, Incorporated d/b/a Virginia Community Lending (McLean, Reston and Virginia Beach) - To open a mortgage lender and broker's office at 8 Greenway, Suite 106, Houston, TX

BAN20041117 Centex Home Equity Company, LLC - To open a mortgage lender and broker's office at 408 North Cedar Bluff Ridge, Suite 253, Knoxville, TN

BAN20041118 First Magnus Financial Corporation d/b/a Charter Funding - To open a mortgage lender and broker's office at 80 Route 4 East, Paramus, NJ

BAN20041119 Premier Mortgage Funding, Inc. - To relocate mortgage broker's office from 5020 Nicholson Court, Suite 210, Rockville, MD to 5020 Nicholson Court, Suite 210, Kensington, MD

BAN20041120 Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 2201 Semmes Avenue, Richmond, VA

BAN20041121 Bridgewater Capital of North Carolina, Inc. (Used in VA by: Bridgewater Capital, Inc.) - For a mortgage broker's license

BAN20041122 NJ Lenders Corp. - For a mortgage lender and broker license

BAN20041123 Benchmark Mortgage Corporation - For a mortgage broker's license

BAN20041124 Centex Home Equity Company, LLC - To relocate mortgage lender broker's office from 1750 Viceroy Drive, Dallas, TX to 350 Highland Drive, Lewisville, TX

BAN20041125 Fidelity Financial Mortgage Corporation - For a mortgage broker's license

BAN20041126 Efast Funding, L.L.C. - To relocate mortgage broker's office from 29605 U.S. Highway 19, North, Suite 210, Clearwater, FL to 28050 U.S. Highway 19, North, Suite 408, Clearwater, FL

BAN20041127 Wall Street Mortgage Corporation - To relocate mortgage lender broker's office from 10000 Falls Road, Suite 304, Potomac, MD to 442 E. Diamond Avenue, Gaithersburg, MD

BAN20041128 Payday USA of Virginia, LLC d/b/a Payday USA - To open a payday lender's office at 348 South Battlefield Boulevard, Chesapeake, VA

BAN20041129 Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To open a mortgage lender and broker's office at 4311 Old Milford Mill Road, Pikesville, MD

BAN20041130 Jeff S. Gibson d/b/a Vintage Mortgage Company - For a mortgage broker's license

BAN20041131 SK Associates, Inc. d/b/a Old Stone Jiffy Mart - To open a check casher at 3425 Martinsburg Pike, Clearbrooks, VA

BAN20041132 American Discount Mortgage Entity, Inc. (Used in VA by: American Discount Mortgage, Inc.) - To relocate mortgage broker's office from 4405 Mall Boulevard, Suite 135, Union City, GA to 4405 Mall Boulevard, Suite 400, Union City, GA

BAN20041133 Kenneth L. Daniel d/b/a American Mortgage Center - To relocate mortgage broker's office from 1500 Forest Avenue, Suite 200, Richmond, VA to 8001 Franklin Farms Drive, Suite 116, Richmond, VA

BAN20041134 LoanCity.Com, Inc. (Used in VA by: LoanCity.Com) - To relocate mortgage lender's office from 8322 Chapel Lake Court, Annandale, VA to 12801 Worldgate Drive, Suite 500, Herndon, VA

BAN20041135 Advent Financial Group, Inc. d/b/a Community Mortgage Company - To relocate mortgage broker's office from 417 Kojun Court, Sterling, VA to 7900 Westpark Drive, Suite A-503, McLean, VA

BAN20041136 Society Funding Group, LLC - For a mortgage broker's license

BAN20041137 George Light and Sandra Fleetwood Light - To acquire 25 percent or more of Jams-01, Inc.

BAN20041138 America East Mortgage LLC - For a mortgage lender's license

BAN20041139 Encore Credit Corp. - To open a mortgage lender and broker's office at 1750 Howe Avenue, Suite 600, Sacramento, CA

BAN20041140 Fast Payday Loans, Inc. - To open a payday lender's office at 312 England Street, Ashland, VA

BAN20041141 Fast Payday Loans, Inc. - To open a payday lender's office at 3590 Forest Haven Lane, Chesapeake, VA

BAN20041142 Mortgage Virginia LLC - To open a mortgage lender and broker's office at 3601 Boulevard, Suite C, Colonial Heights, VA

BAN20041143 Mortgage Virginia LLC - To open a mortgage lender and broker's office at 10001 Courtview Lane, Chesterfield, VA

BAN20041144 Mortgage Virginia LLC - To open a mortgage lender and broker's office at 11936 Centre Street, Suite A, Chester, VA

BAN20041145 Mortgage Virginia LLC - To open a mortgage lender and broker's office at 8100 Highland Glen Drive, Chester, VA

BAN20041146 The Mortgage Link, Inc. - To relocate mortgage broker's office from 3607 Crest Drive, Annandale, VA to 4209 Evergreen Lane, Annandale, VA

BAN20041147 Master Financial, Inc. - To open a mortgage lender's office at 8647 Baypine Road, Suite 205, Jacksonville, FL

BAN20041148 PowerPlus Mortgage, Inc. - To relocate mortgage broker's office from Dulles Gateway I, 13921 Park Center, Herndon, VA to 47382 Westwood Place, Suite 100, Sterling, VA

BAN20041149 1st Principle Mortgage, LLC - For a mortgage broker's license

BAN20041150 American Nationwide Mortgage Company, Inc. - To open a mortgage lender and broker's office at 13802 Fleur De Lis, Suite H, Cypress, TX

BAN20041151 Mortgage Center of America, Inc. - To open a mortgage broker's office at 133 East Davis Street, Suite 210, Culpeper, VA

BAN20041152 Elite Financial Investments, Inc. - For a mortgage broker's license

BAN20041153 Barrons Financial Services Corp. - For a mortgage broker's license

BAN20041154 Heartland Home Finance, Inc. - To open a mortgage lender and broker's office at 6860 South Yosemite Court, Suite 1120, Centennial, CO

BAN20041155 Encore Credit Corp. - To relocate mortgage lender broker's office from 10900 Nuckols Road, Suite 205, Glen Allen, VA to 5101 Cox Road, Suite 200, Glen Allen, VA

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BAN20041156 Primerica Financial Services Home Mortgages, Inc. - To open a mortgage broker's office at 393 Denbigh Boulevard, Newport News, VA

BAN20041157 American Residential Funding, Inc. - To open a mortgage lender and broker's office at 3311 Toledo Terrace, Suite 203B, Hyattsville, MD

BAN20041158 CashNet, Inc. d/b/a Cash Advance Centers - To relocate payday lender's office from 245 Arch Avenue, Space B, Waynesboro, VA to 125 Lucy Lane, Suite C, Waynesboro, VA

BAN20041159 Aames Funding Corporation d/b/a Aames Home Loan - To relocate mortgage lender broker's office from 8605 Westwood Center Drive, Suite 401, Vienna, VA to 8603 Westwood Center Drive, Suite 340, Vienna, VA

BAN20041160 Antietam Mortgage, Inc. - For a mortgage broker's license

BAN20041161 Regal Mortgage & Financial Service Centers, Inc. - For a mortgage broker's license

BAN20041162 Advocate Mortgage Capital, Inc. - For a mortgage broker's license

BAN20041163 R.N. Shah Amoco, LLC d/b/a Centreville Amoco - To open a check casher at 7206 Centreville Road, Manassas, VA

BAN20041164 United First Mortgage, Inc. - For a mortgage lender and broker license

BAN20041165 Macloud Financial, Inc. - For a mortgage lender and broker license

BAN20041166 Elizabeth River Mortgage, L.P. - For a mortgage lender's license

BAN20041167 Ben Zayer d/b/a All Nations Mortgage - For a mortgage broker's license

BAN20041168 Home Source Mortgage Corporation - For a mortgage lender's license

BAN20041169 Clayton Peters & Associates, Inc. d/b/a CPA Mortgage - To open a mortgage broker's office at 2200 Clarendon Boulevard, Arlington, VA

BAN20041170 Kishmen Mortgage Corporation - To open a mortgage broker's office at 4222 Bonniebank Road, Suite 100, Richmond, VA

BAN20041171 Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 5117 Grimm Drive, Alexandria, VA

BAN20041172 Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To open a mortgage lender and broker's office at 308 Cedar Lakes Road, Suite 103, Chesapeake, VA

BAN20041173 Check into Cash of Virginia, LLC d/b/a Check into Cash - To open a payday lender's office at 662 Brandon Avenue, S.W., Unit L-9, Roanoke, VA

BAN20041174 Check into Cash of Virginia, LLC d/b/a Check into Cash - To open a payday lender's office at 8794 Sacramento Drive, Suite J, Alexandria, VA

BAN20041175 Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 2138 Espey Court, Crofton, MD

BAN20041176 ComUnity Lending, Incorporated d/b/a Virginia Community Lending (McLean, Reston and Virginia Beach) - To open a mortgage lender and broker's office at 9418 Annapolis Road, Suite 105, Lanham, MD

BAN20041177 ComUnity Lending, Incorporated d/b/a Virginia Community Lending (McLean, Reston and Virginia Beach) - To open a mortgage lender and broker's office at 851 S. Rampart, Suite 150, Las Vegas, NV

BAN20041178 AmTrust Mortgage Corporation - To relocate mortgage lender's office from 11299 Owings Mills Boulevard, Owings Mills, MD to 3600 Croadall Lane, Suite 109, Owings Mills, MD

BAN20041179 Southern Trust Mortgage, LLC d/b/a Middleburg Mortgage (2 Norfolk Offices) - To relocate mortgage lender broker's office from 690 Berkmar Crossing, Charlottesville, VA to 1160 Pepsi Place, Suite 110B, Charlottesville, VA

BAN20041180 American Mortgage Express Corp. - To relocate mortgage lender broker's office from 1075 Cranbury-South River Road, Suite 9, Jamesburg, NJ to 8 Centre Drive, Monroe Township, NJ

BAN20041181 The Kimberlie Financial Group, Inc. - To relocate mortgage broker's office from 106 Crofton Place, Suite 7D, Palmyra, VA to 106 Crofton Place, Suite 7, Palmyra, VA

BAN20041182 Century Mortgage Company - For a mortgage lender's license

BAN20041183 Emerald Financial Group LLC - For additional mortgage authority

BAN20041184 The Mortgage Exchange Service, LLC - To relocate mortgage broker's office from 8125 Larkin Lane, Vienna, VA to 1880 Howard Avenue, Suite 105, Vienna, VA

BAN20041185 Aring Corporation d/b/a Allstate Home Mortgage - To open a mortgage broker's office at Potomac Falls Professional, 46175 Westlake Drive, Potomac Falls, VA

BAN20041186 Blue Ridge Companies, LLC d/b/a Blue Ridge Mortgage Company - To open a mortgage broker's office at 1340 Maple Avenue, S.W., Roanoke, VA

BAN20041187 Advantage Mortgage Group, LTD. - To open a mortgage broker's office at 2754 Electric Road, Suite C, Roanoke, VA

BAN20041188 Blue Ridge Mortgage, Inc. - To open a mortgage broker's office at 3739 Lake Monticello Road, Palmyra, VA

BAN20041189 MortgageStar, Inc. - To open a mortgage lender and broker's office at 1050 Crawford Parkway, Portsmouth, VA

BAN20041190 Bay Capital Corp. - To open a mortgage lender and broker's office at 10107 Krause Road, Chesterfield, VA

BAN20041191 Advisa Mortgage Corporation - To relocate mortgage broker's office from 8101 Valley Lane, Ellicott City, MD to 3938 Tidewood Road, Middle River, MD

BAN20041192 Montgomery Capital Mortgage Corporation (Used in VA by: Montgomery Capital Corporation) - To relocate mortgage broker's office from 2 East Rolling Crossroads, Suite 259, Catonsville, MD to 7004 Security Boulevard, Suite 210, Windsor Mill, MD

BAN20041193 America's Mortgage Broker, L.L.C. d/b/a Affordable Home Funding - To open a mortgage lender and broker's office at 590 Oak Bay Drive, Osprey, FL

BAN20041194 Tan D. Nguyen d/b/a TITAN Mortgage Group - To relocate mortgage broker's office from 9420 Braymore Circle, Fairfax Station, VA to 6051 Arlington Boulevard, Suite D, Falls Church, VA

BAN20041195 eFinancial Mortgage Corporation - To relocate mortgage broker's office from 7528 June Street, Springfield, VA to 6434 Brandon Avenue, Springfield, VA

BAN20041196 EZ Loans of Virginia, Inc. - To conduct a payday lending business where prepaid cell phone service will be sold

BAN20041197 Wall Street Financial Corporation - For a mortgage lender's license

BAN20041198 Noury Corporation - For a mortgage broker's license

BAN20041199 Providence Financial Group - For a mortgage broker's license

BAN20041200 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 593-E Southlake Boulevard, Richmond, VA

BAN20041201 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 13017 Taxi Drive, Dale City, VA

BAN20041202 Oak Street Mortgage LLC - To relocate mortgage lender broker's office from 375 Northridge Road, Suite 285, Atlanta, GA to 375 Northridge Road, Suite 520, Atlanta, GA

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

BAN20041203	Primerica Financial Services Home Mortgages, Inc. - To relocate mortgage broker's office from 14011 Telegraph Road, Woodbridge, VA to 4897 Prince William Parkway, Suite 201, Woodbridge, VA
BAN20041204	Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To relocate mortgage broker's office from 1500 Rainbow Drive, Silver Spring, MD to 14613 Locustwood Lane, Silver Spring, MD
BAN20041205	Fast Track Financial Corp. - For a payday lender license
BAN20041206	American Mortgage & Loan, Inc. - For a mortgage broker's license
BAN20041207	Peoples' Enterprises, Inc. - For a money order license
BAN20041208	B Y K S INC. - For a mortgage broker's license
BAN20041209	United Residential Lending, LLC - For a mortgage lender's license
BAN20041210	Pinnacle Financial Corporation d/b/a Tristar Lending Group (In Certain Offices) - To open a mortgage lender and broker's office at 3502 18th Street, N.E., Washington, DC
BAN20041211	Pinnacle Financial Corporation d/b/a Tristar Lending Group (In Certain Offices) - To open a mortgage lender and broker's office at 1574 Whitehall Road, Annapolis, MD
BAN20041212	Pinnacle Financial Corporation d/b/a Tristar Lending Group (In Certain Offices) - To open a mortgage lender and broker's office at 479 Jumpers Hole Road, Suite 203, Severna Park, MD
BAN20041213	Pinnacle Financial Corporation d/b/a Tristar Lending Group (In Certain Offices) - To open a mortgage lender and broker's office at 3460 Olney-Laytonsville Road, Suite 219, Olney, MD
BAN20041214	Pinnacle Financial Corporation d/b/a Tristar Lending Group (In Certain Offices) - To open a mortgage lender and broker's office at 1419 Forest Drive, Suite 104, Annapolis, MD
BAN20041215	Pinnacle Financial Corporation d/b/a Tristar Lending Group (In Certain Offices) - To open a mortgage lender and broker's office at 1107 Spring Street, Suite E, Silver Spring, MD
BAN20041216	Pinnacle Financial Corporation d/b/a Tristar Lending Group (In Certain Offices) - To open a mortgage lender and broker's office at 260 Gateway Drive, Suites 9 and 10C, Bel Air, MD
BAN20041217	Sunset Mortgage Company L.P. - To open a mortgage lender and broker's office at 8212 Old Courthouse Road, Suite 2, Vienna, VA
BAN20041218	American Mortgage Express Corp. - To open a mortgage lender and broker's office at 7000 Atrium Way, Mount Laurel, NJ
BAN20041219	Pulte Mortgage LLC d/b/a Del Webb Home Finance - To open a mortgage lender and broker's office at 10021 Park Cedar Drive, Suite 300, Charlotte, NC
BAN20041220	Pulte Mortgage LLC d/b/a Del Webb Home Finance - To open a mortgage lender and broker's office at 5155 East 46th. Avenue, Denver, CO
BAN20041221	Kennedy Mortgage Corp. - To open a mortgage broker's office at 13800 Coppermine Road, Suite 242, Herndon, VA
BAN20041222	Diamond G, Inc. d/b/a Diamond G Check Advance - To relocate a payday lender's office from 607 Park Avenue, Norton, VA to 534 Park Avenue, Norton, VA
BAN20041223	EZ Loans of Virginia, Inc. - To conduct a payday lending business where prepaid cell phone service will be sold
BAN20041224	SunTrust Bank - To relocate office from 6060 Jefferson Avenue, Newport News, VA to 5211 West Mercury Boulevard, Hampton, VA
BAN20041225	Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 3700 N. Saginaw Road, Midland, MI
BAN20041226	Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 1206 Laskin Road, Suite 208, Virginia Beach, VA
BAN20041227	Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 422 Main Street, Suite 3A, Gaithersburg, MD
BAN20041228	Premier Mortgage Funding, Inc. - To relocate mortgage broker's office from 6901 Old Keene Mill Road, Springfield, VA to 8136 Old Keene Mill Road, Suite A-308, Springfield, VA
BAN20041229	Guardian Loan Company of Massapequa, Inc. - To relocate mortgage lender's office from 49 River Street, Milford, CT to 16 Oxford Road, Milford, CT
BAN20041230	Alcova Mortgage LLC - To relocate mortgage broker's office from 2965 Colonnade Drive, Suite 100, Roanoke, VA to 2840 Electric Road, S.W., Suite A111, Roanoke, VA
BAN20041231	Aurora Mortgage LLC - To relocate mortgage lender broker's office from 1801 Crystal Drive, Suite 702, Arlington, VA to 8150 Leesburg Pike, Suite 1070, Vienna, VA
BAN20041232	Firsthome.info, Inc. - For a mortgage broker's license
BAN20041233	USA Home Loans, Inc. - For additional mortgage authority
BAN20041234	Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 307 W. Main Street, Hudson, MI
BAN20041235	Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 6354 Rolling Mill Court, Suite 103, Springfield, VA
BAN20041236	East Shore Mortgage, LLC - For a mortgage broker's license
BAN20041237	Prime Option Financial Services, LLC - For a mortgage broker's license
BAN20041238	Trinity Mortgage, Inc. - For a mortgage broker's license
BAN20041239	First NLC Financial Services, LLC - To open a mortgage lender and broker's office at 45 Braintree Hill Office Park, Suite 203, Braintree, MA
BAN20041240	ComUnity Lending, Incorporated d/b/a Virginia Community Lending (McLean, Reston and Virginia Beach) - To open a mortgage lender and broker's office at 175 W. Wieuca Road, Suite 112, Atlanta, GA
BAN20041241	First Capital Mortgage Corporation - To relocate mortgage broker's office from 6201 Leesburg Pike, Suite 305, Falls Church, VA to 6201 Leesburg Pike, Suite 5, Falls Church, VA
BAN20041242	Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 6013 Harbour Park Drive, Midlothian, VA
BAN20041243	New Century Mortgage Corporation d/b/a Home123 Corporation (In Certain Offices) - To open a mortgage lender and broker's office at 14750 NW 77th Court, Suite 100, Miami Lakes, FL
BAN20041244	GMFS, LLC d/b/a Neighborhood Lenders - To open a mortgage lender's office at 125 Town Park Drive, Suite 300, Kennesaw, GA
BAN20041245	Equity United Mortgage Corporation - To open a mortgage broker's office at 1322 18th Street, N.W., Suite 310, Washington, DC
BAN20041246	Equity United Mortgage Corporation - To open a mortgage broker's office at 19488 Blueridge Mountain Road, Bluemont, VA
BAN20041247	Southern Star Mortgage Corp. - To open a mortgage lender and broker's office at 139 Merrick Road, Lynbrook, NY
BAN20041248	Lovell, Hubbard and Associates, Inc. - For additional mortgage authority
BAN20041249	Wells Fargo Financial Virginia, Inc. - To open a consumer finance office at 5900 East Virginia Beach Boulevard, Norfolk, VA
BAN20041250	Wells Fargo Financial Virginia, Inc. - To conduct consumer finance business where business loans will also be made
BAN20041251	Wells Fargo Financial Virginia, Inc. - To conduct consumer finance business where sales finance business will also be conducted
BAN20041252	Wells Fargo Financial Virginia, Inc. - To conduct consumer finance business where property insurance business will also be conducted
BAN20041253	Wells Fargo Financial Virginia, Inc. - To conduct consumer finance business where mortgage lending will also be conducted
BAN20041254	Wells Fargo Financial Virginia, Inc. - To conduct consumer finance business where open-end lending will also be conducted

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BAN20041255 Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 309 East Main Street, Suite 4, Bedford, VA  
 BAN20041256 Founders Mortgage Group Incorporated - To relocate mortgage broker's office from 8224 Hamilton Drive, Gloucester, VA to 744 Thimble Shoals Boulevard, Suite C, Newport News, VA

BAN20041257 Royal Check Cashing, Inc. - To open a check casher at 6708 Arlington Boulevard, Rt. 50, Falls Church, VA  
 BAN20041258 Cash & Go, Inc. - For a payday lender license  
 BAN20041259 Amerifirst Funding LLC - For a mortgage broker's license  
 BAN20041260 AmeriFund Mortgage Services, L.L.C. - For a mortgage broker's license  
 BAN20041261 Net Branch Capital, LLC - For a mortgage broker's license  
 BAN20041262 New Peoples Bank, Inc. - To open a branch at 350 West Main Street, Abingdon, VA  
 BAN20041263 Check into Cash of Virginia, LLC d/b/a Check into Cash - To open a payday lender's office at 13420 Benns Church Boulevard, Smithfield, VA

BAN20041264 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 3948 Browning Place, Suite 110, Raleigh, NC  
 BAN20041265 NFM, Inc. d/b/a Fidelity Mortgage Corporation - To open a mortgage lender and broker's office at 6630 Eli Whitney Drive, Suite G, Columbia, MD  
 BAN20041266 Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To open a mortgage broker's office at 1037 Mansfield Crossing Road, Richmond, VA  
 BAN20041267 Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To open a mortgage broker's office at 3525 Piedmont Road, 7 Piedmont Center, Suite 300, Kennesaw, GA  
 BAN20041268 Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To relocate mortgage broker's office from 4201 North Damen Avenue, Chicago, IL to 1702 7th Street, West Unit, Withrop Harbor, IL  
 BAN20041269 Aames Funding Corporation d/b/a Aames Home Loan - To relocate mortgage lender broker's office from 7833 Walker Drive, Suite 425, Greenbelt, MD to 7501 Greenway Center Drive, Suite 460, Greenbelt, MD

BAN20041270 Yosemite Brokerage, Inc. - For a mortgage broker's license  
 BAN20041271 World Lending Group Holdings, LLC - To acquire 25 percent or more of Global Equity Lending, Inc.  
 BAN20041272 Gateway Funding Diversified Mortgage Services, L.P. - To open a mortgage lender's office at 800 West Cummings Park, Suite 5000, Woburn, MA  
 BAN20041273 Gateway Funding Diversified Mortgage Services, L.P. - To open a mortgage lender's office at 11911 U.S. Highway One, North Palm Beach, FL  
 BAN20041274 Gateway Funding Diversified Mortgage Services, L.P. - To open a mortgage lender's office at 3229 Cranberry Highway, Buzzards Bay, MA  
 BAN20041275 Harbourton Mortgage Investment Corporation - To relocate mortgage lender's office from 8180 Greensboro Drive, Suite 525, McLean, VA to 8180 Greensboro Drive, Suite 300, McLean, VA

BAN20041276 American Gold Mortgage Corp. - For a mortgage lender's license  
 BAN20041277 First Commonwealth Mortgage Corp. - For additional mortgage authority  
 BAN20041278 Southern Star Mortgage Corp. - To open a mortgage lender and broker's office at 609 Route 109, Suite 1A, West Babylon, NY  
 BAN20041279 Southern Star Mortgage Corp. - To open a mortgage lender and broker's office at 8787 Francis Lewis Boulevard, Suite 2, Queens Village, NY

BAN20041280 Metrocities Mortgage, LLC - To open a mortgage lender and broker's office at 1971-H Evelyn Byrd Avenue, Harrisonburg, VA  
 BAN20041281 Metrocities Mortgage, LLC - To open a mortgage lender and broker's office at 10008 Deputy Court, Glen Allen, VA  
 BAN20041282 America's Mortgage Broker, L.L.C. d/b/a Affordable Home Funding - To relocate mortgage lender broker's office from 1020 Elder Court, Suite 102, Herndon, VA to 5017 Backlick Road, Suite 2, Annandale, VA

BAN20041283 Woodbury Mortgage Company, L.L.C. - To open a mortgage lender and broker's office at 14833 George Washington Memorial Highway, Glenss, VA  
 BAN20041284 D & D Mortgage Corporation - To relocate mortgage broker's office from 9245 Shady Grove Road, 2nd Floor, Mechanicsville, VA to 9097 Atlee Station Road, Suite 218, Mechanicsville, VA

BAN20041285 First Bank of Virginia (Used in VA by: First Bank) - To open a branch at 600 East Main Street, Suite C, Radford, VA  
 BAN20041286 Dynamic Capital Mortgage, Inc. - To open a mortgage lender and broker's office at 7945 MacArthur Boulevard, Suite 210, Cabin John, MD

BAN20041287 Texas Industries Employees Credit Union - Out of state credit union to open an in state office  
 BAN20041288 MoneyGram International, Inc. - To acquire 25 percent or more of Travelers Express Company, Inc.  
 BAN20041289 The Kirney Group, Inc. - To relocate mortgage broker's office from 1500 Thurber Street, Herndon, VA to 33575 Austin Grove Road, Bluemont, VA

BAN20041290 AmericaHomeKey, Inc. - For a mortgage lender and broker license  
 BAN20041291 Amerifund Home Mortgage LLC - For a mortgage lender and broker license  
 BAN20041292 Power Financial Co., Inc. - For a mortgage broker's license  
 BAN20041293 Assurance Mortgage, LLC - For a mortgage broker's license  
 BAN20041294 Provident Capital Mortgage, Inc. - For a mortgage broker's license  
 BAN20041295 First Choice Home Equity, LLC - For a mortgage broker's license  
 BAN20041296 Flick Mortgage Investors, Inc. - To relocate mortgage lender's office from 1 Centerview Drive, Suite 102, Greensboro, NC to 1500 Pincroft Road, Suite 101, Greensboro, NC

BAN20041297 EZ Mortgage, Inc. - For a mortgage broker's license  
 BAN20041298 New Century Mortgage Corporation d/b/a Home123 Corporation (In Certain Offices) - To open a mortgage lender and broker's office at 910 East Hamilton Avenue, Suite 430, Campbell, CA

BAN20041299 New Century Mortgage Corporation d/b/a Home123 Corporation (In Certain Offices) - To open a mortgage lender and broker's office at 5600 South Quebec Street, Suite 305D, Greenwood Village, CO  
 BAN20041300 New Century Mortgage Corporation d/b/a Home123 Corporation (In Certain Offices) - To open a mortgage lender and broker's office at 841 Bishop Street, Suite 725, Honolulu, HI  
 BAN20041301 New Century Mortgage Corporation d/b/a Home123 Corporation (In Certain Offices) - To open a mortgage lender and broker's office at 6404 International Parkway, Suite 2000, Plano, TX  
 BAN20041302 New Century Mortgage Corporation d/b/a Home123 Corporation (In Certain Offices) - To open a mortgage lender and broker's office at 2000 Crow Canyon Place, Suite 240, San Ramon, CA

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BAN20041303	New Century Mortgage Corporation d/b/a Home123 Corporation (In Certain Offices) - To open a mortgage lender and broker's office at 8365 Keystone Crossing, Suite 104, Indianapolis, IN
BAN20041304	New Century Mortgage Corporation d/b/a Home123 Corporation (In Certain Offices) - To open a mortgage lender and broker's office at 1407 116th Avenue, N.E., Suite 100, Bellevue, WA
BAN20041305	Nations Home Funding, Inc. - To open a mortgage lender and broker's office at 3211 Shannon Road, Suite 100, Durham, NC
BAN20041306	Nations Home Funding, Inc. - To open a mortgage lender and broker's office at 4700 Falls of the Neuse Road, Suite 120, Raleigh, NC
BAN20041307	Nations Home Funding, Inc. - To open a mortgage lender and broker's office at 2530 Riva Road, Suite 300, 3rd Floor, Annapolis, MD
BAN20041308	Primary Residential Mortgage, Inc. - To open a mortgage lender and broker's office at 15145 Brandy Road, Culpeper, VA
BAN20041309	Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 9148 Hannah Dustin Lane, Casanova, VA
BAN20041310	Haworth & Associates, Inc. (Used in VA by: International Mortgage Company, Inc.) - To relocate mortgage broker's office from 103 West Broad Street, Suite 400, Falls Church, VA to 103 West Broad Street, Suite 250, Falls Church, VA
BAN20041311	Americorp Credit Corporation - To open a mortgage lender and broker's office at 747 W. Katella Avenue, Suite 111, Orange, CA
BAN20041312	John Jeffrey Peedin d/b/a Valley First Mortgage - To relocate mortgage broker's office from 98 Madge Road, Littleton, NC to 75 Summerplace, Littleton, NC
BAN20041313	GMAC Mortgage Corporation d/b/a Ditech.Com - To open a mortgage lender and broker's office at 22685 Three Notch Road, Suite 14, California, MD
BAN20041314	AEGIS Lending Corporation d/b/a Amalgamated Mortgage (Bethesda, MD Office Only) - To open a mortgage lender and broker's office at 111 Founders Plaza, Suite 902, East Hartford, CT
BAN20041315	Check into Cash of Virginia, LLC d/b/a Check into Cash - To open a payday lender's office at 1036 Memorial Square Drive, Pulaski, VA
BAN20041316	Check into Cash of Virginia, LLC d/b/a Check into Cash - To open a payday lender's office at 659 Peters Creek Road, N.W., Roanoke, VA
BAN20041317	Southern Star Mortgage Corp. - To open a mortgage lender and broker's office at 27919 Jefferson Avenue, Suite 206, Temecula, CA
BAN20041318	The Dixson Financial Group, LLC - For a mortgage broker's license
BAN20041319	Loudoun Lenders, LTD. - For a mortgage broker's license
BAN20041320	Tyson's Mortgage, Inc. - To relocate mortgage broker's office from 2106-D Gallows Road, Vienna, VA to 150 Little Falls Street, Suite 206, Falls Church, VA
BAN20041321	Mortgage Choice, LLC - For a mortgage broker's license
BAN20041322	American Mortgage Group, LLC - For additional mortgage authority
BAN20041323	Equis Financial, Inc. - For a mortgage broker's license
BAN20041324	LC Mortgage Corporation - For a mortgage broker's license
BAN20041325	Katayoun Saab - To acquire 25 percent or more of Saab Financial Corp.
BAN20041326	ComUnity Lending, Incorporated d/b/a Virginia Community Lending (McLean, Reston and Virginia Beach) - To open a mortgage lender and broker's office at 1060 Powers Place, Alpharetta, GA
BAN20041327	Primary Residential Mortgage, Inc. - To open a mortgage lender and broker's office at 4061 Powder Mill Road, Suite 700, Calverton, MD
BAN20041328	Dollar Wise Mortgage Corporation - To relocate mortgage broker's office from 14098 Eagle Chase Circle, Chantilly, VA to 9687 Main Street, Unit C, Fairfax, VA
BAN20041329	Fieldstone Mortgage Company d/b/a Broad Street Mortgage Co. - To relocate mortgage lender broker's office from 281 Independence Boulevard, Suite 442, Virginia Beach, VA to 293 Independence Boulevard, Suite 108, Virginia Beach, VA
BAN20041330	Ray Leigh, L.L.C. - To open a check casher at 2217 Newbern Lane, Virginia Beach, VA
BAN20041331	People's Choice Home Loan, Inc. - For a mortgage lender's license
BAN20041332	Woodmen Mortgage Services, Inc. - For a mortgage lender's license
BAN20041333	Zagros Financial Inc. - For a mortgage broker's license
BAN20041334	Beacon Credit Union, Incorporated - To merge into it Lynchburg Appalachian Employees Credit Union, Incorporated, Lynchburg, VA
BAN20041335	NorthStar Mortgage Corp. - To open a mortgage broker's office at 8780 Crestbrook Road, Rural Hall, NC
BAN20041336	NorthStar Mortgage Corp. - To open a mortgage broker's office at 5625 Greenville Loop Road, Wilmington, NC
BAN20041337	NorthStar Mortgage Corp. - To open a mortgage broker's office at 2402 Gillette Drive, Wilmington, NC
BAN20041338	NorthStar Mortgage Corp. - To open a mortgage broker's office at 3259 Eyreville Drive, Eastville, VA
BAN20041339	NorthStar Mortgage Corp. - To open a mortgage broker's office at 5333 Bardith Circle, Virginia Beach, VA
BAN20041340	Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 5006 Boonsboro Road, Suite 2, Oakwood Square, Lynchburg, VA
BAN20041341	Freedom Mortgage Corporation - To open a mortgage lender and broker's office at 8260 Greensboro Drive, Suite 500, McLean, VA
BAN20041342	MortgageIT, Inc. d/b/a MIT Lending (In Certain Offices) - To open a mortgage lender and broker's office at 3566 Concord Road, York, PA
BAN20041343	MortgageIT, Inc. d/b/a MIT Lending (In Certain Offices) - To open a mortgage lender and broker's office at 4101 Cox Road, Suite 320, Glen Allen, VA
BAN20041344	Heritage Mortgage Brokers, L.L.C. - To open a mortgage broker's office at 7531 Presidential Lane, Manassas, VA
BAN20041345	FlatFee Home Loans, Inc. - To open a mortgage broker's office at 11515 53rd Street, North, Clearwater, FL
BAN20041346	NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 7039 U.S. Highway 301, South, Riverview, FL
BAN20041347	Philip McCarthy - For a mortgage broker's license
BAN20041348	Wakefield Lending Company, LLC - For a mortgage broker's license
BAN20041349	Capital Mortgage Solutions, Inc. - For a mortgage broker's license
BAN20041350	DL King, LLC d/b/a King\$ Ca\$h Advance\$ - To open a payday lender's office at Heritage Square Shopping Center, 4424 George Washington Highway, Grafton, VA
BAN20041351	Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 1011 Golf Estates Drive, Woodstock, GA
BAN20041352	Credence Mortgage Inc. - For a mortgage broker's license
BAN20041353	Russ Fast Cash, Inc. - For a payday lender license
BAN20041354	Harbor Court Funding, Inc. - For a mortgage broker's license
BAN20041355	Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 6701 Democracy Boulevard, Suite 300, Bethesda, MD



BAN20041356 Choice Financing Services, Inc. - To open a mortgage broker's office at 7701 Lafayette Forest Drive, Suite 32, Annandale, VA  
 BAN20041357 Castle Point Mortgage, Inc. - To relocate mortgage lender broker's office from 9151 Rumsey Road, Suite 190, Columbia, MD to 6085 Marshalee Drive, Suite 210, Elkridge, MD

BAN20041358 Americorp Credit Corporation - To open a mortgage lender and broker's office at 10650 West Charleston, Suite 180, Las Vegas, NV  
 BAN20041359 River Mortgage, Inc. - For a mortgage broker's license  
 BAN20041360 Harbor Financial Group, Inc. - For a mortgage broker's license  
 BAN20041361 Apple Mortgage Corporation - For a mortgage broker's license  
 BAN20041362 Gayle D. Putt - For a mortgage broker's license  
 BAN20041363 United Mutual Funding Corp. - For a mortgage broker's license  
 BAN20041364 Nationwide Mortgage Lenders Inc. - For a mortgage broker's license  
 BAN20041365 Gateway Funding Diversified Mortgage Services, L.P. - To open a mortgage lender's office at 500 Newbern Road, Dublin, VA  
 BAN20041366 Catoctin Mortgage, L.L.C. - To open a mortgage broker's office at 7631 Covewood Court, Gainesville, VA  
 BAN20041367 Benchmark Community Bank - To relocate office from 410 Church Street, Blackstone, VA to 400 Church Street, Blackstone, VA  
 BAN20041368 Southern Star Mortgage Corp. - To open a mortgage lender and broker's office at 11750 Business Park Drive, Suite 205, Waldorf, MD  
 BAN20041369 Mortgage Select Services Inc. - To open a mortgage broker's office at Coopertown Plaza, 1105 Sunset Road, Units E and F, Burlingtown Township, NJ

BAN20041370 First American Mortgage Services, Inc. - To relocate mortgage broker's office from 302 East Davis Street, Culpeper, VA to 118 Donmoor Court, Garner, NC

BAN20041371 Capitol Mortgage Group Inc. - For a mortgage broker's license  
 BAN20041372 Axis Financial Group, Inc. - For a mortgage broker's license  
 BAN20041373 Sunset Mortgage Company L.P. - To relocate mortgage lender broker's office from 505 Arnett Boulevard, Danville, VA to 480 B Piney Forest Road, Danville, VA

BAN20041374 American Business Mortgage Services, Inc. - To relocate mortgage lender's office from 105 Eisenhower Parkway, Roseland, NJ to The Wanamaker Building, 100 Penn Square, East, 8th Floor, Philadelphia, PA

BAN20041375 Branch Banking and Trust Company of Virginia - To relocate office from 109 East Main Street, Norfolk, VA to 500 East Main Street, Norfolk, VA

BAN20041376 Gulf South Lending Group - For a mortgage broker's license  
 BAN20041377 New Century Mortgage Corporation d/b/a Home123 Corporation (In Certain Offices) - To open a mortgage lender and broker's office at 13520 Evening Creek Drive, North, San Diego, CA

BAN20041378 New Century Mortgage Corporation d/b/a Home123 Corporation (In Certain Offices) - To open a mortgage lender and broker's office at 2880 Gateway Oaks Drive, Suite 200, Sacramento, CA

BAN20041379 Atlantic Bay Mortgage Group, L.L.C. - To open a mortgage lender and broker's office at 1739 Euclid Avenue, Bristol, VA  
 BAN20041380 Network Funding, L.P. - To open a mortgage lender and broker's office at 8100 North Dallas Parkway, Suite 215, Plano, TX  
 BAN20041381 Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To relocate mortgage broker's office from 6895 Washington Boulevard, Elkridge, MD to 583 Frederick Road, Suite 6C, Baltimore, MD

BAN20041382 Accredited Home Lenders, Inc. - To open a mortgage lender's office at 4040 Blackburn Lane, Suite 200, Burtonsville, MD  
 BAN20041383 Accredited Home Lenders, Inc. - To relocate mortgage lender's office from Iron Mountain Storage, Cincinnati, OH to 5415 E. Provident Drive, Cincinnati, OH

BAN20041384 Chamberlain Mortgage Corporation - For a mortgage broker's license  
 BAN20041385 Rapid Cash, Inc. - For a payday lender license  
 BAN20041386 Foundation Financial Group, LLC - For a mortgage lender and broker license  
 BAN20041387 Ocwen Loan Servicing, LLC - For a mortgage lender's license  
 BAN20041388 CashNet, Inc. d/b/a Cash Advance Centers - To relocate payday lender's office from 926 Cousins Avenue, Hopewell, VA to 924 Cousins Avenue, Hopewell, VA

BAN20041389 Republic Mortgage LLC - To open a mortgage lender and broker's office at 14362 N. Frank Lloyd Wright Boulevard, Suite 2200, Scottsdale, AZ

BAN20041390 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 5006 Strauss Court, Fredericksburg, VA

BAN20041391 Windsor Capital Mortgage Corporation - To open a mortgage broker's office at 4500 Daly Drive, Suite 200, Chantilly, VA  
 BAN20041392 Branch Banking and Trust Company of Virginia - To open a branch at 6402 Arlington Boulevard, Fairfax County, VA  
 BAN20041393 American Home Mortgage Corp. d/b/a MortgageSelect - To relocate mortgage lender broker's office from 2303 North Augusta Street, Suite E, Staunton, VA to 1600 North Coalter Street, Suite 15, Staunton, VA

BAN20041394 GMAC Mortgage Corporation d/b/a Ditech.Com - To relocate mortgage lender broker's office from 143 Beaver Dam Reach, Rehoboth Beach, DE to 113 Brighton Road, Rehoboth Beach, DE

BAN20041395 AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To relocate mortgage broker's office from 201 Winston Avenue, Colonial Heights, VA to 2305 North Parham Road, Richmond, VA

BAN20041396 Crusader Cash Advance of Virginia, LLC - To open a payday lender's office at 1560 North Franklin Street, Christiansburg, VA  
 BAN20041397 Allied Mortgage, L.L.C. - To open a mortgage broker's office at 2487 Stuarts Draft Highway, Stuarts Draft, VA  
 BAN20041398 Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 945 Rockborn Street, Gaithersburg, MD  
 BAN20041399 NVR Mortgage Finance, Inc. - To open a mortgage lender and broker's office at 13224 Lovers Lane, Culpeper, VA  
 BAN20041400 Valley Team Mortgage, Inc. - To relocate mortgage broker's office from 1601 Wilbur Road, Roanoke, VA to 2041 Lee Hi Road, Roanoke, VA

BAN20041401 Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 3901 W. 86th Street, Suite 125, Indianapolis, IN  
 BAN20041402 Mortgage Shares, Inc. - To relocate mortgage broker's office from 6867 Elm Street, Suite 100, McLean, VA to 500 N. Washington Street, Suite 201, Alexandria, VA

BAN20041403 Primerica Financial Services Home Mortgages, Inc. - To relocate mortgage broker's office from 101 S. Whiting Street, Suite 108, Alexandria, VA to 4811 B Eisenhower Avenue, Alexandria, VA

BAN20041404 American Residential Funding, Inc. - To open a mortgage lender and broker's office at 22935 Ventura Boulevard, Suite 206, Woodland Hills, CA

BAN20041405 Check First, Inc. - To relocate payday lender's office from 5277 Princess Anne Road, Virginia Beach, VA to 974 East Stuart Drive, Suite A, Galax, VA

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

BAN20041406 AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To open a mortgage broker's office at 501 Prince George Street, Williamsburg, VA

BAN20041407 UBS Mortgage LLC - To open a mortgage lender and broker's office at 2085 Ellis Avenue, St. Paul, MN

BAN20041408 UBS Mortgage LLC - To open a mortgage lender and broker's office at 10951 Hampshire Avenue, Bloomington, MN

BAN20041409 UBS Mortgage LLC - To open a mortgage lender and broker's office at 3601 Minnesota Drive, Bloomington, MN

BAN20041410 UBS Mortgage LLC - To open a mortgage lender and broker's office at 2701 5th Avenue, South, Minneapolis, MN

BAN20041411 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 13540 East Boundary Road, B1, Suite 103, Midlothian, VA

BAN20041412 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 4704 Carlisle Pike, Mechanicsburg, PA

BAN20041413 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 17 Asbury Way, Sterling, VA to 46598 Kingschase Court, Sterling, VA

BAN20041414 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 16 Bally Hean Court, Timonium, MD to 31 Gray Squirrel Court, Timonium, MD

BAN20041415 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 854 Macalister Drive, Leesburg, VA to 6043 Polomaglade Drive, Lithia, FL

BAN20041416 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 3258A Titanic Drive, Stafford, VA to 3282 Titanic Drive, Stafford, VA

BAN20041417 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 4306 Poplar Branch Drive, Chantilly, VA to 7223 Lee Highway, Suite 301, Falls Church, VA

BAN20041418 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 16077 Deer Park Drive, Montclair, VA to 4449 Tuscany Court, Montclair, VA

BAN20041419 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 12001 Ridge Knoll Drive, Suite 8, Fairfax, VA to 6806 Clifton Grove Court, Clifton, VA

BAN20041420 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 21015 Powderhorn Court, Ashburn, VA to 132 Seton Hill Road, Williamsburg, VA

BAN20041421 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 44 Duck Cove Circle, Berlin, MD to 11615 1/2 Coastal Highway, Suite H, Ocean City, MD

BAN20041422 Fast Payday Loans, Inc. - To open a payday lender's office at 5218 West Broad Street, Richmond, VA

BAN20041423 Fast Payday Loans, Inc. - To open a payday lender's office at 755 East Main Street, Wytheville, VA

BAN20041424 Fast Payday Loans, Inc. - To open a payday lender's office at 3319 Oaklawn Boulevard, Hopewell, VA

BAN20041425 Fast Payday Loans, Inc. - To open a payday lender's office at 1 Roanoke Street, Christiansburg, VA

BAN20041426 Mark M. Blass - To be an exclusive agent for Primerica Financial Services Home Mortgages, Inc.

BAN20041427 SouthCoast Mortgage & Investment Corporation - For a mortgage broker's license

BAN20041428 GSC Enterprises, Inc. d/b/a Fidelity Express - For a money order license

BAN20041429 America's Home Loan Corporation - For a mortgage broker's license

BAN20041430 EDS, LLC - For a mortgage broker's license

BAN20041431 LFG Processing Corporation - For a mortgage broker's license

BAN20041432 Accredited Home Lenders, Inc. - To open a mortgage lender's office at 700 Burning Tree Road, Fullerton, CA

BAN20041433 Karim Enterprises, Inc. d/b/a Prime Mortgage - To relocate mortgage broker's office from 9554 Old Keene Mill Road, Suite A, Burke, VA to 6303 Little River Turnpike, Suite 230, Alexandria, VA

BAN20041434 American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 9003 Quioccasin Road, Richmond, VA

BAN20041435 American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 9207 Crystal Point Place, Glen Allen, VA

BAN20041436 SunTrust Bank - To open a branch at 220 South Main Street, Blacksburg, VA

BAN20041437 SunTrust Bank - To open a branch at 1738 Amherst Street, Winchester, VA

BAN20041438 First Tennessee Bank National Association - To open a branch at 7794 Donnegan Drive, Manassas, VA

BAN20041439 First Tennessee Bank National Association - To open a branch at 20098 Ashbrook Place, Ashburn, VA

BAN20041440 First Tennessee Bank National Association - To open a branch at 320 King Street, Alexandria, VA

BAN20041441 First Tennessee Bank National Association - To open a branch at 12150 Monument Drive, Fairfax, VA

BAN20041442 First Tennessee Bank National Association - To open a branch at 1025 Boulders Parkway, Richmond, VA

BAN20041443 First Tennessee Bank National Association - To open a branch at 621 Lynnhaven Parkway, Virginia Beach, VA

BAN20041444 First Tennessee Bank National Association - To open a branch at 1305 Executive Boulevard, Chesapeake, VA

BAN20041445 Lending Mortgage Services, Inc. - For a mortgage broker's license

BAN20041446 J & H Mortgage Consultants, Inc. - For a mortgage broker's license

BAN20041447 Coral Mortgage Bankers Corp. - For a mortgage lender's license

BAN20041448 Matkensons, Inc. d/b/a Xpress International - To open a check casher at 2927 Gallows Road, Suite 201, Falls Church, VA

BAN20041449 Ray Leigh, L.L.C. d/b/a A Loan 4 Less - For a payday lender license

BAN20041450 Financial Mortgage, Inc. - To open a mortgage lender and broker's office at 11211 Waples Mill Road, Suite 200, Fairfax, VA

BAN20041451 Fieldstone Mortgage Company d/b/a Broad Street Mortgage Co. - To open a mortgage lender and broker's office at 200 Galleria Parkway, N.W., Suite 220, Atlanta, GA

BAN20041452 Americorp Credit Corporation - To open a mortgage lender and broker's office at 111 N. Sepulveda Boulevard, Suite 320, Manhattan Beach, CA

BAN20041453 InterBay Funding, LLC - To relocate mortgage lender's office from 4601 Sheridan Street, Suite 400, Hollywood, FL to 4601 Sheridan Street, Suite 600, Hollywood, FL

BAN20041454 Barksdale Business Group, Inc. d/b/a Barksdale Loan Consultants - To relocate mortgage broker's office from 97 Glenview Lane, Willingboro, NJ to 6915 New Falls Road, Levittown, PA

BAN20041455 Ray Leigh, L.L.C. d/b/a A Loan 4 Less - To conduct a payday lending business where an open end credit business will be conducted

BAN20041456 Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 2572 Oakstone Drive, Columbus, OH

BAN20041457 Cornerstone Mortgage, Inc. - To open a mortgage broker's office at 6224 Driftwood Drive, Alexandria, VA

BAN20041458 Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To relocate mortgage broker's office from 40347 U.S. Highway 19, N., Tarpon Springs, FL to 100 East Tarpon Avenue, Suite 8, Tarpon Springs, FL

BAN20041459 Cornerstone Mortgage, Inc. - To open a mortgage broker's office at 13139 Quail Creek Lane, Fairfax, VA  
 BAN20041460 Cornerstone Mortgage, Inc. - To open a mortgage broker's office at 9774 Lakepoint Drive, Burke, VA  
 BAN20041461 Cornerstone Mortgage, Inc. - To open a mortgage broker's office at 135 Dogwood Terrace, Big Stone Gap, VA  
 BAN20041462 Cornerstone Mortgage, Inc. - To open a mortgage broker's office at 11424 N. Star Drive, Ft. Washington, MD  
 BAN20041463 Global Mortgage, Inc. - To open a mortgage broker's office at 26059 Glasgow Drive, South Riding, VA  
 BAN20041464 Appalachian Oil Company, Inc. - For a money order license  
 BAN20041465 1st American Trust Mortgage Corporation - To relocate mortgage broker's office from 2 Winters Lane, Catonsville, MD to 10270 Old Columbia Road, Suite 150, Columbia, MD  
 BAN20041466 B.D. Nationwide Mortgage Company - To relocate mortgage broker's office from 545 Second Street, Suite 1, Encinitas, CA to 701 Palomar Airport Road, Carlsbad, CA  
 BAN20041467 Centex Home Equity Company, LLC - To relocate mortgage lender broker's office from Three Crowne Point Court, Suite 190, Cincinnati, OH to One Crowne Point, Suite 300, Sharonville, OH  
 BAN20041468 M.C. Mortgage LLC - To relocate mortgage broker's office from 408 Chisholm Drive, Virginia Beach, VA to 2697 International Parkway, Parkway 2, Suite 201, Virginia Beach, VA  
 BAN20041469 Americorp Credit Corporation - To open a mortgage lender and broker's office at 10640 W. Charleston, Suite 180, Las Vegas, NV  
 BAN20041470 Liberty United Mortgage, LLC - For a mortgage broker's license  
 BAN20041471 Wells Fargo Financial Virginia, Inc. - To open a consumer finance office at 12505 Dillingham Square, Lake Ridge, VA  
 BAN20041472 Wells Fargo Financial Virginia, Inc. - To conduct consumer finance business where property insurance business will also be conducted  
 BAN20041473 Wells Fargo Financial Virginia, Inc. - To conduct consumer finance business where business loans will also be made  
 BAN20041474 Wells Fargo Financial Virginia, Inc. - To conduct consumer finance business where open-end lending will also be conducted  
 BAN20041475 Wells Fargo Financial Virginia, Inc. - To conduct consumer finance business where sales finance business will also be conducted  
 BAN20041476 Wells Fargo Financial Virginia, Inc. - To conduct consumer finance business where mortgage lending will also be conducted  
 BAN20041477 A Choice Funding LLC - For a mortgage broker's license  
 BAN20041478 SLM Financial Corporation - To open a consumer finance office at 9215 Midlothian Turnpike, Chesterfield County, VA  
 BAN20041479 SLM Mortgage Corporation-VA d/b/a Sallie Mae Home Loans - To open a mortgage lender and broker's office at 9215 Midlothian Turnpike, Richmond, VA  
 BAN20041480 Fieldstone Mortgage Company d/b/a Broad Street Mortgage Co. - To open a mortgage lender and broker's office at 9 Audubon Road, Wakefield, MA  
 BAN20041481 First Heritage Mortgage, LLC - To open a mortgage lender and broker's office at 6550 Rock Spring Drive, Suite 260, Bethesda, MD  
 BAN20041482 Pinnacle Financial Corporation d/b/a Tristar Lending Group (In Certain Offices) - To open a mortgage lender and broker's office at 2204 Timberloch Place, Suite 185, The Woodlands, TX  
 BAN20041483 The Kirney Group, Inc. - To relocate mortgage broker's office from 2107 Highcourt Lane, Suite 304, Herndon, VA to 12110 Sunset Hills Road, Suite 450, Reston, VA  
 BAN20041484 Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To relocate mortgage broker's office from 3107 Monument Avenue, Suite 4, Richmond, VA to 1605 Grove Avenue, Suite 1, Richmond, VA  
 BAN20041485 United Equity LLC - To relocate mortgage lender broker's office from 10732 Red Dahlia Drive, Woodstock, MD to 4400 Jennifer Street, Suite 200, Washington, DC  
 BAN20041486 National Future Mortgage, Inc. - To relocate mortgage lender broker's office from 1873 Route 70, East, Cherry Hill, NJ to 2 Eastwick Drive, Suite 300, Gibbsboro, NJ  
 BAN20041487 1st Dominion Mortgage, L.L.C. - To relocate mortgage broker's office from 6239 Executive Boulevard, Rockville, MD to 400 Professional Drive, Suite 220, Gaithersburg, MD  
 BAN20041488 Jacob E. Middel - To acquire 25 percent or more of Center Street Mortgage, LLC  
 BAN20041489 UL Cash, Inc. - For a payday lender license  
 BAN20041490 American South Lending, Inc. - For a mortgage broker's license  
 BAN20041491 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 3349 Vineville Avenue, Macon, GA  
 BAN20041492 Allied Home Mortgage Capital Corporation - To open a mortgage lender and broker's office at 1215 Jones Franklin Road, Suite 101, Raleigh, NC  
 BAN20041493 Union Bank and Trust Company - To open a branch at 6479 Mechanicsville Turnpike, Mechanicsville, VA  
 BAN20041494 American Residential Funding, Inc. - To open a mortgage lender and broker's office at 14005 Tanners House Way, Centerville, VA  
 BAN20041495 Community Mortgage Centers, LLC d/b/a The Mortgage Store U.S.A. - To open a mortgage broker's office at 6188 Oxon Hill Road, Suite 502, Oxon Hill, MD  
 BAN20041496 AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To open a mortgage broker's office at 1540 West Glenoaks Boulevard, Suite 102, Glendale, CA  
 BAN20041497 AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To open a mortgage broker's office at 3415 Greystone Drive, Suite 103, Austin, TX  
 BAN20041498 AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To relocate mortgage broker's office from 308 N. Lindsay Street, High Point, NC to 2631-B Suffolk Avenue, High Point, NC  
 BAN20041499 Sunset Mortgage Company L.P. - To relocate mortgage lender broker's office from Mail Drop 3000, 1408 West Baltimore, Franklin Center, PA to 3 Dickenson Drive, Chadds Ford, PA  
 BAN20041500 Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To relocate mortgage broker's office from 3525 Piedmont Road, 7 Piedmont, Kennesaw, GA to 2593 Kennesaw Due West Road, Suite 310, Kennesaw, GA  
 BAN20041501 Bank of the James - To open a branch at 828 Main Street, Lynchburg, VA  
 BAN20041502 Visions Financial Group, Inc. - For a mortgage broker's license  
 BAN20041503 Excel Mortgage & Investment Services, Inc. - For additional mortgage authority  
 BAN20041504 AGA Capital NY Inc. - For a mortgage lender and broker license  
 BAN20041505 Phil Romero - To acquire 25 percent or more of Loan Link Financial Services, Inc.  
 BAN20041506 Joseph J. Iacobelli - To acquire 25 percent or more of Premier Mortgage Group, Ltd., LLC  
 BAN20041507 Metro Lending Corporation - For a mortgage broker's license  
 BAN20041508 Express Check Advance of Virginia, LLC d/b/a Express Check Advance - To open a payday lender's office at 1205 Main Street, Unit B, Altavista, VA

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BAN20041509	Express Check Advance of Virginia, LLC d/b/a Express Check Advance - To open a payday lender's office at 4573 South Amherst Highway, Madison Heights, VA
BAN20041510	Express Check Advance of Virginia, LLC d/b/a Express Check Advance - To open a payday lender's office at 21120 Timberlake Road, Lynchburg, VA
BAN20041511	Express Check Advance of Virginia, LLC d/b/a Express Check Advance - To open a payday lender's office at 18396 Forest Road, Unit C, Forest, VA
BAN20041512	Novelle Financial Services, Inc. - To relocate mortgage lender broker's office from 15050 Avenue of Science, Suite 101, San Diego, CA to 1401 Dove Street, Suite 100, Newport Beach, CA
BAN20041513	Richard S. Hess - To acquire 25 percent or more of Realty Mortgage, LLC
BAN20041514	E. Paul Breaux, Jr. - To acquire 25 percent or more of Realty Mortgage, LLC
BAN20041515	MC Holdings, LLC d/b/a Equity Funding Associates - For a mortgage broker's license
BAN20041516	HMS21-Corp. - For a mortgage broker's license
BAN20041517	Mortgage Banc, Inc. - For a mortgage broker's license
BAN20041518	CorBanc Mortgage LLC - For a mortgage broker's license
BAN20041519	Peoples Community Bank - To open a branch at 10899 Tidewater Trail, Spotsylvania County, VA
BAN20041520	Q. C. & G. Financial, Inc. d/b/a Ace America's Cash Express - To conduct a payday lending business where a money order sales/money transmission business will also be conducted
BAN20041521	MortgageTree Lending Corporation (Used in VA by: MortgageTree Lending) - To open a mortgage lender's office at 5202 W. Market Street, Greensboro, NC
BAN20041522	Blue Ridge Finance Corporation - To relocate mortgage broker's office from 600 East Main Street, Purcellville, VA to 13 West Federal Street, Middleburg, VA
BAN20041523	Provident Bank of Maryland - To open a branch at 9540 Liberia Avenue, Manassas, VA
BAN20041524	Cash & Go, Inc. - To conduct a payday lending business where a money order sales/money transmission business will also be conducted
BAN20041525	Gateway Bank & Trust Co. - To open a branch at 520 S. Main Street, Emporia, VA
BAN20041526	Gateway Bank & Trust Co. - To open a branch at 2825 Godwin Boulevard, Suffolk, VA
BAN20041527	North Georgia Mortgage Group, Inc. - For a mortgage broker's license
BAN20041528	Bank of Floyd - To open a branch at 1634 West Main Street, Salem, VA
BAN20041529	Virginia Commerce Bank - To open a branch at 2401 Mount Vernon Avenue, Alexandria, VA
BAN20041530	Midlothian Mortgage Group, LLC - To open a mortgage lender and broker's office at 150 Boush Street, Suite 604, Norfolk, VA
BAN20041531	American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 300 Welsh Road, Building 4, Suite 150, Horsham, PA
BAN20041532	American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 6 Commerce Drive, Cranford, NJ
BAN20041533	LenderLive Network, Inc. - To open a mortgage broker's office at 5555 DTC Parkway, Suite B3000, Englewood, CO
BAN20041534	Americorp Credit Corporation - To open a mortgage lender and broker's office at 2400 E. Katella Avenue, Suite 1265, Anaheim, CA
BAN20041535	GMAC Mortgage Corporation d/b/a Ditech.Com - To open a mortgage lender and broker's office at 99 Smallwood Drive, Waldorf, MD
BAN20041536	Primerica Financial Services Home Mortgages, Inc. - To open a mortgage broker's office at 4305 Saint Barnabas Road, Suite 303, Temple Hills, MD
BAN20041537	Provident Bank of Maryland - To open a branch at 11721 Lee Highway, Fairfax County, VA
BAN20041538	AA Mortgage Group, LLC - For a mortgage broker's license
BAN20041539	Diversified Mortgage, Inc. - For a mortgage lender's license
BAN20041540	Gateway Mortgage Group, LLC - To open a mortgage lender and broker's office at 6500 Harbour View Court, Suite 203, Midlothian, VA
BAN20041541	Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 2911 Turner Road, Suite A-1, Richmond, VA
BAN20041542	Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 7631 Woodpark Lane, Columbia, MD
BAN20041543	Fortune Mortgage Company d/b/a BORROW123.COM - To open a mortgage lender and broker's office at 843-I Quince Orchard Boulevard, Gaithersburg, MD
BAN20041544	CitiFinancial, Inc. - To open a mortgage lender's office at 3405 McLemore Drive, Pensacola, FL
BAN20041545	Marion Mortgage, LLC - To open a mortgage broker's office at 3975 University Drive, Suite 210, Fairfax, VA
BAN20041546	Fitzsimmons, Lewis & Wade Mortgage Services Inc. - To open a mortgage broker's office at 7 Southall Landing, Hampton, VA
BAN20041547	Cristina V. G. Kramer d/b/a Anchor Tidewater Mortgage Company - To open a mortgage broker's office at 7104 Mechanicsville Turnpike, Suite 220, Mechanicsville, VA
BAN20041548	Virginia One Mortgage Corporation - To relocate mortgage broker's office from 43684 Warbler Square, Lansdowne, VA to 569 Central Drive, Suite 101, Virginia Beach, VA
BAN20041549	MTGE Solutions Ltd. d/b/a Mortgage Solutions - To relocate mortgage broker's office from 12919 Champlain Drive, Manassas, VA to 27157 Paddock Trail Place, South Riding, VA
BAN20041550	NovaStar Home Mortgage, Inc. - To relocate mortgage lender broker's office from 240 South 200 West, Suite 220, Farmington, UT to 92 East Pages Lane, Centerville, UT
BAN20041551	Darrell Green Mortgage, LLC - To relocate mortgage broker's office from 11911 Freedom Drive, Suite 550, Reston, VA to 21515 Ridgetop Circle, Suite 240, Sterling, VA
BAN20041552	ComUnity Lending, Incorporated d/b/a Virginia Community Lending (McLean, Reston and Virginia Beach) - To relocate mortgage lender broker's office from 2903 Aspen Drive, Suite A, Loveland, CO to 600 301st Boulevard, West, Bradenton, FL
BAN20041553	Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 10757-A Ambassador Drive, Manassas, VA
BAN20041554	Option One Mortgage Corporation - To relocate mortgage lender broker's office from 14520 Avion Parkway, Suite 310, Chantilly, VA to 22630 Davis Drive, Suite 300, Sterling, VA
BAN20041555	Added Edge Financial Services, Inc. - To open a mortgage broker's office at 2468 Sycamore Lakes Cove, Herndon, VA
BAN20041556	Fairfax Mortgage Investments Inc. - To open a mortgage lender and broker's office at 54 Bayside Drive, Fenwick Island, DE
BAN20041557	Fairfax Mortgage Investments Inc. - To open a mortgage lender and broker's office at 4930 Cloverdale Court, LaPlata, MD
BAN20041558	United Mortgage Corporation - To relocate mortgage lender broker's office from 12150 Monument Drive, Suite 217, Fairfax, VA to 5885 Trinity Parkway, Suite 140, Centreville, VA

BAN20041559 Associated Mortgage, Inc. - To relocate mortgage broker's office from 1991 Logan Manor Drive, Reston, VA to 357 Walker Road, Great Falls, VA

BAN20041560 CreditGuard of America, Inc. - To conduct business as a nonprofit credit counseling agency pursuant to Chapter 10.2 of Title 6.1 of the Code of Virginia

BAN20041561 Take Charge America, Inc. - To open a credit counseling office

BAN20041562 American Financial Resources, Inc. - For a mortgage lender and broker license

BAN20041563 NFC-Check Cashing Service, Inc. d/b/a NFC-Payday Advance - For a payday lender license

BAN20041564 Fast Payday Loans, Inc. - To open a payday lender's office at 1932 Armistead Avenue, Hampton, VA

BAN20041565 Fast Payday Loans, Inc. - To open a payday lender's office at 3319 Oaklawn Boulevard, Hopewell, VA

BAN20041566 Fast Payday Loans, Inc. - To open a payday lender's office at 1 Roanoke Street, Christiansburg, VA

BAN20041567 Quicken Loans Inc. - To open a mortgage lender's office at 800 Tower Drive, Suite 200, Troy, MI

BAN20041568 First Fidelity Financial Corp. - For a mortgage lender and broker license

BAN20041569 uvm Mortgage Marketing, Inc. - For a mortgage broker's license

BAN20041570 SIRVA Mortgage, Inc. - To open a mortgage lender's office at 700 Oakmont Lane, Westmont, IL

BAN20041571 A Money Matter Mortgage Inc. - To open a mortgage broker's office at 201-C Broadway Street, Frederick, MD

BAN20041572 Allied Home Mortgage Capital Corporation - To open a mortgage lender and broker's office at 23 Aldrin Road, Plymouth, MA

BAN20041573 Allied Home Mortgage Capital Corporation - To open a mortgage lender and broker's office at 2555 Whitney Avenue, Hamden, CT

BAN20041574 Allied Cash Advance Virginia LLC d/b/a Allied Cash Advance - To open a payday lender's office at 11105 Levells Road, Unit 2, Fredericksburg, VA

BAN20041575 First Choice Mortgage Inc. - To open a mortgage broker's office at 7825 Midlothian Turnpike, Suite 112, Midlothian, VA

BAN20041576 Fairway Mortgage Services, Inc. (Used in VA by: The Coleman Group, Inc.) - To relocate mortgage broker's office from 4811 Jonestown Road, Suite 229, Harrisburg, PA to 4811 Jonestown Road, Suite 223, Harrisburg, PA

BAN20041577 Metrocities Mortgage, LLC - To relocate mortgage lender broker's office from 1971-H Evelyn Byrd Avenue, Harrisonburg, VA to 1951-B Evelyn Byrd Avenue, Harrisonburg, VA

BAN20041578 Sun Mortgage, Inc. - To relocate mortgage broker's office from 621 Lynnhaven Parkway, Suite 251, Virginia Beach, VA to 3080 Brickhouse Court, Virginia Beach, VA

BAN20041579 Premier Mortgage Funding, Inc. - To relocate mortgage broker's office from 118 Creekside Lane, Winchester, VA to 3078 Shawnee Drive, Winchester, VA

BAN20041580 Sun National Mortgage and Funding LLC d/b/a Sun Mortgage and Funding, LLC - For a mortgage broker's license

BAN20041581 New Century Mortgage Corporation d/b/a Home123 Corporation (In Certain Offices) - To open a mortgage lender and broker's office at 4835 East Cactus Road, Suite 265, Scottsdale, AZ

BAN20041582 New Century Mortgage Corporation d/b/a Home123 Corporation (In Certain Offices) - To open a mortgage lender and broker's office at 6404 International Parkway, Suite 2000, Plano, TX

BAN20041583 U.S. Mortgage Corporation of Virginia (Used in VA by: U.S. Mortgage Corporation) - To open a mortgage lender and broker's office at 66 Route 17, North, 2nd Floor, Paramus, NJ

BAN20041584 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 3500 Virginia Beach Boulevard, Suite 219, Virginia Beach, VA

BAN20041585 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 1250 Scottsville Road, Suite 20 E, Rochester, NY

BAN20041586 Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To open a mortgage broker's office at 95 Bridge Street, Suite 2, Pelham, NH

BAN20041587 Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To relocate mortgage broker's office from 201 St. Johns Street, Suite 1, Havre De Grace, MD to 104 Tidewater Drive, Havre De Grace, MD

BAN20041588 Primary Residential Mortgage, Inc. - To open a mortgage lender and broker's office at 46 Slope Lane, Evinston, VA

BAN20041589 Primary Residential Mortgage, Inc. - To open a mortgage lender and broker's office at 4413 Hunters Run Drive, Clemmons, NC

BAN20041590 Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 10501 Braddock Road, Fairfax, VA

BAN20041591 Allied Home Mortgage Capital Corporation - To relocate mortgage lender broker's office from 21351 Ridgetop Circle, Suite 300, Dulles, VA to 13873 Parks Center Road, Suite 350, Herndon, VA

BAN20041592 Accredited Home Lenders, Inc. - To open a mortgage lender's office at 2300 E. Katella Avenue, Suite 200, Anaheim, CA

BAN20041593 Accredited Home Lenders, Inc. - To open a mortgage lender's office at 15200 Santa Fe Drive, 2nd Floor, Lenexa, KS

BAN20041594 American Heritage Home Loans LLC - For a mortgage broker's license

BAN20041595 Consumer Credit Counseling Service of San Francisco - To conduct business as a nonprofit credit counseling agency pursuant to Chapter 10.2 of Title 6.1 of the Code of Virginia

BAN20041596 Skyland Mortgage LLC - For a mortgage broker's license

BAN20041597 American Credit Counselors, Inc. d/b/a American Credit Counselors of Florida - To conduct business as a nonprofit credit counseling agency pursuant to Chapter 10.2 of Title 6.1 of the Code of Virginia

BAN20041598 Concord Mortgage Corp. - For a mortgage lender and broker license

BAN20041599 Dominion Home Mortgage Corp. - For a mortgage broker's license

BAN20041600 Streamline Holding, LLC d/b/a Streamline Mortgage & Financial of VA - To open a mortgage broker's office at 12007 Sunrise Valley Drive, Suite 225, Reston, VA

BAN20041601 Evergreen Financial, Inc. d/b/a Evergreen Mortgage Services - To relocate mortgage broker's office from 10681 Water Falls Lane, Vienna, VA to 5039-B Backlick Road, Annandale, VA

BAN20041602 Tidewater Home Mortgage Group Inc. - To relocate mortgage broker's office from 2339 W. Grace Street, Suite A, Richmond, VA to 10203 Swinging Bridge Drive, Richmond, VA

BAN20041603 Citizens and Farmers Bank - To open a branch at east side of George Washington Memorial Highway at Rich Road, York County, VA

BAN20041604 Citizens and Farmers Bank - To open a branch at corner of Hardy Cash Drive and Coliseum Drive, Hampton, VA

BAN20041605 Brooke Enterprises, Inc. d/b/a Cash Today - To open a payday lender's office at Route 460, Anchorage Shopping Center, Vansant, VA

BAN20041606 American Liberty Loans Inc. - To relocate mortgage broker's office from 6639 Timber Trails Road, Lisle, IL to 3158 River Road, Suite 41, Des Plaines, IL

BAN20041607 Anthony Robert Scardelletti - To acquire 25 percent or more of Washington Capitol Financial Corp.

BAN20041608 MortgageTree Lending Corporation (Used in VA by: MortgageTree Lending) - To open a mortgage lender's office at 5950 Fairview Road, Suite 320, Charlotte, NC

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BAN20041609 Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 2704 Grayland Avenue, Richmond, VA  
 BAN20041610 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 6606 Desiree Court, Alexandria, VA

BAN20041611 Pinnacle Financial Corporation d/b/a Tristar Lending Group (In Certain Offices) - To open a mortgage lender and broker's office at 5640 Nicholson Lane, Suite 6, Rockville, MD  
 BAN20041612 Pinnacle Financial Corporation d/b/a Tristar Lending Group (In Certain Offices) - To open a mortgage lender and broker's office at 5906 Hubbard Drive, Rockville, MD  
 BAN20041613 Pinnacle Financial Corporation d/b/a Tristar Lending Group (In Certain Offices) - To relocate mortgage lender broker's office from 7925 Jones Branch Drive, Suite 400, McLean, VA to 4895 Prince William Parkway, Woodbridge, VA  
 BAN20041614 MortgageStar, Inc. - To open a mortgage lender and broker's office at 60 College Place, Hampton, VA  
 BAN20041615 Primerica Financial Services Home Mortgages, Inc. - To open a mortgage broker's office at 5935 Hopkins Road, Suite 204, Richmond, VA

BAN20041616 Silver State Financial Services, Inc. - For a mortgage lender's license  
 BAN20041617 ABI Mortgage, Inc. - For a mortgage broker's license  
 BAN20041618 Sunshine Mortgage LLC - For a mortgage broker's license  
 BAN20041619 Elite Mortgage Executives, Inc. - For a mortgage broker's license  
 BAN20041620 Mortgage Capital Associates, Inc. d/b/a Mortgage Capital Acceptance Corporation - To open a mortgage lender's office at 1340 E. 6th Street, Los Angeles, CA

BAN20041621 American Nationwide Mortgage Company, Inc. - To open a mortgage lender and broker's office at 1125 B Avenue, West Columbia, SC  
 BAN20041622 W.R. Starkey Mortgage, LLP - To open a mortgage lender and broker's office at 100 Sun Avenue, Suite 200, Albuquerque, NM  
 BAN20041623 ECC Capital Corporation - For a mortgage lender and broker license  
 BAN20041624 Pauley Trust Co., LLC - To establish a private trust company  
 BAN20041625 American Consumer Credit Counseling, Inc. - To conduct business as a nonprofit credit counseling agency pursuant to Chapter 10.2 of Title 6.1 of the Code of Virginia

BAN20041626 TNL Global Inc - For a money order license  
 BAN20041627 North Atlantic Mortgage Corporation - For additional mortgage authority  
 BAN20041628 B K & Associates, Inc. - For a mortgage broker's license  
 BAN20041629 SWBC Mortgage Corporation - For a mortgage lender and broker license  
 BAN20041630 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 1414 W. Broadway Road, Suite 224, Tempe, AZ

BAN20041631 Himalaya Mortgage & Investments, Inc. - To relocate mortgage broker's office from 15405 Eagle Tavern Lane, Centreville, VA to 5131 Pleasant Forest Drive, Centreville, VA  
 BAN20041632 Himalaya Mortgage & Investments, Inc. - To relocate mortgage broker's office from 10550 Marty, Suite 202, Overland Park, KS to 11881 W. 112th Street, Overland Park, KS  
 BAN20041633 Premier Financial Company - To relocate mortgage lender broker's office from 320 Main Street, Suite 100, Gaithersburg, MD to 177 Mill Green Avenue, Suite 100, Gaithersburg, MD  
 BAN20041634 Primary Residential Mortgage, Inc. - To relocate mortgage lender broker's office from 100 Cheyenne Drive, Louisburg, NC to 140 Main Street, Suite 3, Bunn, NC  
 BAN20041635 CMG Mortgage, Inc. d/b/a Pacific Guarantee Mortgage - To open a mortgage lender and broker's office at 4905 Schaefer Road, Dearborn, MI

BAN20041636 ComUnity Lending, Incorporated d/b/a Virginia Community Lending (McLean, Reston and Virginia Beach) - To open a mortgage lender and broker's office at 1481 W. Warm Springs Road, Suite 136, Henderson, NV  
 BAN20041638 CKPC Corp., Inc. d/b/a Golden Supermarket - To open a check casher at 1401 Chestnut Street, Richmond, VA  
 BAN20041639 Sun Financial Group, Inc. - For a mortgage broker's license  
 BAN20041640 Discount Mortgage Warehouse Inc. d/b/a Globelend Mortgage - For a mortgage broker's license  
 BAN20041641 UMC Mortgage Company (Used in VA by: United Mortgage Company) - For a mortgage broker's license  
 BAN20041642 Global Mortgage, Inc. - To open a mortgage broker's office at 1020 Baydon Lane, Chesapeake, VA  
 BAN20041643 Global Mortgage, Inc. - To open a mortgage broker's office at 13401 Hallow Way Court, Woodbridge, VA  
 BAN20041644 Global Mortgage, Inc. - To open a mortgage broker's office at 3700 Forest Grove Drive, Annandale, VA  
 BAN20041645 Global Mortgage, Inc. - To open a mortgage broker's office at 4854 Muscogee Lane, Woodbridge, VA  
 BAN20041646 MortgageStar, Inc. - To open a mortgage lender and broker's office at 1050 Crawford Parkway, Portsmouth, VA  
 BAN20041647 MortgageStar, Inc. - To open a mortgage lender and broker's office at 2725 Christopher Farms Drive, Virginia Beach, VA  
 BAN20041648 MortgageStar, Inc. - To open a mortgage lender and broker's office at 501 Fernwood Farms Road, Chesapeake, VA  
 BAN20041649 Success Mortgage, L.L.C. - To relocate mortgage broker's office from 158 Front Royal Pike, Suite 2B, Winchester, VA to 158 Front Royal Pike, Suite 303, Winchester, VA

BAN20041650 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To relocate mortgage lender broker's office from 12700 Black Forest Lane, Woodbridge, VA to 13601 Office Place, Suite 102, Woodbridge, VA

BAN20041651 Pioneer Mortgage, Inc. - For a mortgage lender's license  
 BAN20041652 Apex Mortgage LLC - For a mortgage broker's license  
 BAN20041653 American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 556 Garrisonville Road, Suite 1108, Stafford, VA  
 BAN20041654 American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 1403 Greenbrier Parkway, Chesapeake, VA  
 BAN20041655 American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 11870 Merchants Walk, Newport News, VA  
 BAN20041656 American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 4421 Virginia Beach Boulevard, Virginia Beach, VA  
 BAN20041657 American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 9101 Midlothian Turnpike, Richmond, VA  
 BAN20041658 Lincoln Mortgage, LLC - To relocate mortgage broker's office from 6911 Richmond Highway, Suite 477, Alexandria, VA to 758 S. 23rd Street, Arlington, VA

BAN20041659	CTX Mortgage Company, LLC - To open a mortgage lender and broker's office at 7021 Harbor View Boulevard, Suite 101, Suffolk, VA
BAN20041660	Union Bank and Trust Company - To merge into it Guaranty Bank
BAN20041661	True Lending Company, LLC - For a mortgage lender's license
BAN20041662	Southwest Funding, LP - For a mortgage lender's license
BAN20041663	Potomac Trust Mortgage Company LLC d/b/a Potomac Trust Mortgage - For a mortgage broker's license
BAN20041664	Honey Mae, Inc. - For a mortgage lender and broker license
BAN20041665	Guardian Loan Company of Massapequa, Inc. - For additional mortgage authority
BAN20041666	Piedmont Mortgage Associates, Inc. - To relocate mortgage broker's office from 2702 N. Parham Road, Richmond, VA to 2800 Parham Road, Suite 200, Richmond, VA
BAN20041667	CTX Mortgage Company, LLC - To relocate mortgage lender broker's office from 14140 Parke Long Court, Suite F, Chantilly, VA to 3684 Centerview Drive, Chantilly, VA
BAN20041668	Network Funding, L.P. - To relocate mortgage lender broker's office from 1206 Laskin Road, Suite 201E, Virginia Beach, VA to 3300 Virginia Beach Boulevard, Suite 301, Virginia Beach, VA
BAN20041669	Network Funding, L.P. - To relocate mortgage lender broker's office from 2177 Elkwood Avenue, Baton Rouge, LA to 3084 Westford, Suite A, Baton Rouge, LA
BAN20041670	Fieldstone Mortgage Company d/b/a Broad Street Mortgage Co. - To open a mortgage lender and broker's office at 2400 Boston Street, Suite 201, Baltimore, MD
BAN20041671	MortgageTree Lending Corporation (Used in VA by: MortgageTree Lending) - To open a mortgage lender's office at 333 City Boulevard, West, 17th Floor, Orange, CA
BAN20041672	American Residential Funding, Inc. - To open a mortgage lender and broker's office at 7700 Irvine Center Drive, Suite 800, Irvine, CA
BAN20041673	Coastal Capital Corp. - To open a mortgage lender and broker's office at 2 Paragon Way, Suite 4, Freehold, NJ
BAN20041674	Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 105 South Cedar Street, Summerville, SC
BAN20041675	Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 1573 Bennington Woods Court, Reston, VA
BAN20041676	AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To open a mortgage broker's office at 10713-A Birmingham Way, Woodstock, MD
BAN20041677	Southern Star Mortgage Corp. - To open a mortgage lender and broker's office at 100 Quentin Roosevelt Boulevard, Suite 204, Garden City, NY
BAN20041678	InstantRefi.com LLC d/b/a First Guarantee Mortgage LLC - To open a mortgage broker's office at 353 Broadway, 2nd Floor, Saratoga Springs, NY
BAN20041679	InstantRefi.com LLC d/b/a First Guarantee Mortgage LLC - To open a mortgage broker's office at 433 Broadway, 2nd Floor, Saratoga Springs, NY
BAN20041680	InstantRefi.com LLC d/b/a First Guarantee Mortgage LLC - To open a mortgage broker's office at Iron Mountain, Route 9, South, Port Ewen, NY
BAN20041681	InstantRefi.com LLC d/b/a First Guarantee Mortgage LLC - To open a mortgage broker's office at 24 Hamilton Street, 2nd Floor, Saratoga Springs, NY
BAN20041682	Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 1408 West Hill Road, Suite C, Flint, MI
BAN20041683	Brooke Point Mortgage, Inc. - To relocate mortgage broker's office from 660 Hunters Place, Suite 102, Charlottesville, VA to 6410 Medallion Drive, Fredericksburg, VA
BAN20041684	Home Loan Center, Inc. d/b/a LendingTree Loans - To relocate mortgage lender broker's office from 18191 Von Karman Avenue, Suite 300, Irvine, CA to 163 Technology Drive, Irvine, CA
BAN20041685	Key Financial Corporation - To relocate mortgage broker's office from 8550 Ulmerton Road, Suite 132, Largo, FL to 3631 131st Avenue, North, Clearwater, FL
BAN20041686	EBJ, LLC d/b/a Jessica's Boutique - To open a check casher at 721 Monroe Street, Suite B, Herndon, VA
BAN20041687	E-Approve Mortgage Corp. - For a mortgage broker's license
BAN20041688	Nationwide Financial Corp. - To open a mortgage lender and broker's office at 2415 Wilson Boulevard, Arlington, VA
BAN20041689	Allied Cash Advance Virginia LLC d/b/a Allied Cash Advance - To open a payday lender's office at 100 Bonham Road, Bristol, VA
BAN20041690	New Day Financial, LLC - To open a mortgage lender and broker's office at Eight Tower Bridge, 161 Washington Street, Suite 600, Conshohocken, PA
BAN20041691	Advance America, Cash Advance Centers of Virginia, Inc. d/b/a Advance America, Cash Advance Centers - To relocate payday lender's office from 3035-B Lee Highway, Bristol, VA to 3175 Linden Drive, Suite 7, Bristol, VA
BAN20041692	F & L Marketing Enterprises LLC d/b/a Cash-2-U Payday Loans - To open a payday lender's office at 1330 South Main Street, Blackstone, VA
BAN20041693	TriBeCa Lending Corp. - To open a mortgage lender and broker's office at 2 Eves Drive, Suite 105, Marlton, NJ
BAN20041694	American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 5609 Patterson Avenue, Richmond, VA
BAN20041695	American Home Mortgage Corp. d/b/a MortgageSelect - To relocate mortgage lender broker's office from 7201 Glen Forest Drive, Suite 204, Richmond, VA to 7100 Forest Avenue, Suite 101, Richmond, VA
BAN20041696	GMAC Mortgage Corporation d/b/a Ditech.Com - To relocate mortgage lender broker's office from 100 Century Parkway, Mt. Laurel, NJ to 7 Carnegie Plaza, Cherry Hill, NJ
BAN20041697	Cornerstone Mortgage, Inc. - To open a mortgage broker's office at 1632 Wainwright Drive, Reston, VA
BAN20041698	Prins Services Inc. - To open a check casher at 8009 Quaking Aspen Road, Gainesville, VA
BAN20041699	Reston International Corporation - For a money order license
BAN20041700	Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 320 South Main Street, Third Floor, Emporia, VA
BAN20041701	ComUnity Lending, Incorporated d/b/a Virginia Community Lending (McLean, Reston and Virginia Beach) - To open a mortgage lender and broker's office at 5520 SW Macadam Avenue, Suite 100, Portland, OR
BAN20041702	Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 295 Cranberry Drive, Stuarts Draft, VA
BAN20041703	NVR Mortgage Finance, Inc. - To open a mortgage lender and broker's office at 5900 Centreville Road, Centreville, VA

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BAN20041704 J.T. Ferrick Mortgage LLC - To relocate mortgage broker's office from 6811 Hartwood Lane, Centreville, VA to 3824 Beech Down Drive, Suite 101, Chantilly, VA

BAN20041705 The Mortgage Equities Group LLC d/b/a MyLoan1st - For a mortgage broker's license

BAN20041706 Williamsburg Mortgage, Incorporated - To relocate mortgage broker's office from 716 D Thimble Shoals Boulevard, Newport News, VA to 213 McLaws Circle, Suite 1, Williamsburg, VA

BAN20041707 New Century Mortgage Corporation d/b/a Home123 Corporation (In Certain Offices) - To relocate mortgage lender broker's office from 1407 116th Avenue, N.E., Suite 100, Bellevue, WA to 11235 S.E. 6th Street, Suite 200, Bellevue, WA

BAN20041708 New Century Mortgage Corporation d/b/a Home123 Corporation (In Certain Offices) - To relocate mortgage lender broker's office from One Blue Hill Plaza, Pearl River, NY to Two Blue Hill Plaza, 1st Floor, Pearl River, NY

BAN20041709 Louviers Mortgage Corporation - To relocate mortgage broker's office from 37 Mule Deer Court, Elkton, MD to 4839 Limestone Road, Wilmington, DE

BAN20041710 Centennial Mortgage Group, Inc. - For a mortgage broker's license

BAN20041711 Residential Lending Services, Inc. - For a mortgage lender's license

BAN20041712 Virginia Commerce Bank - To open a branch at 4221 Walney Road, Suite 120, Chantilly, VA

BAN20041713 Mortgage Research Center, LLC - For a mortgage lender and broker license

BAN20041714 GMAC Mortgage Corporation d/b/a Ditech.Com - To open a mortgage lender and broker's office at 8101 Amsterdam Court, Gainesville, VA

BAN20041715 ComUnity Lending, Incorporated d/b/a Virginia Community Lending (McLean, Reston and Virginia Beach) - To open a mortgage lender and broker's office at 428 Snow Hill Road, Salisbury, MD

BAN20041716 Luis Melendez - To open a check casher at 525 F. East Market Street, Leesburg, VA

BAN20041717 Home Consultants, Inc. d/b/a HCI Mortgage - To open a mortgage lender and broker's office at 2301 Kenstock Drive, Suite 201, Virginia Beach, VA

BAN20041718 DL King, LLC d/b/a King's Ca\$h Advance\$ - To open a payday lender's office at 5957 East Virginia Beach Boulevard, Norfolk, VA

BAN20041719 DL King, LLC d/b/a King's Ca\$h Advance\$ - To open a payday lender's office at 2085 Lynnhaven Parkway, Unit 103, Virginia Beach, VA

BAN20041720 HomePlace Financial, LLC - To relocate mortgage broker's office from 3479 Lawrenceville-Suwanee Road, Suwanee, GA to 52B Jopenea Boulevard, Hoschton, GA

BAN20041721 Kelly Mortgage, LLC - To relocate mortgage broker's office from 1307 Dolley Madison Boulevard, McLean, VA to 9667 Main Street, Unit D, Fairfax, VA

BAN20041722 AmTrust Mortgage Corporation - To relocate mortgage lender's office from 1853 Piedmont Road, Suite 205, Marietta, GA to 2617 Sandy Plains Road, Suites C and D, Marietta, GA

BAN20041723 Premier Mortgage Funding, Inc. - To relocate mortgage broker's office from 12007 Sunrise Valley Drive, Suite 400, Reston, VA to 12007 Sunrise Valley Drive, Suite 450, Reston, VA

BAN20041724 Mortgage Unlimited, LLC d/b/a Mortgage Unlimited - To relocate mortgage broker's office from 12757 Lavender Keep Circle, Fairfax, VA to 3611 Chain Bridge Road, Suite A, Fairfax, VA

BAN20041725 Bill Killen d/b/a "Kwik Kash" - To relocate payday lender's office from 400 Mullins Street, Clintwood, VA to 120 Clintwood Street, Clintwood, VA

BAN20041726 Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To relocate mortgage broker's office from 10440 Shaker Drive, Suite 109, Columbia, MD to 3201-B Corporate Court, Ellicott City, MD

BAN20041727 Access Home Mortgages LLC - To relocate mortgage broker's office from 2405 Ivy Road, Charlottesville, VA to 125 Riverbend Drive, Suite 5, Charlottesville, VA

BAN20041728 Definitive Financial, Inc. - For a mortgage broker's license

BAN20041729 Advance Cash, Incorporated - For a payday lender license

BAN20041730 Uly S. Chapman d/b/a TriStar Mortgage Group - For a mortgage broker's license

BAN20041731 Artz & O'Farrel Mortgage, Inc. - For a mortgage broker's license

BAN20041732 Tuscany Financial, Inc. - For a mortgage broker's license

BAN20041733 Racquel Semeraro - To acquire 25 percent or more of Heritage Mortgage Brokers, L.L.C.

BAN20041734 Benjamin M. Lyons - To acquire 25 percent or more of Bay Capital Corp.

BAN20041735 Paul Bekman - To acquire 25 percent or more of Bay Capital Corp.

BAN20041736 AmStar Mortgage Corporation /b/a Lighthouse Mortgage (Chesapeake CI) - To open a mortgage broker's office at 2325 Sea Shell Road, Suite 305, Virginia Beach, VA

BAN20041737 AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To open a mortgage broker's office at 2125 Maryland Avenue, Baltimore, MD

BAN20041738 America's Mortgage Broker, L.L.C. d/b/a Affordable Home Funding - To open a mortgage lender and broker's office at 1791 Cambridge Drive, Suite 203, Richmond, VA

BAN20041739 American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 225 Town Park Drive, Suite 450, Kennesaw, GA

BAN20041740 American Nationwide Mortgage Company, Inc. - To relocate mortgage lender broker's office from 942 North Main Street, Suite 26, Akron, OH to 942 North Main Street, Suite 27, Akron, OH

BAN20041741 Chawky Boutros Jabaly d/b/a Fairfax Mortgage - To relocate mortgage broker's office from 2320 S. Eads Street, Arlington, VA to 5501 Backlick Road, Suite 118, Springfield, VA

BAN20041742 Foster Financial, LLC - For a mortgage broker's license

BAN20041743 Barrons Mortgage Group, Ltd. d/b/a goodmortgage.com - For additional mortgage authority

BAN20041744 Virginia One Mortgage Corporation - For additional mortgage authority

BAN20041745 SunTrust Bank - To open a branch at 43975 Pipeline Plaza, Ashburn, VA

BAN20041746 Commerce Bank/Pennsylvania, N.A. - To open a branch at Route 1 and Boswell Road, Fairfax County, VA

BAN20041747 Commerce Bank/Pennsylvania, N.A. - To open a branch at 557 South Van Dorn Street, Alexandria, VA

BAN20041748 Commerce Bank/Pennsylvania, N.A. - To open a branch at 6164 Arlington Boulevard, Falls Church, VA

BAN20041749 Commerce Bank/Pennsylvania, N.A. - To open a branch at 1228 Elden Street, Herndon, VA

BAN20041750 CoreStar Financial Group, LLC - To open a mortgage lender and broker's office at 9658 Fleetwood Court, Frederick, MD

BAN20041751 CoreStar Financial Group, LLC - To open a mortgage lender and broker's office at 4940 Campbell Boulevard, Suite 160, Nottingham, MD



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BAN20041752 CoreStar Financial Group, LLC - To open a mortgage lender and broker's office at 7075 Wellington Drive, Marriottsville, MD  
 BAN20041753 CoreStar Financial Group, LLC - To open a mortgage lender and broker's office at 2603 Bradenbaugh Road, White Hall, MD  
 BAN20041754 The Bank of Hampton Roads - To open a branch at 239 Battlefield Boulevard, South, Chesapeake, VA  
 BAN20041755 Superior Home Mortgage Corporation (Used in VA by: Superior Mortgage Corporation) - To open a mortgage lender and broker's office at 533 W. Uwchlan Avenue, Dowingtown, PA  
 BAN20041756 Global Equity Lending, Inc. - To open a mortgage lender and broker's office at 4900 Leesburg Pike, Suite 413, Alexandria, VA  
 BAN20041757 Primerica Financial Services Home Mortgages, Inc. - To open a mortgage broker's office at 5716-H Industry Lane, 2nd Floor, Frederick, MD  
 BAN20041758 Primerica Financial Services Home Mortgages, Inc. - To relocate mortgage broker's office from 98 Alexandria Pike, Suite 24, Warrenton, VA to 8393 West Main Street, Marshall, VA  
 BAN20041759 Premier Financial Company - To open a mortgage lender and broker's office at 2110 Fleet Street, Baltimore, MD  
 BAN20041760 Premier Mortgage Funding, Inc. - To relocate mortgage broker's office from 10669 Wolf Drive, Huntley, IL to 11006 Route 47, Huntley, IL  
 BAN20041761 H&R Mortgage & Financial Services Inc. - To relocate mortgage broker's office from 5021 Seminary Road, Suite 124, Alexandria, VA to 1423 Powhatan Street, Suite 2, Alexandria, VA  
 BAN20041762 Accel Mortgage Solutions, Inc. - For a mortgage broker's license  
 BAN20041763 Loan Link Financial Services, Inc. (Used in VA by: Loan Link Financial Services) - To open a mortgage lender and broker's office at 22342 Avenida Expressa, Ranch Santa Margarita, CA  
 BAN20041764 Encore Credit Corp. - To open a mortgage lender and broker's office at 10900 Nuckols Road, Suite 205, Glen Allen, VA  
 BAN20041765 Star Mortgage, Inc. - To relocate mortgage broker's office from 3801 Mount Vernon Avenue, Alexandria, VA to 6121 Lincolnia Road, Suite 304, Alexandria, VA  
 BAN20041766 Universal Trust Mortgage Corporation - To relocate mortgage broker's office from 2 Reservoir Circle, Suite 104, Baltimore, MD to 8818 Centre Park Drive, Suite 107, Columbia, MD  
 BAN20041767 Diversified Financial, LLC - To relocate mortgage broker's office from 11921 Rockville Pike, Suite 250, Rockville, MD to 9420 Key West Avenue, Suite 150, Rockville, MD  
 BAN20041768 AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To relocate mortgage broker's office from 749 Illine Drive, Monroeville, PA to 453 Davidson Road, Suite A3, Pittsburgh, PA  
 BAN20041769 New Peoples Bank, Inc. - To open a branch at 75 Commonwealth Avenue, Bristol, VA  
 BAN20041770 The First Bank and Trust Company - To open a branch at 1563 Commerce Road, Verona, VA  
 BAN20041771 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 213 South King Street, Leesburg, VA  
 BAN20041772 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 260 Union Square, Suite 201, Hickory, NC  
 BAN20041773 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3261 Old Washington Road, Suite 101, Waldorf, MD  
 BAN20041774 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2501 Porter Street, N.W., Suite 728, Washington, DC  
 BAN20041775 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 32 Mitchell Store Road, Youngsville, NC to 3209 Gresham Lake Road, Suite 115, Raleigh, NC  
 BAN20041776 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 3729 Boyd Drive, Edgewater, MD to 8338A Veterans Highway, Suite 101A, Millersville, MD  
 BAN20041777 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 43704 Biddle Lane, South Riding, VA to 4530 Walney Road, Chantilly, VA  
 BAN20041778 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 46744 Abington Terrace, Potomac Falls, VA to 46165 Westlake Drive, Potomac Falls, VA  
 BAN20041779 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 6907 Arco Street, Alexandria, VA to 9818 Bristersburg Road, Catlett, VA  
 BAN20041780 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 83 E. Main Street, Westminster, MD to 30 North Court Street, Westminster, MD  
 BAN20041781 Commonwealth Finance, LLC - To open a consumer finance office  
 BAN20041782 Commonwealth Finance, LLC - To open a consumer finance office at 407 Roanoke Street, Suite 3, Christiansburg, VA  
 BAN20041783 Commonwealth Finance, LLC - To conduct consumer finance business where tax preparation business will also be conducted  
 BAN20041784 Commonwealth Finance, LLC - To conduct consumer finance business where sales finance business will also be conducted  
 BAN20041785 Gainsborough Corp. d/b/a Gainsborough Financial Services Corporation - For a mortgage broker's license  
 BAN20041786 Diversified Mortgage, Inc. - For a mortgage lender's license  
 BAN20041787 Mortgage Center of America, Inc. - For additional mortgage authority  
 BAN20041788 Sujwala Puttagunta - To open a check casher at 6300 Chantilly Shopping Center, Suite 1B, Chantilly, VA  
 BAN20041789 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 100 N. Main Street, Unit C, Edinburg, VA  
 BAN20041790 Chesapeake Bank - To open a branch at 6601 Richmond Road, Lightfoot, VA  
 BAN20041791 Premier 1 Mortgage L.L.C. - For a mortgage broker's license  
 BAN20041792 Fidelity Mortgage Network, LLC - For a mortgage broker's license  
 BAN20041793 Donald O. King d/b/a Access Mortgage Kod - To relocate mortgage broker's office from 700 Baker Road, Suite 102, Virginia Beach, VA to Corporate Center II, 4456 Corporation Lane, Suite 340, Virginia Beach, VA  
 BAN20041794 Montgomery Capital Mortgage Corporation (Used in VA by: Montgomery Capital Corporation) - To open a mortgage broker's office at 5252 Cherokee Avenue, Suite 405, Alexandria, VA  
 BAN20041795 Allied Home Mortgage Capital Corporation - To open a mortgage lender and broker's office at 47 King Street, Christiansted, VI  
 BAN20041796 First Guaranty Mortgage Corporation d/b/a Broker's Edge Lending (In Certain Offices) - To open a mortgage lender and broker's office at 1801 McDormick Drive, Suite 280, Largo, MD  
 BAN20041797 Liberty One Capital, Inc. - To relocate mortgage broker's office from 5630 Park Boulevard, Suite A, Pinellas Park, FL to 4890 W. Kennedy Boulevard, Suite 650, Tampa, FL  
 BAN20041798 Commerce Bank/Pennsylvania, N.A. - To open a branch at Minnieville Road and Smoketown Road, Dale City, VA  
 BAN20041799 Commerce Bank/Pennsylvania, N.A. - To open a branch at 8401 Diggs Road and Route 234, Manassas, VA  
 BAN20041800 Commerce Bank/Pennsylvania, N.A. - To open a branch at 2300 Wilson Boulevard, Arlington County, VA  
 BAN20041801 THE PNC Financial Services Group, Inc. - To acquire Riggs National Corporation Washington, DC  
 BAN20041802 Access Mortgage & Financial Corporation - To open a mortgage lender and broker's office at 605 E. Michigan Avenue, Lansing, MI

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BAN20041803	Access Mortgage & Financial Corporation - To open a mortgage lender and broker's office at 3040 Charlevoix Drive, Suite 171, Grand Rapids, MI
BAN20041804	Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To relocate mortgage broker's office from 7310 Ritchie Highway, Suite 806, Glen Burnie, MD to 802 Cromwell Park Drive, Suite V, Glen Burnie, MD
BAN20041805	The Knox Financial Group, LLC - To relocate mortgage broker's office from 2400 Boston Street, Suite 301, Baltimore, MD to 2400 Boston Street, Suite 201, Baltimore, MD
BAN20041806	Capital Mortgage LLC - To relocate mortgage broker's office from 6334 Rowanberry Drive, Elkridge, MD to 6006 Rock Glen Drive, Elkridge, MD
BAN20041807	Blount Technologies LLC - To open a check casher at 233 S. County Drive, Unit B, Waverly, VA
BAN20041808	First-Citizens Bank & Trust Company - To open a branch at 2147 Valley Avenue, Winchester, VA
BAN20041809	Liberty Lending Corporation, Inc. - For a mortgage broker's license
BAN20041810	American Mortgage Solutions Inc. - For a mortgage broker's license
BAN20041811	Citadel Financial Group, L.L.C. - For a mortgage broker's license
BAN20041812	Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 109 Westwood Office Park, Fredericksburg, VA
BAN20041813	United Equity LLC - To open a mortgage lender and broker's office at 6301 Ivy Lane, Suite 110, Greenbelt, MD
BAN20041814	Loan Link Financial Services, Inc. (Used in VA by: Loan Link Financial Services) - To open a mortgage lender and broker's office at 18200 Yorba Linda Boulevard, Suites 201 and 203 B, Yorba Linda, CA
BAN20041815	Check Advance of Virginia, LLC d/b/a Pay Day USA - To open a payday lender's office at 2024 West Beverly, Staunton, VA
BAN20041816	AEGIS Wholesale Corporation - To open a mortgage lender's office at 3250 Briarpark Drive, Suite 400, Houston, TX
BAN20041817	NovaStar Home Mortgage, Inc. - To relocate mortgage lender broker's office from 3344 Southwestern Boulevard, Suite 100, Orchard Park, NY to 3352 Southwestern Boulevard, Orchard Park, NY
BAN20041818	Steve Seungbai Lee d/b/a American Funding Co. - To relocate mortgage broker's office from 6303 Little River Turnpike, Suite 325, Alexandria, VA to 6303 Little River Turnpike, Suite 310, Alexandria, VA
BAN20041819	E Z Lending L.L.C. - To relocate mortgage broker's office from 7884 Cranford Farm Circle, Lorton, VA to 8194 Douglas Fir Drive, Lorton, VA
BAN20041820	Abbot Mortgage Service, Inc. d/b/a A. Abbot Value Mortgage - To relocate mortgage lender broker's office from 1320 Old Chain Bridge Road, Suite 320, McLean, VA to 2618 Soapstone Drive, Reston, VA
BAN20041821	America Funding, Inc. d/b/a McLean Funding, Inc. - For a mortgage broker's license
BAN20041822	America One Finance, Inc. - For a mortgage broker's license
BAN20041823	Atlantic Coast Mortgage, Inc. - For a mortgage broker's license
BAN20041824	Amaana Money Transfer Co. - For a money order license
BAN20041825	Guardian First Funding Group, LLC - For a mortgage broker's license
BAN20041826	Fieldstone Mortgage Company d/b/a Broad Street Mortgage Co. - To open a mortgage lender and broker's office at 313 West Liberty Street, Suite 313, Lancaster, PA
BAN20041827	1st American Mortgage, Inc. d/b/a CU Mortgage Group - To open a mortgage lender and broker's office at 2010 Corporate Ridge, Third Floor, McLean, VA
BAN20041828	1st American Mortgage, Inc. d/b/a CU Mortgage Group - To open a mortgage lender and broker's office at 317-319 William Street, Suite 100, Fredericksburg, VA
BAN20041829	Crusader Cash Advance of Virginia, LLC - To open a payday lender's office at 1035 Port Republic Road, Harrisonburg, VA
BAN20041830	Oak Street Mortgage LLC - To open a mortgage lender and broker's office at 7090 Union Park Avenue, Suite 430, Midvale, UT
BAN20041831	Premier Mortgage Funding, Inc. - To open a mortgage broker's office at 860 Greenbrier Circle, Suite 103, Chesapeake, VA
BAN20041832	New Century Mortgage Corporation d/b/a Home123 Corporation (In Certain Offices) - To open a mortgage lender and broker's office at 14750 N.W. 77th Court, Suite 200, Miami Lakes, FL
BAN20041833	Covenant Mortgage Corporation - To relocate mortgage broker's office from 332 Eden Farm Road, Bumpass, VA to 211 W. Main Street, Louisa, VA
BAN20041834	Bank of Essex - To relocate office from 1398 Tappahannock Boulevard, Tappahannock, VA to 1325 Tappahannock Boulevard, Tappahannock, VA
BAN20041835	Community Bank of Northern Virginia - To open a branch at 11670 Sudley Manor Drive, Prince William County, VA
BAN20041836	Viridian Lending, LLC - To open a mortgage broker's office at 8619 Westwood Center Drive, Suite 420, Vienna, VA
BAN20041837	Southern Star Mortgage Corp. - To open a mortgage lender and broker's office at 886-884 Atlantic Avenue, 2nd Floor, Brooklyn, NY
BAN20041838	Mortgage and Equity Funding Corporation - To open a mortgage lender and broker's office at 238 Mathis Ferry Road, Suite 104, Mt. Pleasant, SC
BAN20041839	Home Loan Corporation - To relocate mortgage lender broker's office from 320C Charles H. Dimmock Parkway, Colonial Heights, VA to 1507 City Point Road, Hopewell, VA
BAN20041840	OneStop Shopping Financial, Inc. - To open a mortgage broker's office at 401 Carroll Street, Suite 105, LaPlata, MD
BAN20041841	New Day Financial, LLC - To open a mortgage lender and broker's office at 2620 Regatta Drive, Suite 100, Las Vegas, NV
BAN20041842	Reliance Funding Services, Inc. - For a mortgage broker's license
BAN20041843	Maryland Financial Resources, Inc. - For a mortgage broker's license
BAN20041844	Lenders Association, Inc. - For a mortgage lender's license
BAN20041845	Atlantic Mortgage Loans, Inc. - For a mortgage broker's license
BAN20041846	Array Mortgage, L.L.C. - For a mortgage lender and broker license
BAN20041847	The Heavener Company Mortgage LLC - To acquire 25 percent or more of TransLand Financial Services, Inc.
BAN20041848	USA Patriot Mortgage LLC - To open a mortgage broker's office at 6417 Loisdale Road, Suite 212, Springfield, VA
BAN20041849	Secure Financial Solutions, LLC - For a mortgage broker's license
BAN20041850	Republic Mortgage LLC - To open a mortgage lender and broker's office at 7548 W. Sahara Avenue, Suite 102, Las Vegas, NV
BAN20041851	Quotemearate.com, Inc. - To open a mortgage broker's office at 3 Boar's Head Lane, Suite D, Charlottesville, VA
BAN20041852	Gerald Cugno - To acquire 25 percent or more of Premier Mortgage Funding, Inc.
BAN20041853	Premier Mortgage Funding, Inc. - For additional mortgage authority
BAN20041854	Maria C. Schafer d/b/a America's Mortgage Experts - For a mortgage broker's license
BAN20041855	Priority Financial Services, LLC - For a mortgage broker's license

BAN20041856 1st American Mortgage, Inc. d/b/a CU Mortgage Group - To open a mortgage lender and broker's office at 6903 Rockledge Drive, 3rd Floor, Bethesda, MD

BAN20041857 Accent Mortgage Services, Inc. - To relocate mortgage broker's office from 2500 Northwinds Parkway, Suite 350, Alpharetta, GA to 3655 Northpoint Parkway, Suite 175, Alpharetta, GA

BAN20041858 Flex Funding, LLC - To relocate mortgage broker's office from 326 Oak Knoll Drive, Rockville, MD to 5335 Wisconsin Avenue, N.W., Suite 700, Washington, DC

BAN20041859 Global Equity Lending, Inc. - To relocate mortgage lender broker's office from 3975 Johns Creek Court, Suite 100, Suwanee, GA to 3955 Johns Creek Court, Suite 100, Suwanee, GA

BAN20041860 NovaStar Home Mortgage, Inc. - To relocate mortgage lender broker's office from 526 Main Street, Suite 22, South Boston, VA to 441 Main Street, Suite 22, South Boston, VA

BAN20041861 American Home Mortgage Corp. d/b/a MortgageSelect - To relocate mortgage lender broker's office from 735 Thimble Shoals Boulevard, Suite 120, Newport News, VA to 11870 Merchants Walk, Suite 104, Newport News, VA

BAN20041862 American Home Mortgage Corp. d/b/a MortgageSelect - To relocate mortgage lender broker's office from 735 Thimble Shoals Boulevard, Suite 120, Newport News, VA to 9101 Midlothian Turnpike, Suite 800, Richmond, VA

BAN20041863 WashingtonFirst Bank - To open a branch at Mobile Branch - Serving Arlington, Fairfax, and Loudoun Counties, Alexandria and Fairfax Cities, VA

BAN20041864 Primerica Financial Services Home Mortgages, Inc. - To open a mortgage broker's office at 14205 Telegraph Road, Suite 103, Woodbridge, VA

BAN20041865 Primerica Financial Services Home Mortgages, Inc. - To open a mortgage broker's office at 708 S. Rosemont Road, Suite 104, Virginia Beach, VA

BAN20041866 Pinnacle Financial Corporation d/b/a Tristar Lending Group (In Certain Offices) - To relocate mortgage lender broker's office from 7600 North 16th Street, Suite 202, Phoenix, AZ to 7600 North 16th Street, Suite 205, Phoenix, AZ

BAN20041867 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To relocate mortgage lender broker's office from 7631 Woodpark Lane, Columbia, MD to 10015 Old Columbia Road, Suite B-215, Columbia, MD

BAN20041868 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To relocate mortgage lender broker's office from 3500 Little Neck Towers, Virginia, Virginia Beach, VA to 144 Business Park Drive, Suite 206, Virginia Beach, VA

BAN20041869 Global Mortgage, Inc. - To open a mortgage broker's office at 4491 Cheshire Station Plaza, Suite 121, Woodbridge, VA

BAN20041870 Dominion Eagle Financial Group Inc. - For a mortgage broker's license

BAN20041871 Ruesch International, Inc. - For a money order license

BAN20041872 Famous Pawn, Inc. - For a payday lender license

BAN20041873 Coastal Capital Corp. - To open a mortgage lender and broker's office at 485 Route 1, Building C, 1st Floor, Iselin, NJ

BAN20041874 Coastal Capital Corp. - To open a mortgage lender and broker's office at 2505 Main Street, Suite 204, Stratford, CT

BAN20041875 Coastal Capital Corp. - To open a mortgage lender and broker's office at 900 South Avenue, Suite 301, Staten Island, NY

BAN20041876 Coastal Capital Corp. - To open a mortgage lender and broker's office at Matawan Mall 952, Route 34, Suite 207, Matawan, NJ

BAN20041877 Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To relocate mortgage lender broker's office from 308 Cedar Lakes Road, Suite 103, Chesapeake, VA to 3940 Airline Boulevard, Suite 108, Chesapeake, VA

BAN20041878 David Etute d/b/a America Continental Home Loan & Investment - To open a mortgage broker's office at 112-C King Street, Hampton, VA

BAN20041879 Donald O. King d/b/a Access Mortgage Kod - To relocate mortgage broker's office from 813 Forrest Drive, Suite 2, Newport News, VA to Cale Colony 17, 4 San Jose Drive, Newport News, VA

BAN20041880 Russ Fast Cash, Inc. - To open a check casher at 333 South Witchduck Road, Virginia Beach, VA

BAN20041881 Famous Pawn, Inc. - To conduct a payday lending business where a pawn brokering business will also be conducted

BAN20041882 Equity Mortgage Service Inc. - For a mortgage broker's license

BAN20041883 Telegiros Kantuta Inc. - For a money order license

BAN20041884 Dung Dinh Tran d/b/a US Mortgage & Investment Services - To relocate mortgage broker's office from 11900 Parklawn Drive, Suite 200, Rockville, MD to 11820 Parklawn Drive, Suite 401, Rockville, MD

BAN20041885 D&S United Corporation d/b/a USA First Mortgage - To open a mortgage broker's office at 154 Boggs Avenue, Virginia Beach, VA

BAN20041886 U.S. Mortgage Corporation of Virginia (Used in VA by: U.S. Mortgage Corporation) - To open a mortgage lender and broker's office at 14 Elm Street, Morristown, NJ

BAN20041887 Flagship Financial LLC - For a mortgage broker's license

BAN20041888 Community Home Mortgage Corporation - For a mortgage broker's license

BAN20041889 Infinity Home Loan, Inc. - For a mortgage broker's license

BAN20041890 Mortgage Strategies Group, LLC - For additional mortgage authority

BAN20041891 Key Mortgage Company, Inc. - To relocate mortgage broker's office from 9020 Stony Point Parkway, Suite 360, Richmond, VA to 9001 Three Chopt Road, Richmond, VA

BAN20041892 Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To relocate mortgage lender broker's office from 9901 Ridgemore Drive, Charlotte, NC to 2915 Providence Road, Suite 300, Office 25, Charlotte, NC

BAN20041893 Accredited Home Lenders, Inc. - To open a mortgage lender's office at 15373 Innovation Drive, Suite 301, San Diego, CA

BAN20041894 Community Mortgage, LLC - To open a mortgage broker's office at 12 Centre Court, Palmyra, VA

BAN20041895 Southern Star Mortgage Corp. - To open a mortgage lender and broker's office at 8633 Cherry Lane, Laurel, MD

BAN20041896 Community Mortgage, LLC - To open a mortgage broker's office at 921 First Colonial Road, Suite 1703, Virginia Beach, VA

BAN20041897 Genesis Financial Group, Inc. - To open a mortgage broker's office at 4007 Bryanwood Road, Richmond, VA

BAN20041898 Dominion Financial, Inc. of Delaware (Used in VA by: Dominion Financial, Inc.) - To open a mortgage broker's office at 1700 Diagonal Road, Suite 330, Alexandria, VA

BAN20041899 Superior Home Mortgage Corporation d/b/a VirginiaHomeLoan (Chesapeake office only) - To open a mortgage lender and broker's office at 901 Route 168, Suite 109, Turnersville, NJ

BAN20041900 The Middleburg Bank - To open a branch at 1779 Fountain Drive, Reston, VA

BAN20041901 Gateway Bank & Trust Co. - To open a branch at 2098 Princess Anne Road, Virginia Beach, VA

BAN20041902 Gateway Bank & Trust Co. - To open a branch at 1580 Laskin Road, Virginia Beach, VA

BAN20041903 Beneficial Industrial Loan Association - To relocate industrial loan office from 1716 Corporate Landing Parkway, Virginia Beach, VA to Dominion Tower, 15th Floor, 999 Waterside Drive, Norfolk, VA

BAN20041904 Geoffrey R. Imperatore d/b/a American Trust Mortgage Group - For a mortgage broker's license

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BAN20041905	The Mortgage Guy, Corp. - For a mortgage broker's license
BAN20041906	All Credit Considered Mortgage, Inc. - For additional mortgage authority
BAN20041907	Haddock Mortgage LLC - To acquire 25 percent or more of TransLand Financial Services, Inc.
BAN20041908	Money Management International, Inc. d/b/a American Credit Counselors - To conduct business as a nonprofit credit counseling agency pursuant to Chapter 10.2 of Title 6.1 of the Code of Virginia
BAN20041909	Alcova Mortgage LLC - To relocate mortgage broker's office from 6423 Millhiser Avenue, Richmond, VA to 8411 Patterson Avenue, Richmond, VA
BAN20041910	Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To relocate mortgage broker's office from 1021 Caslon Way, Suite 212, Landover, MD to 3141 Crimson Clover Drive, Lancaster, TX
BAN20041911	Skyline Mortgage Group, L.C. - To relocate mortgage lender broker's office from 7361 McWhorter Place, Suite 321, Annandale, VA to 1600 Spring Hill Road, Suite 101, Vienna, VA
BAN20041912	Skyline Mortgage Group, L.C. - To relocate mortgage lender broker's office from 11126 Timberhead Lane, Reston, VA to 1889 Preston White Drive, Suite 103, Reston, VA
BAN20041913	Absolute Mortgage Solutions, Inc. - For a mortgage broker's license
BAN20041914	Speedy Cash, Inc. - For a payday lender license
BAN20041915	Horizon Mortgage Corp. - For additional mortgage authority
BAN20041916	Mountain Valley Mortgage Corporation - To relocate mortgage broker's office from 24 Idlewood Boulevard, Suite 104, Staunton, VA to 438 Greenville Avenue, Staunton, VA
BAN20041917	Mountain Valley Mortgage Corporation - To relocate mortgage broker's office from 590 East Market Street, Harrisonburg, VA to 69 River Ridge, Verona, VA
BAN20041918	1st Principle Mortgage, LLC - To relocate mortgage broker's office from 1655 N. Fort Myer Drive, Suite 700, Arlington, VA to 2300 Ninth Street, South, Suite 303, Arlington, VA
BAN20041919	Cornerstone Mortgage, Inc. - To relocate mortgage broker's office from 9774 Lakepointe Drive, Burke, VA to 2907 Dumas Street, Alexandria, VA
BAN20041920	Global Mortgage, Inc. - To open a mortgage broker's office at 10130 Colvin Run, Suite F, Great Falls, VA
BAN20041921	Global Mortgage, Inc. - To open a mortgage broker's office at 904 Sunset Drive, Suite 6A, Johnson City, TN
BAN20041922	North State Finance Company of Goldsboro, N.C., Inc. d/b/a Imperial Cash Advance - To open a payday lender's office at 139 C Baker Street, Emporia, VA
BAN20041923	Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 4045 Lankford Highway, Exmore, VA
BAN20041924	Macloud Financial, Inc. - To open a mortgage lender and broker's office at 1216 King Street, Suite 200, Alexandria, VA
BAN20041925	Phelps Mortgage, LLC - To acquire 25 percent or more of TransLand Financial Services, Inc.
BAN20041926	ITC Financial Licenses, Inc. - For a money order license
BAN20041927	Paul S. Pristak d/b/a PSP Financial Services - For a mortgage broker's license
BAN20041928	Amerisave Mortgage Corporation - For additional mortgage authority
BAN20041929	The Bank of Marion d/b/a Tri-Cities Community Bank, a branch of The Bank of Marion - To open a branch at the corner of Boones Creek Road and Boone Ridge Drive, Johnson City, TN
BAN20041930	Vanderbilt Mortgage and Finance, Inc. - To open a mortgage lender's office at 7800 McCloud Road, Greensboro, NC
BAN20041931	Vanderbilt Mortgage and Finance, Inc. - To open a mortgage lender's office at 1524 South IH 35, Suite 300, Austin, TX
BAN20041932	First Equitable Mortgage Corp. - To open a mortgage lender and broker's office at 8338 Traford Lane, Springfield, VA
BAN20041933	Premier Mortgage Funding, Inc. - To relocate mortgage broker's office from 822 Springvale Road, Great Falls, VA to 9903 Georgetown Pike, Great Falls, VA
BAN20041934	First Magnus Financial Corporation d/b/a Charter Funding - To relocate mortgage lender broker's office from 5285 East Williams Circle, Suite 2000, Tucson, AZ to 603 N. Wilmot Road, Tucson, AZ
BAN20041935	Primerica Financial Services Home Mortgages, Inc. - To relocate mortgage broker's office from 2601 Princess Anne Street, Suite 102, Fredericksburg, VA to 1103 Princess Anne Street, Fredericksburg, VA
BAN20041936	AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To relocate mortgage broker's office from 1435 Crosswade Boulevard, Suite 303, Chesapeake, VA to 1206 Laskin Road, Suite 201 A, Virginia Beach, VA
BAN20041937	Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To relocate mortgage broker's office from 3718 Randolph Street, Fairfax, VA to 10407 Breckinridge Lane, Fairfax, VA
BAN20041938	East West Mortgage Company, Inc. - To relocate mortgage lender broker's office from 7202 Arlington Boulevard, Suite 201, Falls Church, VA to 7700 Leesburg Pike, Suite 117, Falls Church, VA
BAN20041939	Southern Star Mortgage Corp. - To open a mortgage lender and broker's office at 700 Sunrise Highway, West Babylon, NY
BAN20041940	Cedar Creek Mortgage, L.L.C. - To open a mortgage lender and broker's office at 25 Church Hill Road, Newtown, CT
BAN20041941	United Financial Mortgage Corp. of Virginia - To open a mortgage lender and broker's office at 416 McCullough Drive, Suite 100, Charlotte, NC
BAN20041942	PGNF Home Lending Corp. - To relocate mortgage lender broker's office from 801 N. Cass Avenue, Suite 300, Westmont, IL to 1431 Opus Place, Suite 200, Downers Grove, IL
BAN20041943	USA Check Cashers, Inc. - To conduct a payday lending business where prepaid debit/credit cards will be sold
BAN20041944	Coast To Coast Mortgage, Inc. - For a mortgage broker's license
BAN20041945	AmeriFirst Financial Corporation - For a mortgage lender and broker license
BAN20041946	United Equity LLC - To open a mortgage lender and broker's office at 947 Fells Street, Suite 200, Baltimore, MD
BAN20041947	United Equity LLC - To relocate mortgage lender broker's office from 4400 Jennifer Street, Suite 200, Washington, DC to 6301 Ivy Lane, #110, Greenbelt, MD
BAN20041948	Advance America, Cash Advance Centers of Virginia, Inc. d/b/a Advance America, Cash Advance Centers - To open a payday lender's office at 4219 South Amherst Highway, Madison Heights, VA
BAN20041949	Advance America, Cash Advance Centers of Virginia, Inc. d/b/a Advance America, Cash Advance Centers - To open a payday lender's office at 3441 Seminole Trail, Suite E, Charlottesville, VA
BAN20041950	Advance America, Cash Advance Centers of Virginia, Inc. d/b/a Advance America, Cash Advance Centers - To open a payday lender's office at 14457 Potomac Mills Road, Woodbridge, VA
BAN20041951	Southern Star Mortgage Corp. - To open a mortgage lender and broker's office at 357 Hempstead Turnpike, Suite 203, West Hempstead, NY

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BAN20041952 American Cash Exchange Enterprise of Virginia, L.L.C. d/b/a 1st Choice Cash Advance - To relocate payday lender's office from 1839 Euclid Avenue, Bristol, VA to 1835 Euclid Avenue, Bristol, VA

BAN20041953 Lincoln Mortgage Associates L.L.C. d/b/a Lincoln Financial Mortgage - To relocate mortgage lender broker's office from 4350 W. Sunrise Boulevard, Suite 111, Plantation, FL to 1680 S.W. Bayshore Boulevard, Port St. Lucie, FL

BAN20041954 The Miles Group, Inc. d/b/a Unicorn Financial Services - To relocate mortgage broker's office from 1820 Chapel Hill Road, Durham, NC to 3100 Tower Boulevard, Suite 810, Durham, NC

BAN20041955 Consumer Credit Counseling Service of the Midwest, Inc. - To open a credit counseling office

BAN20041956 Stinson Financial Group, Inc. - For a mortgage broker's license

BAN20041957 Mortgage Etcetera Corporation - For a mortgage broker's license

BAN20041958 Saxon Funding Management, Inc. - For a mortgage lender's license

BAN20041959 Cornerstone Mortgage, Inc. - To open a mortgage broker's office at 6922 Lafayette Park Drive, Annandale, VA

BAN20041960 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 10621 Patterson Avenue, Richmond, VA

BAN20041961 1st Financial, Inc. - To open a mortgage lender and broker's office at Self Storage Plus, 2005 Trout Road, Annapolis, MD

BAN20041962 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 400 Galleria Parkway, Suite 1500, Atlanta, GA

BAN20041963 Global Mortgage, Inc. - To open a mortgage broker's office at 700 E. Atlantic Boulevard, Suite 307, Pompano Beach, FL

BAN20041964 Sunset Mortgage Company L.P. - To open a mortgage lender and broker's office at 111 Millcreek Parkway, 3rd Floor, Chesapeake, VA

BAN20041965 Mortgage Service Center, Inc. - To relocate mortgage broker's office from 21125 Keeney Mill Road, Freeland, MD to 7909 Towerbell Court, Annandale, VA

BAN20041966 ComUnity Lending, Incorporated d/b/a Virginia Community Lending (McLean, Reston and Virginia Beach) - To relocate mortgage lender broker's office from 740 North 530 East, Orem, UT to 473 West 1400 North, Orem, UT

BAN20041967 Bravo Credit Corporation - For a mortgage lender and broker license

BAN20041968 Go Apply, Inc. - For a mortgage broker's license

BAN20041969 Town & Country Mortgage, Inc. - To open a mortgage broker's office at 16849 Francis West Lane, Dumfries, VA

BAN20041970 Town & Country Mortgage, Inc. - To open a mortgage broker's office at 9511 Burning Branch Road, Burke, VA

BAN20041971 AEGIS Funding Corporation d/b/a AEGIS Home Equity - To open a mortgage lender's office at 9990 Richmond Avenue, Suite 400, Houston, TX

BAN20041972 Coastal First Mortgage, Inc. - To open a mortgage broker's office at 109 Mason Avenue, Cape Charles, VA

BAN20041973 City Lending Group LLC - To open a mortgage broker's office at 4439 Pleasant View Drive, Williamsburg, VA

BAN20041974 Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 8589 Somersworth Drive, Manassas, VA

BAN20041975 ComUnity Lending, Incorporated d/b/a Virginia Community Lending (McLean, Reston and Virginia Beach) - To relocate mortgage lender broker's office from 600 301st Boulevard, West, Bradenton, FL to 1323 W. Fletcher Avenue, Suite 206, Tampa, FL

BAN20041976 Regency Mortgage, Inc. - To relocate mortgage broker's office from 10401 Apache Road, Richmond, VA to 3504 Crossings Way, Midlothian, VA

BAN20041977 Advance Cash, Incorporated - To open a check casher at 6423 Whaleyville Boulevard, Suffolk, VA

BAN20041978 LFM Management LLC d/b/a 1st Choice Mortgage LLC - For a mortgage broker's license

BAN20041979 Landmark Financial of Alexandria, LLC - For a mortgage broker's license

BAN20041980 Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 6401 McCoy Road, Centreville, VA

BAN20041981 Family Home Lending Corporation - To open a mortgage lender and broker's office at 510 Leasburg Road, Roxboro, NC

BAN20041982 American Mortgage & Loan, Inc. - To open a mortgage broker's office at 7115 Leesburg Pike, Suite 212, Falls Church, VA

BAN20041983 Sunset Mortgage Company L.P. - To open a mortgage lender and broker's office at 314 Ewing Street, Bel Air, MD

BAN20041984 Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To open a mortgage broker's office at 2302 S.W. 3rd Street, Suite B, Ankeny, IA

BAN20041985 Mortgage Bankers of Virginia, Inc. - To open a mortgage broker's office at 6524 Ironbridge Road, Richmond, VA

BAN20041986 United Residential Lending, LLC - To relocate mortgage lender's office from 7819 East Greenway Road, Suite 4, Scottsdale, AZ to 15300 North 90th Street, Suite 500, Scottsdale, AZ

BAN20041987 Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To relocate mortgage broker's office from 48 Scotland Hill Road, Chestnut Ridge, NY to 25 Philips Parkway, Montvale, NJ

BAN20041988 Earth Mortgage, L.P. - To open a mortgage lender and broker's office at 4627 Town 'n Country Boulevard, Tampa, FL

BAN20041989 Best Rate Funding Corp. - For additional mortgage authority

BAN20041990 American Residential Funding, Inc. - To open a mortgage lender and broker's office at 1072 Town and Country, Orange, CA

BAN20041991 The Money Tree Financial Corp. - To relocate mortgage broker's office from 2550 Monroeville Boulevard, Suite 303, Monroeville, PA to 21 Robbins Station Road, North Huntingdon, PA

BAN20041992 Dawson Ford Garbee Mortgage, Inc. - For a mortgage broker's license

BAN20041993 Encore Credit Corp. - To relocate mortgage lender broker's office from 1800 Sutter Street, Suite 650, Concord, CA to 2999 Oak Road, Suite 800, Walnut Creek, CA

BAN20041994 Allied Home Mortgage Capital Corporation - To open a mortgage lender and broker's office at 415 S. Main Street, Suite 2, Culpeper, VA

BAN20041995 NovaStar Home Mortgage, Inc. - To relocate mortgage lender broker's office from 3009 Wildflower Drive, La Plata, MD to 102 Centennial Street, Suite 103, La Plata, MD

BAN20041996 Primary Residential Mortgage, Inc. - To open a mortgage lender and broker's office at 480 Turnpike Street, South Easton, MA

BAN20041997 Quotemearate.com, Inc. - To open a mortgage broker's office at 1051 E. Main Street, Suite 219, East Dundee, IL

BAN20041998 USA Funding Corp. - For a mortgage lender's license

BAN20041999 AmortgageNOW.net Corp. - For a mortgage broker's license

BAN20042000 DuPont Community Credit Union - To merge into it Shenandoah County Credit Union, Woodstock, VA

BAN20042001 Ashapura, Inc. - To open a check casher at 93 Onville Road, Stafford, VA

BAN20042002 DNV Inc. - To open a check casher at 1301 Jefferson Davis Highway, Fredericksburg, VA

BAN20042003 Universal American Mortgage Company, LLC - To relocate mortgage lender broker's office from 12883 Rannoch Forest Circle, Bristow, VA to 4530 Walney Road, Suite 103, Chantilly, VA

BAN20042004 Madison Investment Advisors, LLC d/b/a Madison Mortgages - To open a mortgage broker's office at 380 South Main Street, Abingdon, VA

BAN20042005 United Equity LLC - To open a mortgage lender and broker's office at 2700 Lighthouse Point East, 4th Floor, Baltimore, MD

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BAN20042006	Charter Mortgage LLC - To open a mortgage broker's office at 14095 John Marshall Highway, Gainesville, VA
BAN20042007	The Mortgage Centre, Inc. - To open a mortgage lender and broker's office at 8 Tams Street, Staunton, VA
BAN20042008	AmeriDebt, Inc. - To relocate credit counseling office from 12800 Middlebrook Road, Germantown, MD to 444 N. Frederick Avenue, Suite 214, Gaithersburg, MD
BAN20042009	Consumer Credit Counseling Services of America, Inc. d/b/a Credit Counselors - To conduct business as a nonprofit credit counseling agency pursuant to Chapter 10.2 of Title 6.1 of the Code of Virginia
BAN20042010	BayRock Mortgage Corporation - For a mortgage lender and broker license
BAN20042011	E-Star Lending Inc. - For a mortgage broker's license
BAN20042012	Noremac Mortgage, L.L.C. - For a mortgage broker's license
BAN20042013	Safeguard Mortgage, LLC - For a mortgage broker's license
BAN20042014	Amazon Mortgage Loans, Inc. - For a mortgage broker's license
BAN20042015	CHL Mortgage Group, Inc. a California corporation - To acquire 25 percent or more of Premier Mortgage Group, Ltd., LLC
BAN20042016	Pioneer Bank - To open a branch at 257 Ridge McIntire Road, Charlottesville, VA
BAN20042017	American General Financial Services (NC), Inc. (Used in VA by: American General Financial Services, Inc.) - To relocate mortgage lender's office from 2141 Rockford Street, Mt. Airy, NC to 2133 Rockford Street, Suite 1200, Mt. Airy, NC
BAN20042018	AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To relocate mortgage broker's office from 8940 Centerpointe Drive, Baldwinsville, NY to 135 Old Cove Road, Suite 208, Liverpool, NY
BAN20042019	Green Tree Servicing LLC - To relocate mortgage lender's office from Rivergate Business Center, Madison, TN to 3012 Business Park Circle, Suite 100, Goodlettsville, TN
BAN20042020	Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To relocate mortgage broker's office from 48 Scotland Hill Road, Chestnut Ridge, NY to 25 Philips Parkway, Montvale, NJ
BAN20042021	Stratus Home Loans, Inc. (Used in VA by: United Mutual Funding, Inc.) - To open a mortgage broker's office at 17052 Jamboree Road, Suite 197, Irvine, CA
BAN20042022	American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 11921 Freedom Drive, Two Fountain Square, Suite 550, Reston, VA
BAN20042023	American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 2010 Corporate Ridge, 7th Floor, McLean, VA
BAN20042024	American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 211 North Union Street, Suite 100, Alexandria, VA
BAN20042025	AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To open a mortgage broker's office at 225 S. Lake Avenue, Suite 230, Pasadena, CA
BAN20042026	Primary Residential Mortgage, Inc. - To open a mortgage lender and broker's office at 1776 I Street, N.W., 9th Floor, Washington, DC
BAN20042027	First Magnus Financial Corporation d/b/a Charter Funding - To open a mortgage lender and broker's office at 11400 Rockville Pike, Suite 280, Rockville, MD
BAN20042028	Foundation Trust Mortgage, LLC - For a mortgage broker's license
BAN20042029	Commonwealth Funding, LLC - For a mortgage broker's license
BAN20042030	John Sallah - To acquire 25 percent or more of Madison Investment Advisors, LLC
BAN20042031	The Kirney Group, Inc. - To relocate mortgage broker's office from 43099 Shadow Terrace, Leesburg, VA to 4082 Cray Drive, Warrenton, VA
BAN20042032	The Mortgage Vault, Inc. - To open a mortgage lender and broker's office at 8212-A Old Courthouse Road, Unit 2, Vienna, VA
BAN20042033	Global Mortgage, Inc. - To open a mortgage broker's office at 5397 Summit Drive, Fairfax, VA
BAN20042034	CoreStar Financial Group, LLC - To open a mortgage lender and broker's office at Five Tower Bridge, 300 Bar Harbor Drive, Suite 230, West Conshohocken, PA
BAN20042035	Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 5100 East La Palma Avenue, Suite 208, Anaheim Hills, CA
BAN20042036	Republic Mortgage LLC - To open a mortgage lender and broker's office at 4505 E. Chandler Boulevard, Suite 285, Phoenix, AZ
BAN20042037	Republic Mortgage LLC - To open a mortgage lender and broker's office at 5151 E. Broadway Boulevard, Suite 280, Tucson, AZ
BAN20042038	Sunset Mortgage Company L.P. - To relocate mortgage lender broker's office from 2401 Research Boulevard, Suite 250, Rockville, MD to 12 South Summit Avenue, Suite 210, Gaithersburg, MD
BAN20042039	Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 4002 Townsville Circle, Missouri City, TX
BAN20042040	Southern Trust Mortgage, LLC d/b/a Middleburg Mortgage (2 Norfolk Offices) - To open a mortgage lender and broker's office at 3237 Satellite Boulevard, Building 300, Suite 150, Duluth, GA
BAN20042041	Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at Warrenton Village Center, 251 West Lee Highway, Suite 647, Warrenton, VA
BAN20042042	MortgageStar, Inc. - To open a mortgage lender and broker's office at 8909 S.W. 6th Street, Boca Raton, FL
BAN20042043	Guardian Mortgage Partners, LLC - To open a mortgage broker's office at 4915 Auburn Avenue, Suite 204, Bethesda, MD
BAN20042044	American Residential Funding, Inc. - To open a mortgage lender and broker's office at 1000 Quail Street, Suite 260, Newport Beach, CA
BAN20042045	ComUnity Lending, Incorporated d/b/a Virginia Community Lending (McLean, Reston and Virginia Beach) - To open a mortgage lender and broker's office at 11491 Sunset Hills Road, Suite 310, Reston, VA
BAN20042046	Option One Mortgage Corporation - To relocate mortgage lender broker's office from 1834 Walden Office Square, Suite 550, Schaumburg, IL to 3800 Golf Road, Suite 360, Rolling Meadows, IL
BAN20042047	Clayton Peters & Associates, Inc. d/b/a CPA Mortgage - To relocate mortgage broker's office from 920 Providence Road, Suite 103, Baltimore, MD to 920 Providence Road, Suite 400, Baltimore, MD
BAN20042048	Ronzetti Mortgage and Investment Corp. - To relocate mortgage broker's office from 336 Ocean Parkway, Berlin, MD to 48 Alton Point, Berlin, MD
BAN20042049	Federal Funding Mortgage Corporation - To relocate mortgage lender broker's office from 8133 Leesburg Pike, Suite 380, Vienna, VA to 1577 Spring Hill Road, Vienna, VA
BAN20042050	AEGIS Funding Corporation d/b/a AEGIS Home Equity - To open a mortgage lender's office at 1200 North Kensington Street, Suite 2, Arlington, VA
BAN20042051	AEGIS Funding Corporation d/b/a AEGIS Home Equity - To open a mortgage lender's office at 8816 Badger Drive, Alexandria, VA

BAN20042052 AEGIS Funding Corporation d/b/a AEGIS Home Equity - To open a mortgage lender's office at 18610 Gibbon Court, Leesburg, VA  
 BAN20042053 AEGIS Funding Corporation d/b/a AEGIS Home Equity - To open a mortgage lender's office at 412 Dorset Avenue, Virginia Beach, VA

BAN20042054 AEGIS Funding Corporation d/b/a AEGIS Home Equity - To open a mortgage lender's office at 257 Quail Run, Amherst, VA  
 BAN20042055 AEGIS Funding Corporation d/b/a AEGIS Home Equity - To open a mortgage lender's office at 102 South Widgeon Court, Grandy, NC

BAN20042056 AEGIS Funding Corporation d/b/a AEGIS Home Equity - To open a mortgage lender's office at 920 Alden Court, Virginia Beach, VA  
 BAN20042057 AEGIS Funding Corporation d/b/a AEGIS Home Equity - To open a mortgage lender's office at 4503 Heritage Woods Lane, Midlothian, VA

BAN20042058 AEGIS Funding Corporation d/b/a AEGIS Home Equity - To open a mortgage lender's office at 3006 White Avenue, Baltimore, MD  
 BAN20042059 AEGIS Funding Corporation d/b/a AEGIS Home Equity - To open a mortgage lender's office at 2194 Parker Road, Harrington, DE  
 BAN20042060 AEGIS Funding Corporation d/b/a AEGIS Home Equity - To open a mortgage lender's office at 59 Walden Lane, Dover, DE  
 BAN20042061 AEGIS Funding Corporation d/b/a AEGIS Home Equity - To open a mortgage lender's office at 7110 Ducketts Lane, Elkridge, MD  
 BAN20042062 Atlantic Bay Mortgage Group, L.L.C. - To open a mortgage lender and broker's office at 5055 South Highway, 17/92, Casselberry, FL  
 BAN20042063 Atlantic Bay Mortgage Group, L.L.C. - To open a mortgage lender and broker's office at 825 Gum Branch Road, Suite 124, Gum Branch Square, Jacksonville, NC

BAN20042064 Consumer First Mortgage Corporation - To open a mortgage broker's office at 10106 Krause Road, Suite 200, Chesterfield, VA  
 BAN20042065 Franklin Financial Group Inc. - To open a mortgage broker's office at 2439 Cypress Green Lane, Herndon, VA  
 BAN20042066 American Residential Funding, Inc. - To open a mortgage lender and broker's office at 1809 E. Dyer Road, Suite 301, Santa Ana, CA  
 BAN20042067 MortgageTree Lending Corporation (Used in VA by: MortgageTree Lending) - To open a mortgage lender's office at 523 Keisler Drive, Suite 204, Cary, NC

BAN20042068 Allied Home Mortgage Capital Corporation - To open a mortgage lender and broker's office at 875 Walnut Street, Suite 350, Cary, NC  
 BAN20042069 New Century Mortgage Corporation d/b/a Home123 Corporation (In Certain Offices) - To relocate mortgage lender broker's office from 630 Freedom Business Center, 3rd Fl., King of Prussia, PA to 630 W. Germantown Pike, Suite 200, Plymouth Meeting, PA

BAN20042070 Prime Cap Financial, LLC - For a mortgage broker's license  
 BAN20042071 Merchant Resources, LLC d/b/a America 1st Mortgage - For a mortgage broker's license  
 BAN20042072 Credit Foundation of America - To conduct business as a nonprofit credit counseling agency pursuant to Chapter 10.2 of Title 6.1 of the Code of Virginia

BAN20042073 Partnership Mortgage, Inc. - For a mortgage broker's license  
 BAN20042074 SBBnet, Inc. - For a mortgage broker's license  
 BAN20042075 America's Mortgage Broker, L.L.C. d/b/a Affordable Home Funding - To relocate mortgage lender broker's office from 10950 Pearl Road, Suite A1, Strongsville, OH to 4833 Eastview Drive, Independence, OH

BAN20042076 Equity One Consumer Loan Company, Inc. - To conduct a consumer finance business where home security plans will be sold  
 BAN20042077 National Mortgage Access, Inc. - For a mortgage lender and broker license  
 BAN20042078 Apex Lending, Inc. - For a mortgage lender's license  
 BAN20042079 The Bank of Williamsburg - To open a branch at 171 Monticello Avenue, Williamsburg, VA  
 BAN20042080 Steven Scott Warren - To be an exclusive agent for Primerica Financial Services Home Mortgages, Inc.  
 BAN20042081 Child & Family Services of Eastern Virginia, Inc. - To conduct business as a nonprofit credit counseling agency pursuant to Chapter 10.2 of Title 6.1 of the Code of Virginia

BAN20042082 One Source Mortgage, L L C - To relocate mortgage lender's office from 1301 Hightower Trail, Suite 120, Atlanta, GA to 1301 Hightower Trail, Suite 201, Atlanta, GA

BAN20042083 Realty Mortgage, LLC - To relocate mortgage lender broker's office from 348 Southport Circle, Suite 102-B, Virginia Beach, VA to 615 Lynnhaven Parkway, Suite 101, Virginia Beach, VA

BAN20042084 Numerica Funding, Inc. - To relocate mortgage lender broker's office from 348 Southport Circle, Suite 102, Virginia Beach, VA to 615 Lynnhaven Parkway, Virginia Beach, VA

BAN20042085 Atlantic Bay Mortgage Group, L.L.C. - To open a mortgage lender and broker's office at 621 Village Drive, Unit 125, Virginia Beach, VA

BAN20042086 Pinnacle Mortgage Company USA (Used in VA by: Pinnacle Mortgage Company) - To relocate mortgage lenders's office from 107 Millcreek Corners, Suite C, Brandon, MS to 156 Grants Ferry Road, Brandon, MS

BAN20042087 Preferred Home Mortgage Company - To relocate mortgage lender broker's office from 46950 Community Plaza, Suite 233, Sterling, VA to 11921 Freedom Drive, Suite 1100, Reston, VA

BAN20042088 First Priority Mortgage, L.L.C. - To open a mortgage lender and broker's office at 500 East Fourth Street, Salem, VA  
 BAN20042089 First Magnus Financial Corporation d/b/a Charter Funding - To open a mortgage lender and broker's office at 5255 E. Williams Circle, Suite 3200, Tucson, AZ

BAN20042090 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 22405 Deerpath Court, Great Mills, MD

BAN20042091 Fast Payday Loans, Inc. - To open a payday lender's office at 2954 Virginia Avenue, Collinsville, VA  
 BAN20042092 Allied Mortgage, L.L.C. - To open a mortgage broker's office at 100 O'Keefe Drive, Winchester, VA  
 BAN20042093 Allied Mortgage, L.L.C. - To relocate mortgage broker's office from 23 W. Main Street, Suite C, Luray, VA to 230 West Main Street, Suite C, Luray, VA

BAN20042094 The Mortgage Zone, Inc. - For a mortgage lender and broker license  
 BAN20042095 Oyster Mortgage Co., Inc. - For a mortgage broker's license  
 BAN20042096 JG Enterprises, of VA, LLC - For a mortgage broker's license  
 BAN20042097 Mortgage Horizons LLC - For a mortgage broker's license  
 BAN20042098 Metropolitan Financial Management Corp. d/b/a Auriton Solutions - To conduct business as a nonprofit credit counseling agency pursuant to Chapter 10.2 of Title 6.1 of the Code of Virginia

BAN20042099 U.S. Mortgage Corporation of Virginia (Used in VA by: U.S. Mortgage Corporation) - To open a mortgage lender and broker's office at 4330 Ridgewood Center Drive, Woodbridge, VA

BAN20042100 Access Mortgage & Financial Corporation - To open a mortgage lender and broker's office at 2100 E. Oceanview Avenue, Suite 33, Norfolk, VA

BAN20042101 Access Mortgage & Financial Corporation - To open a mortgage lender and broker's office at 721 Washington Avenue, Suite 201, Bay City, MI

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BAN20042102	Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To open a mortgage broker's office at 189 S. Rogers Road, Suite 1620, Olathe, KS
BAN20042103	Equity United Mortgage Corporation - To open a mortgage broker's office at 9420 Key West Avenue, Suite 105, Rockville, MD
BAN20042104	ComUnity Lending, Incorporated d/b/a Virginia Community Lending (McLean, Reston and Virginia Beach) - To open a mortgage lender and broker's office at 5520 SW Macadam Avenue, Suite 105, Portland, OR
BAN20042105	First Magnus Financial Corporation d/b/a Charter Funding - To open a mortgage lender and broker's office at 1165 Northchase Parkway, Suite 325, Marietta, GA
BAN20042106	Residential Mortgage Group, Inc. - For a mortgage lender and broker license
BAN20042107	AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To open a mortgage broker's office at 6231 Leesburg Pike, Suite 203, Falls Church, VA
BAN20042108	Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 452 St. Helens Avenue, Tacoma, WA
BAN20042109	Family Home Lending Corporation - To open a mortgage lender and broker's office at 2206 Hope Mills Road, Fayetteville, NC
BAN20042110	AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To relocate mortgage broker's office from 2305 North Parham Road, Richmond, VA to 8141 Virginia Pine Court, Suite 201 B, Richmond, VA
BAN20042111	DL King, LLC d/b/a King\$ Ca\$h Advance\$ - To relocate payday lender's office from 924 Wilborn Avenue, South Boston, VA to 926 Wilborn Avenue, South Boston, VA
BAN20042112	Crown Mortgage Corp. - For a mortgage lender and broker license
BAN20042113	Stephen M. Dorr - For a mortgage broker's license
BAN20042114	Equity One Consumer Loan Company, Inc. - To conduct a consumer finance business where auto club memberships will be sold
BAN20042115	Omnex Group, Inc. - For a money order license
BAN20042116	Mid-State Ventures, LLC - For a money order license
BAN20042117	CreditCard Management Services, Inc. - To open a credit counseling office
BAN20042118	Lancaster Mortgage Bankers, LLC - For a mortgage lender and broker license
BAN20042119	4 G Funding, Inc. d/b/a Citizens Nationwide Mortgage Company - For a mortgage broker's license
BAN20042120	Giromex, Inc. - To open a check casher
BAN20042121	Primary Residential Mortgage, Inc. - To open a mortgage lender and broker's office at 8055 Ritchie Highway, Suite 306, Pasadena, MD
BAN20042122	ComUnity Lending, Incorporated d/b/a Virginia Community Lending (McLean, Reston and Virginia Beach) - To open a mortgage lender and broker's office at 650 Hungerford Drive, Suite 201 CSP, Rockville, MD
BAN20042123	1st Security Mortgage, Inc. - To open a mortgage broker's office at 220 Amherst Street, Winchester, VA
BAN20042124	AmeriFirst Home Improvement Finance Co. - To open a mortgage lender and broker's office at 4405 South 96th Street, Omaha, NE
BAN20042125	1st Principle Mortgage, LLC - To open a mortgage broker's office at 101 E. Williamsburg Road, Suite 201, Sandston, VA
BAN20042126	Winthrop Oppenheimer, LLC - For a mortgage broker's license
BAN20042127	AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To open a mortgage broker's office at 2 Wisconsin Circle, Suite 700, Chevy Chase, MD
BAN20042128	AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To open a mortgage broker's office at 112 Second Avenue, North, Franklin, TN
BAN20042129	Network Funding, L.P. - To open a mortgage lender and broker's office at 17811 Vail Street, Suite 6305, Dallas, TX
BAN20042130	Network Funding, L.P. - To open a mortgage lender and broker's office at 1900 Cornell Avenue, Richmond, VA
BAN20042131	GMAC Mortgage Corporation d/b/a Ditech.Com - To open a mortgage lender and broker's office at 4405 East Cotton Center Boulevard, Phoenix, AZ
BAN20042132	Garden State Consumer Credit Counseling, Inc. - To conduct business as a nonprofit credit counseling agency pursuant to Chapter 10.2 of Title 6.1 of the Code of Virginia
BAN20042133	Family Home Lending Corporation - To open a mortgage lender and broker's office at 2309 Rosebay Court, Virginia Beach, VA
BAN20042134	Family Home Lending Corporation - To open a mortgage lender and broker's office at 43950 Kitts Hill Terrace, Ashburn, VA
BAN20042135	Sovereign Realty Inc. - For a mortgage broker's license
BAN20042136	Harbour Credit Counseling Services, Inc. d/b/a Harbour Credit Management - To conduct business as a nonprofit credit counseling agency pursuant to Chapter 10.2 of Title 6.1 of the Code of Virginia
BAN20042137	Universal Mortgages & Financial Services, LLC - For a mortgage broker's license
BAN20042138	Debt Counseling Corp. - To conduct business as a nonprofit credit counseling agency pursuant to Chapter 10.2 of Title 6.1 of the Code of Virginia
BAN20042139	Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To relocate mortgage broker's office from 262 Murtha Street, Alexandria, VA to 4750 N.E. 29 Avenue, Fort Lauderdale, FL
BAN20042140	Southwest Mortgage, LLC - For a mortgage broker's license
BAN20042141	AEGIS Wholesale Corporation - To relocate mortgage lender's office from 2470 Windy Hill Road, Suite 303, Marietta, GA to 1945 The Exchange, Suite 110, Atlanta, GA
BAN20042142	Nations Mortgage - For a mortgage broker's license
BAN20042143	InCharge Debt Solutions - To conduct business as a nonprofit credit counseling agency pursuant to Chapter 10.2 of Title 6.1 of the Code of Virginia
BAN20042144	American Mortgage Specialists 1 Inc. - For a mortgage broker's license
BAN20042145	Commonwealth Catholic Charities - To conduct business as a nonprofit credit counseling agency pursuant to Chapter 10.2 of Title 6.1 of the Code of Virginia
BAN20042146	Community Credit Counseling Corp. - To conduct business as a nonprofit credit counseling agency pursuant to Chapter 10.2 of Title 6.1 of the Code of Virginia
BAN20042147	American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 21400 Ridgetop Circle, Suite 170, Sterling, VA
BAN20042148	DBSA Holdings, Inc. d/b/a Foundation Capital Group, Inc. - For a mortgage broker's license
BAN20042149	Anchor Renaissance Institute - For a mortgage broker's license
BAN20042150	DHI Mortgage Company, Ltd. LP (Used in VA by: DHI Mortgage Company, Ltd.) - To relocate mortgage lender broker's office from 7001 N. Scottsdale Road, Suite 1027, Scottsdale, AZ to 14614 N. Kierland Boulevard, Suite 190, Scottsdale, AZ
BAN20042151	Berkeley Financial Corporation - To relocate mortgage broker's office from 124-D East Broad Street, Falls Church, VA to 120A East Broad Street, Falls Church, VA



BAN20042152	North Seattle Community College Foundation d/b/a American Financial Solutions - To conduct business as a nonprofit credit counseling agency pursuant to Chapter 10.2 of Title 6.1 of the Code of Virginia
BAN20042153	Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To open a mortgage lender and broker's office at 7202 Poplar Court, Suite D, Annandale, VA
BAN20042154	Star Financial Solutions, Inc. - For a mortgage broker's license
BAN20042155	Consolidated Credit Counseling Services, Inc. - To conduct business as a nonprofit credit counseling agency pursuant to Chapter 10.2 of Title 6.1 of the Code of Virginia
BAN20042156	United Financial Systems, Inc. - To conduct business as a nonprofit credit counseling agency pursuant to Chapter 10.2 of Title 6.1 of the Code of Virginia
BAN20042157	6:10 Services d/b/a Debt-Free America - To conduct business as a nonprofit credit counseling agency pursuant to Chapter 10.2 of Title 6.1 of the Code of Virginia
BAN20042158	National Foundation for Debt Management, Inc. d/b/a Alternative Credit Solutions - To conduct business as a nonprofit credit counseling agency pursuant to Chapter 10.2 of Title 6.1 of the Code of Virginia
BAN20042159	Debt Reduction Services, Inc. - To conduct business as a nonprofit credit counseling agency pursuant to Chapter 10.2 of Title 6.1 of the Code of Virginia
BAN20042160	Consumer Credit Counseling Service of Greater Washington, Inc. - To conduct business as a nonprofit credit counseling agency pursuant to Chapter 10.2 of Title 6.1 of the Code of Virginia
BAN20042161	Debt Management Credit Counseling Corp. - To conduct business as a nonprofit credit counseling agency pursuant to Chapter 10.2 of Title 6.1 of the Code of Virginia
BAN20042162	Debt Management Credit Counseling Corp. - To open an additional credit counseling office at 9 North Minnesota Street, Suite 101, New Ulm, MN
BAN20042163	Center for Child & Family Services, Inc. d/b/a Consumer Credit Counseling Service of Hampton Roads - To conduct business as a nonprofit credit counseling agency pursuant to Chapter 10.2 of Title 6.1 of the Code of Virginia
BAN20042164	Home Loans, Inc. - For a mortgage broker's license
BAN20042165	Commonwealth Mortgage Group, Inc. - For a mortgage broker's license
BAN20042166	Brickshire Mortgage, L.L.C. - For a mortgage broker's license
BAN20042167	Apex Funding, Inc. - For a mortgage lender's license
BAN20042168	S & B Money Transfer, Inc. - For a money order license
BAN20042169	Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To relocate mortgage lender broker's office from 3 Koger Center, Suite 101, Norfolk, VA to 944C St. Andrews Reach, Chesapeake, VA
BAN20042170	Consumer Credit Counseling Service of Greater Atlanta, Inc. - To conduct business as a nonprofit credit counseling agency pursuant to Chapter 10.2 of Title 6.1 of the Code of Virginia
BAN20042171	Northern Virginia Family Service - To conduct business as a nonprofit credit counseling agency pursuant to Chapter 10.2 of Title 6.1 of the Code of Virginia
BAN20042172	Tyson's Mortgage, Inc. - To relocate mortgage broker's office from 150 Little Falls Street, Suite 206, Falls Church, VA to 2108-C Gallows Road, Vienna, VA
BAN20042173	Michigan Fidelity Acceptance Corporation d/b/a Franklin Mortgage Funding - To relocate mortgage lender broker's office from 1716 Corporate Landing Parkway, Virginia Beach, VA to 2809 S. Lynnhaven Road, Suite 200, Virginia Beach, VA
BAN20042174	Allied Home Mortgage Capital Corporation - To relocate mortgage lender broker's office from 2555 Whitney Avenue, Hamden, CT to 43 North Colony Road, Wellingford, CT
BAN20042175	First Mortgage Masters, Inc. - To relocate mortgage broker's office from 4101 Chain Bridge Road, Suite 104, Fairfax, VA to 5029-B Backlick Road, Annandale, VA
BAN20042176	Equity Vision Mortgage Corp. - To relocate mortgage broker's office from 12508 Colewood Street, Oak Hill, VA to 43164 Valiant Drive, South Riding, VA
BAN20042177	Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To relocate mortgage broker's office from 7056 Falls Reach Drive, Suite 302, Fairfax, VA to 1904 Youngblood Street, McLean, VA
BAN20042178	Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 7204 Racepoint Way, Alexandria, VA
BAN20042179	Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 30 North Highland Street, Arlington, VA
BAN20042180	Cornerstone Mortgage, Inc. - To open a mortgage broker's office at 4300 Old Dominion Drive, Suite 414, Arlington, VA
BAN20042181	EVV Mortgage, LLC - To open a mortgage lender and broker's office at 198 Crowder Point Drive, Reedville, VA
BAN20042182	Southern Trust Mortgage, LLC d/b/a Middleburg Mortgage (2 Norfolk Offices) - To open a mortgage lender and broker's office at 3630 George Washington Memorial Highway, B-7, Yorktown, VA
BAN20042183	American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 155 Market Square, Bedford, VA
BAN20042184	Cash Express of Virginia, Inc. - To open a payday lender's office at 625 East Washington Street, Suffolk, VA
BAN20042185	Cash Express of Virginia, Inc. - To open a payday lender's office at 1365 Virginia Beach Boulevard, Virginia Beach, VA
BAN20042186	Cash Express of Virginia, Inc. - To open a payday lender's office at 807 Old Oyster Point Road, Newport News, VA
BAN20042187	Cash Express of Virginia, Inc. - To open a payday lender's office at 3762 Kecoughton Road, Hampton, VA
BAN20042188	Cash Express of Virginia, Inc. - To open a payday lender's office at 1104 Greenrun Square, Virginia Beach, VA
BAN20042189	American Eagle Mortgage Corporation - To open a mortgage broker's office at 4020 Jefferson Woods Drive, Powhatan, VA
BAN20042190	Union Bank and Trust Company - To open a branch at 8300 Bell Creek Road, Mechanicsville, VA
BAN20042191	Commerce Bank/Pennsylvania, N.A. - To open a branch at Liberia and Signal Hill Road, Prince William County, VA
BAN20042192	Commerce Bank/Pennsylvania, N.A. - To open a branch at 7818 Sudley Road, Prince William County, VA
BAN20042193	Commerce Bank/Pennsylvania, N.A. - To open a branch at 4220 Prince William Parkway, Lake Ridge, VA
BAN20042194	Circle D Food Mart - To open a check casher at 971 Virginia Beach Boulevard, Virginia Beach, VA
BAN20042195	XN LLC d/b/a Herndon Checks Cashed - To open a check casher at 720 Grant Street, Unit E, Herndon, VA
BAN20042196	Southern Financial Mortgage Corporation - For a mortgage broker's license
BAN20042197	SLS Mortgage, L.L.C. - For a mortgage broker's license
BAN20042198	W. J. Bradley Company Merchant Partners, LLC - To acquire 25 percent or more of United Capital, Inc.
BAN20042199	Marco G. Minuto - To acquire 25 percent or more of Liberty Funding Services Inc.
BAN20042200	Henry A Delgado - To acquire 25 percent or more of Liberty Funding Services Inc.

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BAN20042201 1st American Mortgage, Inc. d/b/a CU Mortgage Group - To open a mortgage lender and broker's office at 1760 Old Meadow Road, Suite 200, McLean, VA

BAN20042202 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 3508 Mare Lane, Virginia Beach, VA

BAN20042203 GMAC Mortgage Corporation d/b/a Ditech.Com - To open a mortgage lender and broker's office at 1320 Central Park Boulevard, Fredericksburg, VA

BAN20042204 Patriot First Mortgage, LLC - To open a mortgage broker's office at 6800 Paragon Place, Suite 475, Richmond, VA

BAN20042205 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 10688-A Crestwood Drive, Manassas, VA

BAN20042206 Q. C. & G. Financial, Inc. d/b/a Ace America's Cash Express - To open a payday lender's office at 1110 W. Little Creek Road, Norfolk, VA

BAN20042207 Q. C. & G. Financial, Inc. d/b/a Ace America's Cash Express - To open a payday lender's office at 15525 Warwick Boulevard, Suite 107, Newport News, VA

BAN20042208 Ascent Mortgage Company - To relocate mortgage broker's office from 5562 Cedar Break Drive, Centreville, VA to 27228 Bridle Place, Chantilly, VA

BAN20042209 Consumer Credit and Budget Counseling, Inc. - To conduct business as a nonprofit credit counseling agency pursuant to Chapter 10.2 of Title 6.1 of the Code of Virginia

BAN20042210 Capital Mortgage LLC - To relocate mortgage broker's office from 6334 Rowanberry Drive, Elkridge, MD to 6201 Leesburg Pike, Suite 309, Falls Church, VA

BAN20042211 American Residential Funding, Inc. - To open a mortgage lender and broker's office at 312 North Gaffey Street, Suite 200, Los Angeles, CA

BAN20042212 American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 211 N. Union Street, Suite 100, Alexandria, VA

BAN20042213 Affordable Mortgage Corporation - To relocate mortgage broker's office from 7629 Williamson Road, Suite 7, Roanoke, VA to 2615 Orange Avenue, Roanoke, VA

BAN20042214 MortgageIT, Inc. d/b/a MIT Lending (In Certain Offices) - To open a mortgage lender and broker's office at 4601 Creekstone Drive, Suite 180, Durham, NC

BAN20042215 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To relocate mortgage lender broker's office from 159 Delaware Avenue, Suite 218, Delmar, NY to 4 Mansion Boulevard, Apt. J, Delmar, NY

BAN20042216 2 Blue Chip Professionals, LLC - For a mortgage broker's license

BAN20042217 G.T. Mortgage, LLC - For a mortgage broker's license

BAN20042218 Noriega Mortgage Services, Inc. - For a mortgage broker's license

BAN20042219 Strategic Mortgage, LLC - For a mortgage broker's license

BAN20042220 State Mortgage Incorporated - For a mortgage broker's license

BAN20042221 NALU, Inc. - For a mortgage broker's license

BAN20042222 Fidelity Mortgage Warehouse, Inc. - For a mortgage broker's license

BAN20042223 Darrell Green Mortgage, LLC - To open a mortgage broker's office at 138 Burnell Place, Leesburg, VA

BAN20042224 Global Home Loans & Finance Inc. d/b/a directloansource.com - To open a mortgage lender and broker's office at 40 24th Street, Suite 200, Pittsburgh, PA

BAN20042225 Virginia Mortgage Services, Inc. - To relocate mortgage broker's office from 2353 Jefferson Highway, Waynesboro, VA to 2014 Goose Creek Road, Suite 110, Waynesboro, VA

BAN20042226 Virginia Mortgage Services, Inc. - To open a mortgage broker's office at 121 Grafton Station Lane, Suite C, Yorktown, VA

BAN20042227 American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 111 Pacifica, Suite 305, Irvine, CA

BAN20042228 Efast Funding, L.L.C. - To relocate mortgage broker's office from 13939 N.W. Freeway, Suite 100, Houston, TX to 5450 Northwest Central, Suite 220, Houston, TX

BAN20042229 AEGIS Funding Corporation d/b/a AEGIS Home Equity - To open a mortgage lender's office at 1081 Double Church Road, Stephens City, VA

BAN20042230 AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To open a mortgage broker's office at 3410-B N Harbor City Boulevard, Melbourne, FL

BAN20042231 Help Ministries Incorporated d/b/a Debt Free - To open an additional credit counseling office at 1920 E. Broadway Road, Tempe, AZ

BAN20042232 Help Ministries Incorporated d/b/a Debt Free - To conduct business as a nonprofit credit counseling agency pursuant to Chapter 10.2 of Title 6.1 of the Code of Virginia

BAN20042233 Mortgage Network Solutions, LLC - For a mortgage broker's license

BAN20042234 David L. Smith - For a mortgage broker's license

BAN20042235 CGB AGRI Financial Services, Inc. - For a mortgage broker's license

BAN20042236 MVH Mortgage Corp. - For a mortgage broker's license

BAN20042237 1st Choice Mortgages, Inc. - For a mortgage broker's license

BAN20042238 Great Financial Mortgage, Inc. - For a mortgage broker's license

BAN20042239 Tammac Holdings Corporation - For a mortgage lender's license

BAN20042240 Homefirst Mortgage Corp. - For additional mortgage authority

BAN20042241 Key Financial Corporation - For additional mortgage authority

BAN20042242 Y. R. Enterprises, LLC d/b/a Estes IGA - To open a check casher at 501 Cherry Avenue, Charlottesville, VA

BAN20042243 Catocin Mortgage, L.L.C. - To relocate mortgage broker's office from 7027 Manahoal Place, Gainesville, VA to 15810 Hunton Lane, Haymarket, VA

BAN20042244 B.D. Nationwide Mortgage Company - To relocate mortgage broker's office from 701 Palomar Airport Road, Carlsbad, CA to 515 Encinitas Boulevard, Suite 100, Encinitas, CA

BAN20042245 Mortgage Lenders Network USA, Inc. - To relocate mortgage lender's office from 240 Gibraltar Road, Suite 150, Horsham, PA to 240 Gibraltar Road, Suite 220, Horsham, PA

BAN20042246 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To relocate mortgage lender broker's office from 519 Aspen Drive, Herndon, VA to 14348 Pappillon Way, Centreville, VA

BAN20042247 Home Star Mortgage Services, LLC - To relocate mortgage lender's office from 3 Neshaminy Interplex, Offices #27C, Treose, PA to One Neshaminy Interplex, Suite 102, Treose, PA

BAN20042248 ComUnity Lending, Incorporated d/b/a Virginia Community Lending (McLean, Reston and Virginia Beach) - To open a mortgage lender and broker's office at 9419 Common Brook Road, Suite 218, Owings Mills, MD

BAN20042249 ComUnity Lending, Incorporated d/b/a Virginia Community Lending (McLean, Reston and Virginia Beach) - To open a mortgage lender and broker's office at 610 Jarvis Drive, Suite 100, Morgan Hill, CA

BAN20042250 Darrell L. Payne d/b/a Payne's Check Cashing - To relocate payday lender's office from 81 South Carlton Street, Harrisonburg, VA to 35 South Carlton Street, Harrisonburg, VA

BAN20042251 Ronald L. Price, Jr. d/b/a The Mortgage Center - To relocate mortgage broker's office from 377 Fairfax Pike, Suite C, Stephens City, VA to 420 West Jubal Early Drive, Suite 203, Winchester, VA

BAN20042252 XyberFinance, Inc - To relocate mortgage broker's office from 6820 Old Chesterbrook Road, McLean, VA to 8300 Old Courthouse Road, Suite 250, Vienna, VA

BAN20042253 E Z Lending L.L.C. - To relocate mortgage broker's office from 8194 Douglas Fir Drive, Lorton, VA to 8739 Bitterroot Court, Lorton, VA

BAN20042254 Consumer Credit Counseling Services of America, Inc. d/b/a Credit Counselors - To relocate credit counseling office from 4660 South Laburnum Avenue, Richmond, VA to 8000 Franklin Farms Drive, Richmond, VA

BAN20042255 MortgageStar, Inc. - To open a mortgage lender and broker's office at 9611 Potomac Drive, Fort Washington, MD

BAN20042256 WMC Mortgage Corp. d/b/a American Loan Centers - To open a mortgage lender and broker's office at 6121 Bollinger Canyon, Suite 400, San Ramon, CA

BAN20042257 WMC Mortgage Corp. d/b/a American Loan Centers - To open a mortgage lender and broker's office at 600 Anton Boulevard, Suite 1900, Costa Mesa, CA

BAN20042258 WMC Mortgage Corp. d/b/a American Loan Centers - To open a mortgage lender and broker's office at 4651 Salisbury Road, Suite 300, Jacksonville, FL

BAN20042259 WMC Mortgage Corp. d/b/a American Loan Centers - To open a mortgage lender and broker's office at One Ramland Road, Orangeburg, NY

BAN20042260 WMC Mortgage Corp. d/b/a American Loan Centers - To open a mortgage lender and broker's office at 500 Unicorn Park Drive, 3rd Floor, Woburn, MA

BAN20042261 WMC Mortgage Corp. d/b/a American Loan Centers - To open a mortgage lender and broker's office at 3535 Factoria Boulevard, S.E., Bellevue, WA

BAN20042262 WMC Mortgage Corp. d/b/a American Loan Centers - To open a mortgage lender and broker's office at 475 N. Martingale Road, 10th Floor, Schaumburg, IL

BAN20042263 1st Atlas Mortgage Corporation - To open a mortgage broker's office at 9555 Shore Drive, Plaza Shopping Center, Norfolk, VA

BAN20042264 United Financial Mortgage Corp. of Virginia - To open a mortgage lender and broker's office at 6767 Forest Hill Avenue, Suite 218, Richmond, VA

BAN20042265 Network Funding, L.P. - To open a mortgage lender and broker's office at 57 West Timonium Road, Timonium, MD

BAN20042266 CitiOne Financial Group, L.L.C. - To relocate mortgage broker's office from 2392 Hurst Street, Falls Church, VA to 101 West Broad Street, Suite 500, Falls Church, VA

BAN20042267 Payday Loans & Check Cashing, LLC - For a payday lender license

BAN20042268 BMTLOANS.COM, INC. - For a mortgage lender and broker license

BAN20042269 Consumer Credit Counseling Service of Maryland and Delaware, Inc. - To conduct business as a nonprofit credit counseling agency pursuant to Chapter 10.2 of Title 6.1 of the Code of Virginia

BAN20042270 HomeComings Financial Network, Inc. - To open a mortgage lender's office at 14850 Quorum Drive, Suite 500, Dallas, TX

BAN20042271 HomeComings Financial Network, Inc. - To open a mortgage lender's office at 1687 114th Avenue, S.E., Suite 100, Bellevue, WA

BAN20042272 QC Financial Services, Inc. d/b/a Quik Cash - To open a payday lender's office at 1800 Frederick Boulevard, Portsmouth, VA

BAN20042273 Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 835 Herbert Springs Road, Alexandria, VA

BAN20042274 Chase Home Funding, Inc. - To open a mortgage broker's office at 2060 Jefferson Davis Highway, Suite 27, Stafford, VA

BAN20042275 Montgomery Capital Mortgage Corporation (Used in VA by: Montgomery Capital Corporation) - To open a mortgage broker's office at 8245 Boone Boulevard, Suite 100, Vienna, VA

BAN20042276 Montgomery Capital Mortgage Corporation (Used in VA by: Montgomery Capital Corporation) - To relocate mortgage broker's office from 701 West Broad Street, Suite 205, Falls Church, VA to 8500 Leesburg Pike, Suite 7800, Vienna, VA

BAN20042277 Pioneer Mortgage Group LLC - For a mortgage broker's license

BAN20042278 Ideal Mortgage Corp. - For a mortgage broker's license

BAN20042279 Foundation Mortgage, LLC - For a mortgage broker's license

BAN20042280 GES Mortgage Group, LLC - For a mortgage broker's license

BAN20042281 First Nationwide Lending of America, Inc. - For a mortgage broker's license

BAN20042282 MiCash Inc. - For a money order license

BAN20042283 Branch Banking and Trust Company of Virginia - To open a branch at 2609 Boulevard, Colonial Heights, VA

BAN20042284 ComUnity Lending, Incorporated d/b/a Virginia Community Lending (McLean, Reston and Virginia Beach) - To open a mortgage lender and broker's office at 2110 116th Avenue, N.E., Suite E, Bellevue, WA

BAN20042285 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To relocate mortgage lender broker's office from 13017 Taxi Drive, Dale City, VA to 1020 Riverdale Circle, Culpeper, VA

BAN20042286 Southern Star Mortgage Corp. - To relocate mortgage lender broker's office from 27919 Jefferson Avenue, Suite 206, Temecula, CA to 29379 Rancho California Road, Suite 101, Temecula, CA

BAN20042287 East Coast Mortgage and Financial Services, Inc. - To relocate mortgage broker's office from 55 Princeton-Hightstown Road, Princeton Junction, NJ to 1311 West Avenue, Ocean City, NJ

BAN20042288 AmeriFirst Home Improvement Finance Co. - To open a mortgage lender and broker's office at 300 Arboretum Place, Suite 140, Richmond, VA

BAN20042289 Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To relocate mortgage lender broker's office from 138 Mariners Way, Moyock, NC to 900 Commonwealth Place, Suite 232, Virginia Beach, VA

BAN20042290 International Mortgage Corp. - For a mortgage broker's license

BAN20042291 American Debt Solutions, Inc. - To conduct business as a nonprofit credit counseling agency pursuant to Chapter 10.2 of Title 6.1 of the Code of Virginia

BAN20042292 Family Home Lending Corporation - To open a mortgage lender and broker's office at 349 Haywood Road, Asheville, NC

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

BAN20042293 Susan D. Wylen - To acquire 25 percent or more of Bayside Financial Services, LLC

BAN20042294 Summit Retailers, Inc. d/b/a/ Swami Food Store - To open a check casher at 81 Lincoln Street, Hampton, VA

BAN20042295 Jerry W. Thornton, Sr. d/b/a Jerry's Payday Loans - To open a payday lender's office at 800 Baker Road, Suite 92, Virginia Beach, VA

BAN20042296 Fieldstone Mortgage Company d/b/a Broad Street Mortgage Co. - To relocate mortgage lender broker's office from 49 Old Solomons Island Road, Suite 300, Annapolis, MD to 7240 Parkway Drive, Suite 200, Hanover, MD

BAN20042297 LoanCity.Com, Inc. (Used in VA by: LoanCity.Com) - To relocate mortgage lender's office from 12801 Worldgate Drive, Suite 500, Herndon, VA to 14500 Avion Parkway, Suite 110, Chantilly, VA

BAN20042298 HomeAmerican Credit, Inc. d/b/a Upland Mortgage - To open a mortgage lender's office at 816 Congress Avenue, Suite 1400, Austin, TX

BAN20042299 Dominion Credit Union - To merge into it Canton E. O. G. (No. 2559) Federal Credit Union

BAN20042300 Maverick Residential Mortgage, Inc. - For a mortgage lender and broker license

BAN20042301 ComUnity Lending, Incorporated d/b/a Virginia Community Lending (McLean, Reston and Virginia Beach) - To open a mortgage lender and broker's office at 8502 E. Via De Ventura, Suite 122, Scottsdale, AZ

BAN20042302 Buckeye Check Cashing of Virginia, Inc. d/b/a Check\$mart - To open a payday lender's office at 2404 Virginia Beach Boulevard, Suite 103, Virginia Beach, VA

BAN20042303 Mortgage Select Services Inc. - To relocate mortgage broker's office from 3831 E. Oceanview Avenue, Norfolk, VA to 665 Newtown Road, Suite 111, Virginia Beach, VA

BAN20042304 American General Financial Services (DE), Inc. (Used in VA by: American General Financial Services, Inc.) - To relocate mortgage lender broker's office from 5245 South Laburnum Avenue, Richmond, VA to 5211 South Laburnum Avenue, Richmond, VA

BAN20042305 American General Financial Services of America, Inc. - To relocate consumer finance office from 5245 South Laburnum Avenue, Richmond, VA to 5211 South Laburnum Avenue, Henrico County, VA

BAN20042306 Jerry W. Thornton, Sr. d/b/a Jerry's Payday Loans - To conduct a payday lending business where a title loan business will also be conducted

BAN20042307 Abbitt Mortgage, LLC - For a mortgage broker's license

BAN20042308 First American Savings Corporation - For a mortgage lender and broker license

BAN20042309 Mortgage Solutions Group Inc. - For a mortgage broker's license

BAN20042310 Diversified Marketing Solutions - For a mortgage broker's license

BAN20042311 Residential Home Loan Centers, LLC - For additional mortgage authority

BAN20042312 James M. Curry - To acquire 25 percent or more of Key Financial Corporation

BAN20042313 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 1024 Palmetto Drive, Richmond, KY to 1232 Lancaster Road, Suite A, Richmond, KY

BAN20042314 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 10304 Cloverfield Court, Chesterfield, VA to 13509 East Boundary Road, Suite E, Midlothian, VA

BAN20042315 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 108 Sunset Drive, Franklin, VA to 112 West 2nd Avenue, Franklin, VA

BAN20042316 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 111 Morningstar Lane, Beckley, WV to 300 North Kanawha Street, Suite 203, Beckley, WV

BAN20042317 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 12118 Great Bridge Road, Woodbridge, VA to 11736 Chanceford Drive, Woodbridge, VA

BAN20042318 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 12219 Bushey Drive, Silver Spring, MD to 2416 Blueridge Avenue, Suite 207, Wheaton, MD

BAN20042319 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 12284 Sherborne Street, Bristow, VA to 8896 Edmonston Drive, Bristow, VA

BAN20042320 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 122B E. Davis Street, Culpeper, VA to 7410 South U.S. Highway 1, Suite 306, Port St. Lucie, FL

BAN20042321 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 13 W. Broad Street, Palmyra, NJ to 504 Route 130, North, Cinnaminson, NJ

BAN20042322 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 14857 Bolton Road, Centreville, VA to 8492 Baltimore National Pike, Suite 205, Ellicott City, MD

BAN20042323 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 18816 Cross Country Lane, Gaithersburg, MD to 9636 Huntmaster Drive, Gaithersburg, MD

BAN20042324 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 21163 Millwood Square, Sterling, VA to 3533 Brannon Drive, Virginia Beach, VA

BAN20042325 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 3015 Hartley Road, Suite 6, Jacksonville, FL to 3015 Hartley Road, Suite 13B, Jacksonville, FL

BAN20042326 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 40736 Red Hill Road, Leesburg, VA to 1132 Champe Lain Road, Etlan, VA

BAN20042327 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 609 Birchridge Court, Virginia Beach, VA to 2136 Bierce Drive, Virginia Beach, VA

BAN20042328 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 800 Park Avenue, Keene, NH to 328 West Street, Keene, NH

BAN20042329 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 634 Evening Star Place, Mitchellville, MD

BAN20042330 Fast Payday Loans, Inc. - To open a payday lender's office at 2801 Monticello Avenue, Norfolk, VA

BAN20042331 Superior Home Mortgage Corporation (Used in VA by: Superior Mortgage Corporation) - To relocate mortgage lender broker's office from 111 Howard Boulevard, Suite 211, Mt. Arlington, NJ to 111 Howard Boulevard, Suite 104A, Mt. Arlington, NJ

BAN20042332 eHomeCredit Corp. d/b/a FHB Funding - To relocate mortgage lender's office from 211 Station Road, Mineola, NY to One Old Country Road, Suite 300, Carle Place, NY

BAN20042333 Pinnacle Financial Corporation d/b/a Tristar Lending Group (In Certain Offices) - To relocate mortgage lender broker's office from 9781 South Meridian Boulevard, Englewood, CO to 9563 South Kingston Court, Building B, Suite 100, Englewood, CO

BAN20042334 DAVLAW Enterprises, Inc. d/b/a Union First Mortgage - To open a mortgage broker's office at 3161 Solomon's Island Road, Suite 6, Edgewater, MD

BAN20042335 Onyx Financial Services, Inc. d/b/a Onyx Financial Services - To relocate mortgage broker's office from 7361 McWhorter Place, Suite 310, Annandale, VA to 7361 McWhorter Place, Suite 322, Annandale, VA

BAN20042336 Access Mortgage & Financial Corporation - To open a mortgage lender and broker's office at 227 South Bridge Street, Grand Ledge, MI

BAN20042337 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 409 Valley Road, Suite 2, Elkins Park, PA

BAN20042338 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 15 Messenger Drive, Warwick, RI

BAN20042339 BBC Marketing, LLC - For a mortgage broker's license

BAN20042340 Primary Residential Mortgage, Inc. - To open a mortgage lender and broker's office at 2225 Eastview Drive, Roanoke, VA

BAN20042341 Lighthouse Point Lending, LLC - For a mortgage broker's license

BAN20042342 SouthCoast Mortgage & Investment Corporation - To open a mortgage broker's office at 5620 Magnolia Run Circle, Apt. 106, Virginia Beach, VA

BAN20042343 American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 3175 Satellite Boulevard, Building 600, Suite 100, Duluth, GA

BAN20042344 American Nationwide Mortgage Company, Inc. - To open a mortgage lender and broker's office at 3 Kennasaw Drive, Stafford, VA

BAN20042345 American Nationwide Mortgage Company, Inc. - To open a mortgage lender and broker's office at 12009 Big Ben Boulevard, Fredericksburg, VA

BAN20042346 Main Line -Tavistock Mortgage, Inc. - For a mortgage lender and broker license

BAN20042347 Primerica Financial Services Home Mortgages, Inc. - To relocate mortgage broker's office from 125 West Bruce Street, Suite A, Harrisonburg, VA to 31 Southgate Court, Suite 202, Harrisonburg, VA

BAN20042348 Clifton Partners, LLC - To acquire 25 percent or more of Molton, Allen & Williams Mortgage Company, L.L.C.

BAN20042349 GMAC Mortgage Corporation d/b/a Ditech.Com - To open a mortgage lender and broker's office at 560 Neff Avenue, Harrisonburg, VA

BAN20042350 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 27326 Robinson Road, Suite 215, Conroe, TX

BAN20042351 Tammac Corporation - To open a consumer finance office

BAN20042352 Commonwealth Finance, LLC - To conduct a consumer finance business where auto club memberships will be sold

BAN20042353 Mortgage America LLC - For a mortgage broker's license

BAN20042354 Southern Star Mortgage Corp. - To open a mortgage lender and broker's office at 83 Lafayette Avenue, Brooklyn, NY

BAN20042355 AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To open a mortgage broker's office at 4326 K Evergreen Lane, Annandale, VA

BAN20042356 AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To open a mortgage broker's office at 8280 Greensboro Drive, Suite 105, McLean, VA

BAN20042357 GMAC Mortgage Corporation d/b/a Ditech.Com - To open a mortgage lender and broker's office at 778 Miller Lane, New Market, VA

BAN20042358 GMAC Mortgage Corporation d/b/a Ditech.Com - To open a mortgage lender and broker's office at 9 Lighthouse Plaza, Route 1, Rehoboth, DE

BAN20042359 AEGIS Lending Corporation d/b/a Amalgamated Mortgage (Bethesda MD Office Only) - To relocate mortgage lender broker's office from 14 Commerce Drive, 3rd Floor, Cranford, NJ to 100 Walnut Avenue, Suite 502, Clark, NJ

BAN20042360 HomeTrust Mortgage Corporation - For a mortgage lender and broker license

BAN20042361 Xoom Corporation - For a money order license

BAN20042362 American General Financial Services (DE), Inc. (Used in VA by: American General Financial Services, Inc.) - To relocate mortgage lender broker's office from 25320 Lankford Highway, Onley, VA to 25322 Lankford Highway, Onley, VA

BAN20042363 Blackstone Mortgage Group, Inc. - To relocate mortgage broker's office from 2500 Wisconsin Avenue, Suite 336, Washington, DC to 1634 6th Street, N.W., Suite 1, Washington, DC

BAN20042364 CTX Mortgage Company, LLC - To open a mortgage lender and broker's office at 727 J. Clyde Morris Boulevard, Suite A, Newport News, VA

BAN20042365 ComUnity Lending, Incorporated d/b/a Virginia Community Lending (McLean, Reston and Virginia Beach) - To open a mortgage lender and broker's office at 18525 Sutter Boulevard, Suite 200, Morgan Hill, CA

BAN20042366 Olympia Funding, Inc. - For additional mortgage authority

BAN20042367 Triumph Funding Corp. - For a mortgage broker's license

BAN20042368 Global Home Loans & Finance Inc. d/b/a directloansource.com - To open a mortgage lender and broker's office at 45 Ongley Street, Rockville Centre, NY

BAN20042369 American Residential Funding, Inc. - To open a mortgage lender and broker's office at 25 Meadowbrook Lane, Stafford, VA

BAN20042370 Aames Funding Corporation d/b/a Aames Home Loan - To relocate mortgage lender broker's office from 1407 York Road, Suite 210, Lutherville, MD to 11350 McCormick Road, Suite LL12, Hunt Valley, MD

BAN20042371 Midland Mortgage Corporation - For a mortgage lender's license

BAN20042372 Nationwide Advantage Mortgage Company - For additional mortgage authority

BAN20042373 American Modular Financial, LP - For a mortgage broker's license

BAN20042374 F & T Mortgage, Inc. - For a mortgage broker's license

BAN20042375 Shree Ganpati Inc - For a payday lender license

BAN20042376 Family Credit Counseling Service, Inc. - To open a credit counseling office

BAN20042377 Allied Home Mortgage Capital Corporation - To open a mortgage lender and broker's office at 251 Keisler Drive, Suite 100, Cary, NC

BAN20042378 Advance America, Cash Advance Centers of Virginia, Inc. d/b/a Advance America, Cash Advance Centers - To open a payday lender's office at 1800 South Creek One, Suite J, Powhatan, VA

BAN20042379 Crusader Cash Advance of Virginia, LLC - To open a payday lender's office at 913 West Main Street, Salem, VA

BAN20042380 Artz & O'Farrel Mortgage, Inc. - To open a mortgage broker's office at One Columbus Center, Sixth Floor, Virginia Beach, VA

BAN20042381 Capital Access, Ltd. - To open a mortgage broker's office at 203 Wallace Lane, Fredericksburg, VA

BAN20042382 Southern Star Mortgage Corp. - To open a mortgage lender and broker's office at 1672 Hylan Boulevard, Staten Island, NY

BAN20042383 Pinnacle Financial Corporation d/b/a Tristar Lending Group (In Certain Offices) - To open a mortgage lender and broker's office at 622 Hungerford Drive, Suite 22, Rockville, MD

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BAN20042384 Prosperity Funding, Inc. (Used in VA by: First Residential Mortgage, Inc.) - To relocate mortgage broker's office from 900 Reisterstown Road, Pikesville, MD to 2 Reservoir Circle, Suite 103, Baltimore, MD

BAN20042385 Axcel Financial Corporation - To relocate mortgage broker's office from 801 Volvo Parkway, Suite 141, Chesapeake, VA to 4360-A George Washington Memorial Highway, Yorktown, VA

BAN20042386 East West Mortgage Company, Inc. - To relocate mortgage lender broker's office from 5653 Columbia Pike, Suite 201, Falls Church, VA to 4400 Twin Knolls Court, Alexandria, VA

BAN20042387 Franklin Mortgage LLC - To relocate mortgage broker's office from 7 West County Street, Hampton, VA to 740 Thimble Shoals Boulevard, Suite G, Newport News, VA

BAN20042388 Summit Mortgage Corporation d/b/a Summit Home Mortgage Inc. - To relocate mortgage lender broker's office from 3060 Mitchellville Road, Suite 217, Bowie, MD to 211 North Union Street, Suite 100, Alexandria, VA

BAN20042389 Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To relocate mortgage lender broker's office from 2915 Providence Road, Suite 300, Charlotte, NC to 8318 Pineville Matthews Road, Suite 280-J, Charlotte, NC

BAN20042390 ECC Capital Corporation - To relocate mortgage lender broker's office from 21800 Oxnard Street, Suite 880, Woodland Hills, CA to 6320 Canoga Avenue, Suite 1310, Woodland Hills, CA

BAN20042391 Everyday Lending Mortgage Corporation, Inc. - To relocate mortgage broker's office from 5604 A Virginia Beach Boulevard, Virginia Beach, VA to 5608 Virginia Beach Boulevard, Virginia Beach, VA

BAN20042392 TMSF Holdings, Inc. - To acquire 25 percent or more of The Mortgage Store Financial, Inc.

BAN20042393 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 10903 Newlands Court, Richmond, VA

BAN20042394 American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 1130 Old Colony Lane, Suite 202, Williamsburg, VA

BAN20042395 Signature Mortgage Services, Inc. - To open a mortgage lender and broker's office at 4720 D Lee Highway, Arlington, VA

BAN20042396 Financial Exchange Company of Virginia, Inc. - To conduct a payday lending business where a legal document preparation business will also be conducted

BAN20042397 Branch Banking and Trust Company of Virginia - To relocate office from 111 East Danville Street, South Hill, VA to 212 East Atlantic Street, South Hill, VA

BAN20042398 RSA Mortgage Solutions, Inc. - For a mortgage broker's license

BAN20042399 Noble Mortgage, Inc. - For a mortgage broker's license

BAN20042400 Investment One, L.L.C. - For a mortgage broker's license

BAN20042401 Oak Street Financial Services, Inc. - For a mortgage lender's license

BAN20042402 Joseph H. Shagena, III - To acquire 25 percent or more of Destiny Mortgage Group, Inc.

BAN20042403 Catoctin Mortgage, L.L.C. - To open a mortgage broker's office at 10493 Labrador Loop, Manassas, VA

BAN20042404 Platinum Funding, LLC - To relocate mortgage broker's office from 7203 Hickory Street, Falls Church, VA to 8614 Westwood Center Drive, Suite 810, Vienna, VA

BAN20042405 A.T. Mortgage, Inc. - For a mortgage broker's license

BAN20042406 PayDay One of Virginia, LLC - For a payday lender license

BAN20042407 James River Investment Corporation - For a mortgage lender and broker license

BAN20042408 Stonewall Mortgage LLC - For a mortgage broker's license

BAN20042409 Razor Mortgage LLC - For a mortgage lender and broker license

BAN20042410 Primary Residential Mortgage, Inc. - To open a mortgage lender and broker's office at 14120 Estate Manor Drive, Gainesville, VA

BAN20042411 Spectrum Funding Corporation - To open a mortgage broker's office at 909 Glenrock Road, Suite D, Norfolk, VA

BAN20042412 Family Home Lending Corporation - To open a mortgage lender and broker's office at 6521 Creedmoor Road, Suite 206, Raleigh, NC

BAN20042413 Family Home Lending Corporation - To open a mortgage lender and broker's office at 1101 Hibiscus Boulevard, Suite S-104, Melbourne, FL

BAN20042414 Monarch Bank - To open a branch at 240 East Main Street, Norfolk, VA

BAN20042415 Branch Banking and Trust Company of Virginia - To open a branch at Route 211, Luray, VA

BAN20042416 Dana Capital Group, Inc. - To open a mortgage lender and broker's office at 280 Columbine Street, Suite 211, Denver, CO

BAN20042417 Optimum Mortgage Group, LLC - To open a mortgage lender and broker's office at 4500 Salisbury Road, Suite 400, Jacksonville, FL

BAN20042418 Optimum Mortgage Group, LLC - To open a mortgage lender and broker's office at 474 Wando Park Boulevard, Suite 205, Mt. Pleasant, SC

BAN20042419 Allied Mortgage Group, Inc. d/b/a Advantage One Financial - To open a mortgage lender's office at 1950 Street Road, Suite 401, Bensalem, PA

BAN20042420 United Capital, Inc. d/b/a United Capital Mortgage - To relocate mortgage lender broker's office from 412 Investors Place, Suite 103, Virginia Beach, VA to 780 South Lynnhaven Parkway, Suite 420, Virginia Beach, VA

BAN20042421 TM Mortgage Corporation - To relocate mortgage broker's office from 825 Diligence Drive, Suite 104, Newport News, VA to 716 Thimble Shoals, Suite D, Newport News, VA

BAN20042422 Intelli Mortgage Services, Inc. - For a mortgage broker's license

BAN20042423 Personal Credit Solutions, LLC - For a mortgage lender and broker license

BAN20042424 Household Realty Corporation d/b/a Household Realty Corporation of Virginia - To open a mortgage lender and broker's office at 308 Worth Avenue, Doc Stone Commons Shopping Center, Stafford, VA

BAN20042425 Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To open a mortgage lender and broker's office at 2211 Dickens Road, Suite 204, Richmond, VA

BAN20042426 Superior Home Mortgage Corporation (Used in VA by: Superior Mortgage Corporation) - To open a mortgage lender and broker's office at 105 South First Street, Richmond, VA

BAN20042427 Superior Home Mortgage Corporation (Used in VA by: Superior Mortgage Corporation) - To open a mortgage lender and broker's office at 211 North Union, Suite 100, Alexandria, VA

BAN20042428 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 217 Skillman Drive, Toano, VA

BAN20042429 Gateway Mortgage Group, LLC - To relocate mortgage lender broker's office from 7030 S. Yale, Suite 700, Tulsa, OK to 6910 East 14th Street, Tulsa, OK

BAN20042430 Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To relocate mortgage broker's office from 3141 Crimson Clover Drive, Lancaster, TX to 1928 Whistling Duck Drive, Upper Marlboro, MD

BAN20042431 Somerset Mortgage LLC - For a mortgage broker's license

BAN20042432 Discount Mortgage Center, Inc. - For a mortgage lender and broker license  
 BAN20042433 Prime Rate Funding Group, Inc. - For a mortgage broker's license  
 BAN20042434 Boomer T. Lim - To open a check casher at 47 A Catoctin Circle, S.E., Leesburg, VA  
 BAN20042435 Allied Home Mortgage Capital Corporation - To relocate mortgage lender broker's office from 8344 Belair Road, Baltimore, MD to 9500 Harford Road, Baltimore, MD  
 BAN20042436 Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To relocate mortgage broker's office from 3300 Virginia Beach Boulevard, Virginia Beach, VA to 2573 Piney Bark Drive, Virginia Beach, VA  
 BAN20042437 DHI Mortgage Company, Ltd. LP (Used in VA by: DHI Mortgage Company, Ltd.) - To relocate mortgage lender broker's office from 1370 Piccard Drive, Suite 230, Rockville, MD to 1370 Piccard Drive, Suite 140, Rockville, MD  
 BAN20042438 Encore Credit Corp. - To relocate mortgage lender broker's office from 21800 Oxnard Street, Suite 800, Woodland Hills, CA to 6320 Canoga Avenue, Suite 1300, Woodland Hills, CA  
 BAN20042439 Consumer Mortgage Services Incorporated - To open a mortgage lender and broker's office at 5251 18 John Tyler Highway, # 338, Williamsburg, VA  
 BAN20042440 ComUnity Lending, Incorporated d/b/a Virginia Community Lending (McLean, Reston and Virginia Beach) - To open a mortgage lender and broker's office at 2210 116th Avenue, N.E., Suite C, Bellevue, WA  
 BAN20042441 Coast to Coast, Mortgage and Funding LLC - For a mortgage broker's license  
 BAN20042442 Payne Financial Services, LTD - For a mortgage broker's license  
 BAN20042443 Caitlin Chen - For a mortgage broker's license  
 BAN20042444 Global Mortgage, Inc. - To open a mortgage broker's office at 8701 Beacontree Lane, Richmond, VA  
 BAN20042445 Global Mortgage, Inc. - To open a mortgage broker's office at 110 Maycox Avenue, Norfolk, VA  
 BAN20042446 Global Mortgage, Inc. - To open a mortgage broker's office at 1414 Lakeview Drive, Virginia Beach, VA  
 BAN20042447 Global Mortgage, Inc. - To open a mortgage broker's office at 5238 Westhaven Crescent, Virginia Beach, VA  
 BAN20042448 Global Mortgage, Inc. - To open a mortgage broker's office at 621 Hampton Highway, Yorktown, VA  
 BAN20042449 AmericaHomeKey, Inc. - To relocate mortgage lender broker's office from 4830 West Hundred Road, Suite 200, Chester, VA to 4001 West Hundred Road, Chester, VA  
 BAN20042450 Advance America, Cash Advance Centers of Virginia, Inc. d/b/a Advance America, Cash Advance Centers - To relocate payday lender's office from 3175 Linden Drive, Suite 7, Bristol, VA to 100 Linden Square Drive, Suite 3, Bristol, VA  
 BAN20042451 First Residential Mortgage Services Corporation - To relocate mortgage lender broker's office from 8730 Georgia Avenue, Suite 300, Silver Spring, MD to 8757 Georgia Avenue, Suite 1320, Silver Spring, MD  
 BAN20042452 WCS Lending LLC - To relocate mortgage lender broker's office from 24901 Northwestern Highway, Suite 314, Southfield, MI to 24901 Northwestern Highway, Suite 110, Southfield, MI  
 BAN20042453 Executive Mortgage LLC - For a mortgage lender and broker license  
 BAN20042454 Edward L. Cronin - For a mortgage broker's license  
 BAN20042455 Mortgage.Close.com, Inc. - To relocate mortgage broker's office from 625 The City Drive, Suite 365, Orange, CA to 1855 West Katella Avenue, Suite 200, Orange, CA  
 BAN20042456 Global Mortgage Group, Inc. - To relocate mortgage lender broker's office from 100 Verdae Boulevard, Suite 400, Greenville, SC to One Independence Point, Suite 310, Greenville, SC  
 BAN20042457 Patriot Mortgage Corporation - To relocate mortgage broker's office from 1769 LaSalle Place, Severn, MD to 8101 Sandy Spring Road, Suite 250, Laurel, MD  
 BAN20042458 Quotemearate.com, Inc. - To open a mortgage broker's office at 7734 Tea Table Drive, Lorton, VA  
 BAN20042459 1st American Mortgage, Inc. d/b/a CU Mortgage Group - To open a mortgage lender and broker's office at 7901 Jones Branch Drive, 4th Floor, McLean, VA  
 BAN20042460 Access Mortgage & Financial Corporation - To open a mortgage lender and broker's office at 2330 44th Street, S.E., Kentwood, MI  
 BAN20042461 Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 9710 Spanish Oak Court, Fairfax Station, VA  
 BAN20042462 Allied Mortgage, L.L.C. - To open a mortgage broker's office at 377 Fairfax Pike, Stephens City, VA  
 BAN20042463 Allied Mortgage Group, Inc. d/b/a Advantage One Financial - To open a mortgage lender's office at 101 E. 8th Street, Suite 200, Conshohocken, PA  
 BAN20042464 Allied Mortgage Group, Inc. d/b/a Advantage One Financial - To open a mortgage lender's office at 1000 Haddonfield Berlin Road, Suite 204, Voorhees, NJ  
 BAN20042465 Allied Mortgage Group, Inc. d/b/a Advantage One Financial - To open a mortgage lender's office at 1931 Olney Avenue, Suite 700, Cherry Hill, NJ  
 BAN20042466 Fadi Radwan d/b/a Freddy's Food Mart - To open a check casher at 2601 Columbus Avenue, Portsmouth, VA  
 BAN20042467 CPG Mortgage, LLC - For a mortgage broker's license  
 BAN20042468 Andrus Financial Services "LLC" - For a mortgage broker's license  
 BAN20042469 United Financial Management Group, Inc. - For a mortgage lender and broker license  
 BAN20042470 Nations Lending Corporation - For a mortgage broker's license  
 BAN20042471 Instant Capital Funding Group, Inc. - For a mortgage broker's license  
 BAN20042472 A.C.L. Mortgage Services, L. L.C. - For a mortgage broker's license  
 BAN20042473 Sunset Mortgage Company L.P. - To relocate mortgage lender broker's office from 314 Ewing Street, Bel Air, MD to 1208 Churchville Road, Suite 301, Bel Air, MD  
 BAN20042474 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 121 N. Lombardy Street, Richmond, VA  
 BAN20042475 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To relocate mortgage lender broker's office from 301 Southlake Boulevard, Suite 101, Richmond, VA to 6601 Irongate Square, Suite C, Richmond, VA  
 BAN20042476 USA Patriot Mortgage LLC - To open a mortgage broker's office at 6901 Old Keene Mill Road, Suite 203, Springfield, VA  
 BAN20042477 Atlantic Bay Mortgage Group, L.L.C. - To relocate mortgage lender broker's office from 3959 Electric Road, Suite 203, Roanoke, VA to 1615 E. Main Street, Salem, VA  
 BAN20042478 The Freedom Bank of Virginia - To open a branch at 10555 Main Street, Fairfax, VA  
 BAN20042479 David B. Jensen - To acquire 25 percent or more of AIM Home Financial, LLC  
 BAN20042480 Dana Capital Group, Inc. - To open a mortgage lender and broker's office at 222 Main Street, Falmouth, MA

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BAN20042481	Dana Capital Group, Inc. - To open a mortgage lender and broker's office at 500 North State College Boulevard, Suite 1150, Orange, CA
BAN20042482	Dana Capital Group, Inc. - To open a mortgage lender and broker's office at 26300 La Alameda, Suite 120, Mission Viejo, CA
BAN20042483	Dana Capital Group, Inc. - To open a mortgage lender and broker's office at 27111 Aliso Creek, Suite 190, Aliso Viejo, CA
BAN20042484	Dana Capital Group, Inc. - To open a mortgage lender and broker's office at 1001 West 17th Street, Suite W, Costa Mesa, CA
BAN20042485	Dana Capital Group, Inc. - To open a mortgage lender and broker's office at 26 Corporate Park, Suite 100, Irvine, CA
BAN20042486	Dana Capital Group, Inc. - To open a mortgage lender and broker's office at 30100 Town Center Drive, Suite 0-347, Laguna Niguel, CA
BAN20042487	Dana Capital Group, Inc. - To open a mortgage lender and broker's office at 3 Hutton Centre Drive, Suite 100, Santa Ana, CA
BAN20042488	Dana Capital Group, Inc. - To open a mortgage lender and broker's office at 2902 West Aquafria, Suite 1120, Phoenix, AZ
BAN20042489	Dana Capital Group, Inc. - To open a mortgage lender and broker's office at 8201 Greensboro Drive, Suite 210, McLean, VA
BAN20042490	Dana Capital Group, Inc. - To open a mortgage lender and broker's office at 2020 Main Street, # 250, Irvine, CA
BAN20042491	Dana Capital Group, Inc. - To open a mortgage lender and broker's office at 5455 Garden Grove Boulevard, Suite 300, Westminster, CA
BAN20042492	Dana Capital Group, Inc. - To open a mortgage lender and broker's office at 2082 Michelson, Suite 101, Irvine, CA
BAN20042493	Dana Capital Group, Inc. - To open a mortgage lender and broker's office at 92 Argonaut, Suite 275, Aliso Viejo, CA
BAN20042494	AEGIS Funding Corporation d/b/a AEGIS Home Equity - To open a mortgage lender's office at 230 Spring Valley Drive, East Greenwich, RI
BAN20042495	Primary Residential Mortgage, Inc. - To open a mortgage lender and broker's office at 9909 Lyndia Place, Upper Marlboro, MD
BAN20042496	Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 10350 West Bay Harbor Drive, # 11-R, Bay Harbor Islands, FL
BAN20042497	MortgageStar, Inc. - To open a mortgage lender and broker's office at 7906 Topaz Road, Richmond, VA
BAN20042498	Access Mortgage & Financial Corporation - To open a mortgage lender and broker's office at 6095 28th Street, South East, Grand Rapids, MI
BAN20042499	Global Mortgage, Inc. - To open a mortgage broker's office at 500 North Washington Street, Suite 303, Alexandria, VA
BAN20042500	Cornerstone Mortgage, Inc. - To relocate mortgage broker's office from 6224 Driftwood Drive, Alexandria, VA to 4501 Ford Avenue, Suite 300, Alexandria, VA
BAN20042501	Krish Services Inc. - To open a check casher at 47028 Harry Flood Byrd, Highway, Suite 104, Sterling, VA
BAN20042502	Citizens Bank and Trust Company - To open a branch at 497 Southpark Circle, Colonial Heights, VA
BAN20042503	Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To open a mortgage lender and broker's office at 15115 Forest Road, Forest, VA
BAN20042504	American Fidelity, Inc. - To open a mortgage lender's office at 7500 San Felipe, Suite 500, Houston, TX
BAN20042505	American Fidelity, Inc. - To open a mortgage lender's office at 11299 Owings Mills Boulevard, Suite 104, Owings Mills, MD
BAN20042506	SouthStar Funding, LLC d/b/a Capital Home Mortgage - To open a mortgage lender's office at 1001 Morehead Square Drive, Suite 330, Charlotte, NC
BAN20042507	SouthStar Funding, LLC d/b/a Capital Home Mortgage - To open a mortgage lender's office at 101 Centreport Drive, Suite 320, Greensboro, NC
BAN20042508	Aames Funding Corporation d/b/a Aames Home Loan - To relocate mortgage lender broker's office from 4701 Columbus Street, Virginia Beach, VA to 621 Lynnhaven Parkway, Suite 407, Lynnwood Plaza Building, Virginia Beach, VA
BAN20042509	Believers Mortgage LLC - For a mortgage broker's license
BAN20042510	Wendy J. Hemingway - For a mortgage broker's license
BAN20042511	James Jackson - For a mortgage broker's license
BAN20042512	Alliance Credit Counseling, Inc. - To conduct business as a nonprofit credit counseling agency pursuant to Chapter 10.2 of Title 6.1 of the Code of Virginia
BAN20042513	IMS Mortgage Service, Inc. d/b/a International Mortgage Service - For a mortgage broker's license
BAN20042514	Cardinal Enterprises Inc. of Richmond d/b/a Prestige Mortgage Co. - To relocate mortgage broker's office from 301 Plazaview Road, Richmond, VA to 7639 Hull Street Road, Richmond, VA
BAN20042515	Fox Mortgage Associates, LLC - For a mortgage broker's license
BAN20042516	Premier Lending Group, L.L.C. - For a mortgage broker's license
BAN20042517	Anchor Mortgage LLC - For a mortgage broker's license
BAN20042518	Bondcorp Realty Services Inc. - For a mortgage lender's license
BAN20042519	Towne Bank - To open a branch at 5216 Monticello Avenue, James City County, VA
BAN20042520	Watermark Financial Partners, Inc. - To open a mortgage lender's office at 5982 Central Avenue, St. Petersburg, FL
BAN20042521	Watermark Financial Partners, Inc. - To open a mortgage lender's office at 6090 Central Avenue, St. Petersburg, FL
BAN20042522	Family Home Lending Corporation - To open a mortgage lender and broker's office at 307 Walnut Street, Suite 1, Murfreesboro, TN
BAN20042523	Family Home Lending Corporation - To open a mortgage lender and broker's office at 108 North Kerr Avenue, Suite H-1, Wilmington, NC
BAN20042524	New Century Mortgage Corporation d/b/a Home123 Corporation (In Certain Offices) - To open a mortgage lender and broker's office at 18500 Von Karman, Suite 1000, Irvine, CA
BAN20042525	New Century Mortgage Corporation d/b/a Home123 Corporation (In Certain Offices) - To open a mortgage lender and broker's office at 1117 Perimeter Center, West, Suite N-200, Atlanta, GA
BAN20042526	Prosperity Mortgage Company - To open a mortgage lender and broker's office at 11351 Random Hills Road, 5th Floor, Fairfax, VA
BAN20042527	Quotemearate.com, Inc. - To open a mortgage broker's office at 89 Main Street, Suite 205, Medway, MA
BAN20042528	Green Tree Servicing LLC - To relocate mortgage lender's office from 2501 Blue Ridge Road, Suite 200, Raleigh, NC to Situs III Building, 1100 Situs Court, Suite 145-First Floor, Raleigh, NC
BAN20042529	Sable Enterprises, Corp. d/b/a City Finance Corp.Com - To relocate mortgage broker's office from 4010 Maury Place, Suite 7B, Alexandria, VA to 8639 B Engleside Office Park, Alexandria, VA
BAN20042530	Fast Track Financial Corp. - To relocate payday lender's office from 2013 Admiral Drive, Stafford, VA to 2146 Jefferson Davis Highway, PMB 14, Suite 2, Stafford, VA
BAN20042531	Christopher Galley d/b/a Advanced Mortgage Services - To relocate mortgage broker's office from 2266 North Roan Street, Johnson City, TN to 206 Wesley Street, Johnson City, TN



BAN20042532 Global Mortgage Group, Inc. - To relocate mortgage lender broker's office from 3955 Faber Place Drive, Suite 200, North Charleston, SC to 146 Fairchild Street, Suite 115, Daniel Island, SC

BAN20042533 Abdelaziz Laaribi Lahlou d/b/a Loudoun Cheks Cashed - To open a check casher at 24 B Plaza Street, N.E., Leesburg, VA

BAN20042534 Luxton Corp. d/b/a Payne's Check Cashing - To open a check casher at 727 North Main Street, Culpeper, VA

BAN20042535 Luxton Corp. d/b/a Payne's Check Cashing - For a payday lender license

BAN20042536 Luxton Corp. d/b/a Payne's Check Cashing - To conduct a payday lending business where a money order sales/money transmission business will also be conducted

BAN20042537 Jerbec Enterprises, Inc. d/b/a Express Money Service - To conduct a payday lending business where a money order sales/money transmission business will also be conducted

BAN20042538 The Cash Store V, LLC - To conduct a payday lending business where a money order sales/money transmission business will also be conducted

BAN20042539 Ferrick Mortgage LLC - For a mortgage broker's license

BAN20042540 Village Capital & Investment LLC - For a mortgage broker's license

BAN20042541 Lending First Home Loans, Inc. - For a mortgage broker's license

BAN20042542 Centennial Mortgage Lenders LLC - For a mortgage broker's license

BAN20042543 Advent Home Mortgage Corp. - For a mortgage lender's license

BAN20042544 Digital Services America LLC - For a money order license

BAN20042545 Digital Services Americas, LLC - To open a check casher at 945 S. George Mason Drive, Arlington, VA

BAN20042546 MortgageStar, Inc. - To open a mortgage lender and broker's office at 10300 Naglee Road, Silver Spring, MD

BAN20042547 MortgageStar, Inc. - To open a mortgage lender and broker's office at 5919 Edgehill Drive, Alexandria, VA

BAN20042548 Viking Mortgage Company, LLC - To open a mortgage broker's office at 860 Greenbriar Circle, Suite 302, Chesapeake, VA

BAN20042549 Eagle Funding Group, Ltd. - To open a mortgage broker's office at 1201 Pennsylvania Avenue, N.W., Suite 300, Washington, DC

BAN20042550 Natael Mortgage Consultants Incorporated - To open a mortgage broker's office at 203 Burgess Avenue, Alexandria, VA

BAN20042551 Natael Mortgage Consultants Incorporated - To relocate mortgage broker's office from 919 Prince Street, 2nd Floor, Alexandria, VA to 815 King Street, Suite 210, Alexandria, VA

BAN20042552 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 385 S. Main Street, Rocky Mount, VA

BAN20042553 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 441 Main Street, South Boston, VA

BAN20042554 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2211 Dickens Road, Suite 202, Richmond, VA

BAN20042555 Best Marketing, LLC d/b/a Paramax Mortgage - To relocate mortgage broker's office from 7909 S. Run View, Springfield, VA to 8133 Leesburg Pike, Suite 780, Vienna, VA

BAN20042556 Universal Credit Corporation of VA d/b/a The Cash Company of Bristol, VA - To conduct a payday lending business where a money order sales/money transmission business will also be conducted

BAN20042557 Creed D. Taylor - For a mortgage lender's license

BAN20042558 Custom Mortgage Corp. - For a mortgage broker's license

BAN20042559 First Financial Equities, Inc. - For a mortgage lender and broker license

BAN20042560 CTX Mortgage Company, LLC - To relocate mortgage lender broker's office from 3100 McKinnon, Suite 300, Dallas, TX to 3100 McKinnon, Suite 500, Dallas, TX

BAN20042561 Whilshire Commercial Capital L.L.C. - To open a consumer finance office

BAN20042562 Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To relocate mortgage broker's office from 6804 Stone Maple Terrace, Centreville, VA to 4225 Minstrell Lane, Fairfax, VA

BAN20042563 American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 300 Bedford Street, Entrance D, Manchester, NH

BAN20042564 Global Mortgage, Inc. - To open a mortgage broker's office at 10511 S. Glen Road, Potomac, MD

BAN20042565 WCS Lending LLC - To open a mortgage lender and broker's office at 800 Cypress Creek Road, Fort Lauderdale, FL

BAN20042566 U.S. Mortgage Corporation of Virginia (Used in VA by: U.S. Mortgage Corporation) - To open a mortgage lender and broker's office at 780 Lynnhaven Parkway, Suite 360, Virginia Beach, VA

BAN20042567 Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To open a mortgage broker's office at 500 Orchard Avenue, Kennett Square, PA

BAN20042568 Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To open a mortgage broker's office at 3822 Campus Drive, Suite 215, Newport Beach, CA

BAN20042569 Martinsville Du Pont Employees Credit Union, Incorporated - To open a credit union service office at 850 Tanyard Road, Rocky Mount, VA

BAN20042570 Martinsville Du Pont Employees Credit Union, Incorporated - To open a credit union service office at Highway 220, North, Martinsville, VA

BAN20042571 New State Mortgage, LLC - For a mortgage lender's license

BAN20042572 Ty Brooks - To acquire 25 percent or more of Spectrum Funding Corporation

BAN20042573 Gold Key Mortgage L.L.C. - For a mortgage broker's license

BAN20042574 Premium Mortgage Corporation - For additional mortgage authority

BAN20042575 Towne Bank - To open a branch at 109 E. Main Street, Norfolk, VA

BAN20042576 AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To relocate mortgage broker's office from 1540 West Glenoaks Boulevard,, Glendale, CA to 4444 Riverside Drive, Suite 305, Burbank, CA

BAN20042577 AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To relocate mortgage broker's office from 8286 Humphrey Lane, Manassas, VA to 6275 Covey Road, Warrenton, VA

BAN20042578 AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To open a mortgage broker's office at 9011 Arboretum Parkway, Suite 175, Richmond, VA

BAN20042579 Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To open a mortgage lender and broker's office at 1078 S. Powerline Road, Deerfield Beach, FL

BAN20042580 NJ Lenders Corp. - To open a mortgage lender and broker's office at Fountain 9 Mall, State Highway 55, Wall Township, NJ

BAN20042581 NJ Lenders Corp. - To open a mortgage lender and broker's office at 1500 Central Avenue, Albany, NY

BAN20042582 NJ Lenders Corp. - To open a mortgage lender and broker's office at 80 Maiden Lane, Suite 904A, New York, NY

BAN20042583 NJ Lenders Corp. - To relocate mortgage lender broker's office from 14 Elm Street, Morristown, NJ to 237 South Street, Morristown, NJ

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BAN20042584	Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To open a mortgage broker's office at 8545 Patterson Avenue, Suites 202-204, Richmond, VA
BAN20042585	United Financial Mortgage Corp. of Virginia - To open a mortgage lender and broker's office at 401 Harrison Oaks Boulevard, Suite 201, Cary, NC
BAN20042586	Miners Exchange Bank - To open a branch at State Route 75, Bobby Hicks Highway, Gray, TN
BAN20042587	American Residential Funding, Inc. - To open a mortgage lender and broker's office at 5580 Peterson Lane, Dallas, TX
BAN20042588	ComUnity Lending, Incorporated d/b/a Virginia Community Lending (McLean, Reston and Virginia Beach) - To open a mortgage lender and broker's office at 414 Oakmeads Crescent, Suite 201, Virginia Beach, VA
BAN20042589	Family Home Lending Corporation - To open a mortgage lender and broker's office at 6421 Congress Avenue, Suite 100, Boca Raton, FL
BAN20042590	Westminster Mortgage Corporation - To relocate mortgage lender broker's office from 21630 Ridgetop Circle, Suite 130, Dulles, VA to 46050 Manekin Plaza, Dulles, VA
BAN20042591	Adam Funds Transfer Services, LLC - For a money order license
BAN20042592	First Trust Mortgage Corporation - For a mortgage broker's license
BAN20042593	Pinnacle Mortgage, LLC - For a mortgage broker's license
BAN20042594	Advantage One Home Mortgage, LLC - For a mortgage broker's license
BAN20042595	Amerinet Financial L.L.C. - For a mortgage broker's license
BAN20042596	Stonecreek Funding Corporation - For a mortgage lender's license
BAN20042597	Global Mortgage, Inc. - To open a mortgage broker's office at 101 W. Main Street, Suite 103, Carnegie, PA
BAN20042598	Martinsville Du Pont Employees Credit Union, Incorporated - To open a credit union service office at 8500 A. L. Philpott Highway, Martinsville, VA
BAN20042599	Commonwealth Mortgage Associates, Inc. - To open a mortgage broker's office at 123 West 6th Street, Front Royal, VA
BAN20042600	Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To open a mortgage broker's office at 6851 Oak Hall Lane, Suite 301, Columbia, MD
BAN20042601	Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To open a mortgage broker's office at 2814 Spring Road, S.E., Suite 205, Atlanta, GA
BAN20042602	Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To open a mortgage broker's office at 176 Thomas Johnson Drive, Suite 104, Frederick, MD
BAN20042603	Global Equity Lending, Inc. - To open a mortgage lender and broker's office at 10900 East 183rd Street, Suite 300, Cerritos, CA
BAN20042604	ComUnity Lending, Incorporated d/b/a Virginia Community Lending (McLean, Reston and Virginia Beach) - To relocate mortgage lender broker's office from 2110 116th Avenue, N.E., Suite E, Bellevue, WA to 1524 Riverside Drive, Suite 1A, Mount Vernon, WA
BAN20042605	Prosperity Mortgage Company - To relocate mortgage lender broker's office from 14260 C Centreville Square, Centreville, VA to 6101 Redwood Square Circle, Suite 200, Centreville, VA
BAN20042606	The New York Mortgage Company, LLC d/b/a mortgageline.com - To open a mortgage lender's office at 1901 Research Boulevard, Suite 430, Rockville, MD
BAN20042607	The New York Mortgage Company, LLC d/b/a mortgageline.com - To open a mortgage lender's office at 198 Thomas Johnson Drive, Frederick, MD
BAN20042608	The New York Mortgage Company, LLC d/b/a mortgageline.com - To open a mortgage lender's office at 62 Reads Way, New Castle, DE
BAN20042609	Virginia Commerce Bank - To open a branch at 10830 Balls Ford Road, Prince William County, VA
BAN20042610	Virginia Commerce Bank - To open a branch at 8251 Greensboro Drive, McLean, VA
BAN20042611	Premium Capital Funding LLC d/b/a BLS Funding - To open a mortgage lender and broker's office at 2250 Hickory Road, Suite 216, Plymouth Meeting, PA
BAN20042612	AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To open a mortgage broker's office at 8245 Nieman Road, Suite 123, Lenexa, KS
BAN20042613	Anderson Home Mortgage Corporation - To relocate mortgage broker's office from 1803 Research Boulevard, Suite 402, Rockville, MD to 1803 Research Boulevard, Suite 504, Rockville, MD
BAN20042614	Sharon L. Borst, Inc. d/b/a First Carolina Funding Company - To relocate mortgage broker's office from 43214 Brookford Square, Ashburn, VA to 108 Christy Lane, Mooresville, NC
BAN20042615	Waterford Financial Services, Incorporated d/b/a First Commonwealth Funding - To relocate mortgage broker's office from 7100 Security Boulevard, Baltimore, MD to Executive Plaza III, 11350 McCormick Road, Suite 400, Hunt Valley, MD
BAN20042616	Fieldstone Mortgage Company d/b/a Broad Street Mortgage Co. - To relocate mortgage lender broker's office from 200 Galleria Parkway, N.W., Suite 220, Atlanta, GA to 200 Galleria Parkway, N.W., Suite 1050, Atlanta, GA
BAN20042617	Lake Anna Mortgage, L.L.C. - For a mortgage broker's license
BAN20042618	Providence Mortgage, Limited Liability Company - For a mortgage broker's license
BAN20042619	First Choice Mortgage LLC - For a mortgage broker's license
BAN20042620	Commonwealth Investment Alliance LLC - For a mortgage broker's license
BAN20042621	Multi-Source Financial Investments, Inc. - For a mortgage broker's license
BAN20042622	JMH Financial Mortgage Corporation - For a mortgage broker's license
BAN20042623	Brian Maller - To acquire 25 percent or more of Anderson Home Mortgage Corporation
BAN20042624	Cardinal Bank - To convert to state
BAN20042625	Equity United Mortgage Corporation - To relocate mortgage broker's office from 19488 Blueridge Mountain Road, Bluemont, VA to 807 Roe Hampton Court, Richmond, VA
BAN20042626	Southern Trust Mortgage, LLC d/b/a Middleburg Mortgage (2 Norfolk Offices) - To relocate mortgage lender broker's office from 13800 Coppermine Road, Suite 340, Herndon, VA to 20955 Professional Plaza, Suite 340, Ashburn, VA
BAN20042627	American Home Mortgage Corp. d/b/a MortgageSelect - To relocate mortgage lender broker's office from 520 Broad Hollow Road, Melville, NY to 538 Broadhollow Road, Melville, NY
BAN20042628	Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 629 N. 33rd Street, Richmond, VA
BAN20042629	Carnegie Financial Group, Incorporated d/b/a Capital Investment Group - To open a mortgage broker's office at 4th Avenue and Pine Street, Beaver Falls, PA
BAN20042630	Wall Street Financial Corporation - To open a mortgage lender's office at 8381 Old Courthouse Road, Vienna, VA

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BAN20042631 A. Anderson Scott Mortgage Group, Incorporated - To open a mortgage lender and broker's office at 287 Independence Boulevard, Suite 113, Virginia Beach, VA

BAN20042632 Homeloan USA Corporation - To open a mortgage lender and broker's office at 1216 King Street, Suite 200, Alexandria, VA

BAN20042633 SunTrust Bank - To open a branch at 3971 Brambleton Avenue, South, Roanoke, VA

BAN20042634 Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To open a mortgage broker's office at 5001 W. 80th Street, Suite 110, Bloomington, MN

BAN20042635 Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To open a mortgage broker's office at 3161 Solomons Island Road, Edgewater, MD

BAN20042636 Velocity Capital, Inc. - For a mortgage broker's license

BAN20042637 Paynes Check Cashing, Inc. - For a payday lender license

BAN20042638 The Kirney Group, Inc. - To open a mortgage broker's office at 2602 South Kent Street, Arlington, VA

BAN20042639 Gateway Mortgage Group, LLC - To open a mortgage lender and broker's office at 1206 Laskin Road, Suite 201, N, Virginia Beach, VA

BAN20042640 Primary Residential Mortgage, Inc. - To open a mortgage lender and broker's office at 17469 Denali Place, Dumfries, VA

BAN20042641 Primary Residential Mortgage, Inc. - To open a mortgage lender and broker's office at 1005 Frederick Road, Catonsville, MD

BAN20042642 American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 1604 Springhill Road, Suite 110, Vienna, VA

BAN20042643 Tidewater Home Funding, LLC - To relocate mortgage lender broker's office from 1403 Greenbrier Parkway, Suite 200, Chesapeake, VA to 1108 Edenway North, Chesapeake, VA

BAN20042644 Gateway Mortgage Group, LLC - To open a mortgage lender and broker's office at 12388 Warwick Boulevard, Suite 210, Newport News, VA

BAN20042645 E-Approve Mortgage Corp. - To relocate mortgage broker's office from 6404 Seven Corners Place, Suite P, Falls Church, VA to 6231 Leesburg Pike, Suite 506, Falls Church, VA

BAN20042646 Resource Bank - To relocate main office from 3720 Virginia Beach Boulevard, Virginia Beach, VA to 4429 Bonney Road, Virginia Beach, VA

BAN20042647 Freedom Mortgage Corporation - To relocate mortgage lender broker's office from 1000 Atrium Way, Suite 300, Mt. Laurel, NJ to 907 Pleasant Valley Avenue, Suite 3, Mt. Laurel, NJ

BAN20042648 Tosh of Utah, Inc. (Used in VA by: Tosh, Inc.) - To conduct a payday lending business where a tax preparation business will also be conducted

BAN20042649 SunTrust Bank - To open a branch at 1900 Abbey Road, Charlottesville, VA

BAN20042650 Access Capital Mortgage, LLC - To relocate mortgage broker's office from 7920 Norfolk Avenue, Suite 700, Bethesda, MD to 4905 Del Ray Avenue, Suite 401, Bethesda, MD

BAN20042651 Check into Cash of Virginia, LLC d/b/a Check into Cash - To open a payday lender's office at 5940 Brook Road, Richmond, VA

BAN20042652 Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To open a mortgage broker's office at 4608 Cedar Avenue, Suite 114, Wilmington, NC

BAN20042653 Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To open a mortgage broker's office at 5009 High Point Road, Greensboro, NC

BAN20042654 CitiFinancial, Inc. - To relocate mortgage lender's office from 3405 McLemore Drive, Pensacola, FL to 5520 Industrial Boulevard, Milton, FL

BAN20042655 Copiague Funding Corp. - For a mortgage lender's license

BAN20042656 BFC Transactions, Inc. - To open a check casher at 1641 Hilltop West Shopping Center, Virginia Beach, VA

BAN20042657 Golden First Mortgage Corp. (Used in VA by: Golden National Mortgage Banking Corp.) - To relocate mortgage lender's office from One Huntington Quadrangle, 3rd Floor, Melville, NY to 3 Grace Avenue, Great Neck, NY

BAN20042658 Five Star Inc. - To open a check casher

BAN20042659 Robert P. Lenz & Associates, Inc. - For a mortgage broker's license

BAN20042660 Mortgage America Companies, Inc. - To relocate mortgage broker's office from 7945 Annapolis Road, Lanham, MD to 11120 New Hampshire Ave., Suite 411, Silver Spring, MD

BAN20042661 1st Liberty Mortgage Company - To relocate mortgage broker's office from 48 Scotland Hill Road, Chestnut Ridge, NY to 25 Philips Parkway, Montvale, NJ

BAN20042662 Lincoln Mortgage, LLC - To relocate mortgage broker's office from 1445 E. Rio Road, Suite 001, Charlottesville, VA to 2114 Angus Road, Suite 220, Charlottesville, VA

BAN20042663 Antietam Mortgage, Inc. - To open a mortgage broker's office at 716 Santa Barbara Place, San Diego, CA

BAN20042664 Antietam Mortgage, Inc. - To open a mortgage broker's office at 9029 Shady Grove Court, Gaithersburg, MD

BAN20042665 Antietam Mortgage, Inc. - To open a mortgage broker's office at 316 West 94th Street, Suite 30, New York, NY

BAN20042666 Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To open a mortgage broker's office at 572 Volunteer Parkway, Bristol, TN

BAN20042667 Allied Mortgage, L.L.C. - To open a mortgage broker's office at 107 South Main Street, Suite 8, Harrisonburg, VA

BAN20042668 Maryland Residential Lending, L.L.C. d/b/a Nationwide Mortgage Services - To open a mortgage broker's office at 3060 Mitchellville Road, Suite 217, Bowie, MD

BAN20042669 Buckingham Mortgage Corporation - To open a mortgage lender and broker's office at 15245 Shady Grove Road, Suite 430, Rockville, MD

BAN20042670 Queena V. Hughes - For a mortgage broker's license

BAN20042671 Patroit Funding, LLC - For a mortgage broker's license

BAN20042672 EEC Finacial Services Inc. - For a mortgage broker's license

BAN20042673 Primerica Financial Services Home Mortgages, Inc. - To relocate mortgage broker's office from 9510 Iron Bridge Road, Suite 200, Chesterfield, VA to 302 B Turner Road, Richmond, VA

BAN20042674 Nationwide Mortgage Lenders Inc. - To relocate mortgage broker's office from 9909 Autumnwood Way, Potomac, MD to 11820 Parklawn Drive, Suite 202, Rockville, MD

BAN20042675 Community Home Mortgage, LLC d/b/a Community Mortgage Group, LLC - To relocate mortgage broker's office from 1291 Robert C. Byrd Drive, Crab Orchard, WV to 1279 Robert C. Byrd Drive, Crab Orchard, WV

BAN20042676 Commonwealth Mortgage Group, Inc. - To open a mortgage broker's office at 9 East Nelson Street, Lexington, VA

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BAN20042677	Allied Cash Advance Virginia LLC d/b/a Allied Cash Advance - To open a payday lender's office at 1930 North Armistead Avenue, Hampton, VA
BAN20042678	Allied Cash Advance Virginia LLC d/b/a Allied Cash Advance - To open a payday lender's office at 11105 Leavells Road, Unit #2, Fredericksburg, VA
BAN20042679	Allied Cash Advance Virginia LLC d/b/a Allied Cash Advance - To open a payday lender's office at 8855 Richmond Highway, Alexandria, VA
BAN20042680	AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To open a mortgage broker's office at 2321 Drusille Lane, Suite D, Baton Rouge, LA
BAN20042681	AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To open a mortgage broker's office at 5841 South Sherwood Forest Boulevard, Baton Rouge, LA
BAN20042682	Montgomery Capital Mortgage Corporation (Used in VA by: Montgomery Capital Corporation) - To open a mortgage broker's office at 701 West Broad Street, Suite 205, Falls Church, VA
BAN20042683	Family Home Lending Corporation - To open a mortgage lender and broker's office at 535 East Pine Street, Suite 201, Mount Airy, NC
BAN20042684	Valley Broker Services, Inc. d/b/a VBS Mortgage - To open a mortgage broker's office at 106 Rowe Road, Suite 108, Staunton, VA
BAN20042685	Access Mortgage & Financial Corporation - To open a mortgage lender and broker's office at 2301 Merry Oaks Court, Virginia Beach, VA
BAN20042686	Mutual Funding MY, Inc. - For a mortgage broker's license
BAN20042687	Terrie Sims - For a mortgage broker's license
BAN20042688	New Future Mortgage, Inc. - For a mortgage broker's license
BAN20042689	Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To open a mortgage broker's office at 89 N. Main Street, Medford, NJ
BAN20042690	Nations Home Funding, Inc. - To open a mortgage lender and broker's office at 1925 Isaac Newton Square, Suite 200, Reston, VA
BAN20042691	Congressional Funding USA, LLC - To open a mortgage broker's office at 1400 Spring Street, Suite 150, Silver Spring, MD
BAN20042692	Diamond Lending Corporation - To open a mortgage broker's office at 10 East Lancaster Avenue, Paoili, PA
BAN20042693	ComUnity Lending, Incorporated d/b/a Virginia Community Lending (McLean, Reston and Virginia Beach) - To relocate mortgage lender broker's office from 650 Hungerford Drive, Suite 201 CSP, Rockville, MD to 20400 Observation Drive, Suite 201 M, Germantown, MD
BAN20042694	Amerifund Financial, Inc. d/b/a All Fund Mortgage - To relocate mortgage lender broker's office from 4 Mansion Boulevard, Apt. J, Delmar, NY to 65 Ten Broeck Street, Albany, NY
BAN20042695	American Residential Funding, Inc. - To relocate mortgage lender broker's office from 7900 West Park Drive, Suite T-103, McLean, VA to 7700 Leesburg Pike, Suite 440, Falls Church, VA
BAN20042696	MicroFinance International Corporation d/b/a Mi Pueblo - To open a check casher at 5900 Crestlane, Centreville, VA
BAN20042697	New Century Mortgage Corporation d/b/a Home123 Corporation (In Certain Offices) - To relocate mortgage lender broker's office from 4456 Corporation Lane, Suite 142, Virginia Beach, VA to 5029 Corporate Woods Drive, Suite 200, Virginia Beach, VA
BAN20042698	Interglobal Mortgage Corporation - To relocate mortgage broker's office from 100 Painters Mill Road, Suite 710, Owings Mills, MD to 11459 Cronhill Drive, Suite P, Owings Mills, MD
BAN20042699	Cornerstone Mortgage, Inc. - To relocate mortgage broker's office from 4323 Olley Lane, Fairfax, VA to 9667 C. Main Street, Unit 14, Fairfax, VA
BAN20042700	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 9613 Fireside Drive, Glen Allen, VA
BAN20042701	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 652 Old Ezell Road, Nashville, TN
BAN20042702	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 5984 Route 60, East, Barboursville, WV
BAN20042703	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 54 Marina Road, Suite 203, Lake Wylie, SC
BAN20042704	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 45 Colvin Avenue, Albany, NY
BAN20042705	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 4446 Summit Bridge Road, Suite 4, Middletown, DE
BAN20042706	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 369 Peninsula Boulevard, Suite 2R, Hempstead, NY
BAN20042707	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3405-C West Wendover Avenue, Greensboro, NC
BAN20042708	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1331 North Forest Road, Suite 210, Williamsville, NY
BAN20042709	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2201 East Higgins Road, Suite 204, Elk Grove Village, IL
BAN20042710	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2178 Savannah Highway, Charleston, SC
BAN20042711	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 15825 Crabbs Branch Way, Suite 101, Rockville, MD
BAN20042712	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1555 Kisker Road, Suite 132, Saint Charles, MO
BAN20042713	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 11908 McGee Court, Spotsylvania, VA
BAN20042714	UMS, Inc. d/b/a Urgent Money Service - To open a check casher at 1295-B S. Boston Road, Danville, VA
BAN20042715	Urgent Money Service, Inc. d/b/a Urgent Money Service - To open a check casher at 1000 Memorial Boulevard, Martinsville, VA
BAN20042716	Bridge Capital Corporation - To relocate mortgage lender broker's office from 25391 Commercentre Drive, Suite 100, Lake Forest, CA to 27121 Towne Centre Drive, Suite 101, Foothill Ranch, CA
BAN20042717	Hamilton National Mortgage Company - To relocate mortgage lender's office from 1500 Liberty Ridge Drive, Chesterbrook, PA to 1487 Dunwoody Drive, Suite 225, West Chester, PA
BAN20042718	American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 1601 Trapelo Road, Waltham, MA
BAN20042719	Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 2844 Wisconsin Avenue, N.W., Suite 303, Washington, DC
BAN20042720	Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 97 Pebble Beach Drive, Charles Town, WV
BAN20042721	Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 15410 Autumn Lane, Montclair, VA
BAN20042722	Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 2253 Cedar Lane, Vienna, VA
BAN20042723	Phillip Larry Godfrey - For a mortgage broker's license
BAN20042724	Preferred Mortgage Services, Inc. - For a mortgage broker's license
BAN20042725	GreenPath, Inc. - To open a credit counseling office
BAN20042726	Global Mortgage, Inc. - To open a mortgage broker's office at 11260 Roger Bacon Drive, #404, Reston, VA

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BAN20042727 Towne Bank - To conduct a real estate brokerage business  
 BAN20042728 Global Mortgage, Inc. - To open a mortgage broker's office at 309 Jackson Street, Suffolk, VA  
 BAN20042729 Option One Mortgage Corporation - To open a mortgage lender and broker's office at 15455 N. Dallas Parkway, Suite 500, Addison, TX  
 BAN20042730 AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To open a mortgage broker's office at 412 West Jones Street, Raleigh, NC  
 BAN20042731 B K & Associates, Inc. - To open a mortgage broker's office at 1013 Aylor Road, Stephens City, VA  
 BAN20042732 Metro Mortgage Corporation - To relocate mortgage broker's office from 5822 La Vista Drive, Alexandria, VA to 6206 B Old Franconia Road, Alexandria, VA  
 BAN20042733 Pacific West Lending, Inc. - For a mortgage broker's license  
 BAN20042734 Wholesale Mortgage Company, Inc. - For a mortgage broker's license  
 BAN20042735 B K & Associates, Inc. - To open a mortgage broker's office at 7700 Leesburg Pike, Suite 440, Falls Church, VA  
 BAN20042736 B K & Associates, Inc. - To open a mortgage broker's office at 4620 Plank Road, Fredericksburg, VA  
 BAN20042737 Granger Mortgage Corporation - For a mortgage lender and broker license  
 BAN20042738 Michael C. Sofer - To acquire 25 percent or more of Cooper & Shein, LLC  
 BAN20042739 Eric Thornton - For a mortgage broker's license  
 BAN20042740 ABC Mortgage Funding, Inc. - For a mortgage broker's license  
 BAN20042741 Bank of Tazewell County - To open a branch at 1155 Claypool Hill Mall Road, Cedar Bluff, VA  
 BAN20042742 Bank of Tazewell County - To open a branch at 201 West Main Street, Tazewell, VA  
 BAN20042743 The First Bank and Trust Company - To open a branch at 150 West Main Street, Wytheville, VA  
 BAN20042744 Valley Bank - To open a branch at 1327 Grandin Road, S.W., Roanoke, VA  
 BAN20042745 CitiFinancial, Inc. - To relocate mortgage lender's office from 536 Southpark Boulevard, Colonial Heights, VA to 3330 South Crater Road, Suite 9A, Petersburg, VA  
 BAN20042746 CitiFinancial Services, Inc. - To relocate consumer finance office from 536 Southpark Boulevard, Colonial Heights, VA to 3330 South Crater Road, Suite 9A, Petersburg, VA  
 BAN20042747 New Star Funding Corp. - For a mortgage broker's license  
 BAN20042748 Capital Equity Services, LLC - For a mortgage broker's license  
 BAN20042749 Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To open a mortgage lender and broker's office at 5804 Ambler Street, Alexandria, VA  
 BAN20042750 Home Consultants, Inc. d/b/a HCI Mortgage - To open a mortgage lender and broker's office at 7100 Chesapeake Road, Suite 103, Hyattsville, MD  
 BAN20042751 Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To open a mortgage broker's office at 39 East Hanover Avenue, Suite 3B, Morris Plains, NJ  
 BAN20042752 CTX Mortgage Company, LLC - To open a mortgage lender and broker's office at 883 Airport Park Road, Suite L, Glen Burnie, MD  
 BAN20042753 Skyland Mortgage LLC - To open a mortgage broker's office at 709 Spruce Street, Martinsville, VA  
 BAN20042754 Home Loan Corporation - To open a mortgage lender and broker's office at 7800 North MoPac Expressway, Suite 315, Austin, TX  
 BAN20042755 Gateway Mortgage Group, LLC - To relocate mortgage lender broker's office from 5381 Blackwater Loop, Virginia Beach, VA to 5476 Virginia Beach Boulevard, Suite 116, Virginia Beach, VA  
 BAN20042756 Wook Lho Yoon d/b/a Trust Mortgage Company - To relocate mortgage broker's office from 9653 Lee Highway, Suite 16, Fairfax, VA  
 BAN20042757 Guidance Residential, LLC - To relocate mortgage lender broker's office from 5203 Leesburg Pike, 2 Skyline Place, Falls Church, VA to 11109 Sunset Hills Road, Reston, VA  
 BAN20042758 America's MoneyLine, Inc. - To relocate mortgage lender's office from 5470 West Broad Street, Richmond, VA to 11737 West Broad Street, Richmond, VA  
 BAN20042759 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 8302B Old Courthouse Road, Vienna, VA to 8302-D Old Courthouse Road, Vienna, VA  
 BAN20042760 Debt Counseling Corp. - To relocate credit counseling office from 990 Westbury Road, Westbury, NY to 3033 Express Drive, North, Hauppauge, NY  
 BAN20042761 Pacific Mutual Funding - For a mortgage lender's license  
 BAN20042762 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 740 Lowell Jones Road, Piney Flats, TN  
 BAN20042763 First Southern Financial, Corp. - To open a mortgage broker's office at 7909 Parklane Road, Suite 130, Columbia, SC  
 BAN20042764 Creative Mortgage Resources, LLC - To relocate mortgage broker's office from 5560 N. Peachtree Road, Atlanta, GA to 6455 East Johns Crossing, Alpharetta, GA  
 BAN20042765 Cristina V. G. Kramer d/b/a Anchor Tidewater Mortgage Company - To relocate mortgage broker's office from 505 S. Independence Boulevard, Suite 107, Virginia Beach, VA to 1520 Stonemoss Court, Virginia Beach, VA  
 BAN20042766 Prudential Mortgage Services, Inc. - To relocate mortgage broker's office from 85 South Bragg Street, Suite 200M, Alexandria, VA to 85 South Bragg Street, Suite 203, Alexandria, VA  
 BAN20042767 Dominion Home Mortgage Corp. - To relocate mortgage broker's office from 800 W. 5th Avenue, Suite 103, Naperville, IL to 800 W. 5th Avenue, Suite 108 A, Naperville, IL  
 BAN20042768 Southern Trust Mortgage, LLC d/b/a Middleburg Mortgage (2 Norfolk Offices) - To open a mortgage lender and broker's office at 2101 Parks Avenue, Suite 302, Virginia Beach, VA  
 BAN20042769 Main Street Financial Services, Inc. d/b/a Main Street Mortgage Services - To open a mortgage broker's office at 3652 Virginia Avenue, Suite A, Collinsville, VA  
 BAN20042770 Mortgage of America, LLC - For a mortgage broker's license  
 BAN20042771 Alliance for Families & Children of Central Virginia d/b/a Consumer Credit Counseling Service of Central Virginia - To conduct business as a nonprofit credit counseling agency pursuant to Chapter 10.2 of Title 6.1 of the Code of Virginia  
 BAN20042772 Commonsense Mortgage Inc. d/b/a First Solution Lending - To relocate mortgage lender broker's office from 1635 Coon Rapids Boulevard, N.W., Coon Rapids, MN to 11334 86th Avenue, N, Maple Grove, MN  
 BAN20042773 Heritage Mortgage Brokers, L.L.C. - To open a mortgage broker's office at 2300 Fall Hill Avenue, Suite 213, Fredericksburg, VA  
 BAN20042774 Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To open a mortgage broker's office at 618 Main Street, Coventry, RI  
 BAN20042775 Crusader Cash Advance of Virginia, LLC - To open a payday lender's office at 8316 Staples Mill Road, Richmond, VA

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BAN20042776	America's Mortgage Broker, L.L.C. d/b/a Affordable Home Funding - To open a mortgage lender and broker's office at 4 Executive Park Drive, Suite 1207, Atlanta, GA
BAN20042777	Marine Square Mortgage, LLC - To relocate mortgage broker's office from 7062 Leebrad Street, Springfield, VA to 3714 Richard Avenue, Fairfax, VA
BAN20042778	Gateway Mortgage Group, LLC - To open a mortgage lender and broker's office at 13241 Mt. Olive Lane, Suite B, Amelia, VA
BAN20042779	Windsor Capital Mortgage Corporation - To relocate mortgage broker's office from 150 Tacketts Mill Road, Stafford, VA to 134 Tacketts Mill Road, Stafford, VA
BAN20042780	Windsor Capital Mortgage Corporation - To open a mortgage broker's office at 1500 Forrest Avenue, Suite 124, Richmond, VA
BAN20042781	Armour Financial Inc. - For a mortgage broker's license
BAN20042782	AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To open a mortgage broker's office at 11299 Owings Mills Boulevard, Suite 102, Owings Mills, MD
BAN20042783	AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To open a mortgage broker's office at 9810 Patuxent Woods Drive, Suite A, Columbia, MD
BAN20042784	FlexPoint Funding Corporation - To open a mortgage lender and broker's office at 7201 E. Camelback Road, Suite 350, Scottsdale, AZ
BAN20042785	Allied Home Mortgage Capital Corporation - To open a mortgage lender and broker's office at 1300 Piccard Drive, Suite 103, Rockville, MD
BAN20042786	United Financial Mortgage Corp. of Virginia - To open a mortgage lender and broker's office at 5410 Maryland Way, Suite 400, Brentwood, TN
BAN20042787	QC Financial Services, Inc. d/b/a Quik Cash - To open a payday lender's office at 400 South 15th Avenue, Hopewell, VA
BAN20042788	EZ Mortgage, Inc. - To relocate mortgage broker's office from 1618 North Rhodes Street, Arlington, VA to 8212-C Old Courthouse Road, 1st Floor, Vienna, VA
BAN20042789	Olympia Mortgage Group, Inc. - To relocate mortgage lender broker's office from 1950 Old Gallows Road, Suite 100, Vienna, VA to 1950 Old Gallows Road, 8th Floor, Vienna, VA
BAN20042790	AEGIS Lending Corporation d/b/a Amalgamated Mortgage (Bethesda Md. Office Only) - To relocate mortgage lender broker's office from 11800 Sunrise Valley Drive, Reston, VA to 11800 Sunrise Valley Drive, Suite 1050, Reston, VA
BAN20042791	Embassy Mortgage, Inc. - For additional mortgage authority
BAN20042792	Legacy Mortgage, LLC - For a mortgage broker's license
BAN20042793	Standard Capital Corp. - To relocate mortgage broker's office from 2859 Virginia Beach Boulevard, Virginia Beach, VA to 609 Lynnhaven Parkway, Suite 210, Virginia Beach, VA
BAN20042794	RBC Centura Bank - To open a branch at 555 Main Street, Norfolk, VA
BAN20042795	Dana Capital Group, Inc. - To open a mortgage lender and broker's office at 8001 Irvine Center Drive, Suite 1200, Irvine, CA
BAN20042796	Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 571-A Southlake Boulevard, Richmond, VA
BAN20042797	Challenge Financial Investors Corp. d/b/a Challenge Mortgage - To relocate mortgage lender broker's office from 9339 Breamore Court, Laurel, MD to 3515 Roland Avenue, Baltimore, MD
BAN20042798	F & L Marketing Enterprises LLC d/b/a Cash-2-U Payday Loans - To open a payday lender's office at 3600 South Crater Road, Unit D, Petersburg, VA
BAN20042799	MortgageTree Lending Corporation (Used in VA by: MortgageTree Lending) - To open a mortgage lender's office at 4856 E. Baseline Road, Suite 104, Mesa, AZ
BAN20042800	Axcel Financial Corporation - To relocate mortgage broker's office from 205 Chase Oak Court, Yorktown, VA to 738 Middle Ground Boulevard, Newport News, VA
BAN20042801	Crescent Financial Inc. (Used in VA by: Crescent Financial Trust Inc.) - To open a mortgage broker's office at 7236 Columbia Pike, Suite C, Annandale, VA
BAN20042802	A.T. Mortgage, Inc. - To relocate mortgage broker's office from 712 Hillcrest Drive, S.W., Vienna, VA to 1960 Gallows Road, Suite 210, Vienna, VA
BAN20042803	Family Home Lending Corporation - To open a mortgage lender and broker's office at 1686 Brackets Bend, Powhatan, VA
BAN20042804	Bear Stearns Residential Mortgage Corporation - For a mortgage lender and broker license
BAN20042805	Southern Community Bank & Trust - To open a branch at 11401 Belvedere Vista Lane, Chesterfield County, VA
BAN20042806	Infinity Mortgage Solutions, Inc. - For a mortgage broker's license
BAN20042807	Barrow & Birchenough Mortgage Services, Inc. - For a mortgage broker's license
BAN20042808	The Trans, LLC - To open a check casher at 1175 East Main Street, Waynesboro, VA
BAN20042809	Watermark Financial Partners, Inc. - To open a mortgage lender's office at 1990 West Camelback Road, Suite 214, Phoenix, AZ
BAN20042810	American Residential Funding, Inc. - To open a mortgage lender and broker's office at 5909 Rinard Drive, Centreville, VA
BAN20042811	Onyx Stores LLC - For a payday lender license
BAN20042812	Fox Foods Inc. - To open a check casher at 7869 Richmond Road, Toano, VA
BAN20042813	Lime Financial Services, Ltd. - For a mortgage lender's license
BAN20042814	BK Mortgage, Inc. - For a mortgage broker's license
BAN20042815	Liberty House Financial Group, L.L.C. - For a mortgage broker's license
BAN20042816	SW Mortgage Group - For a mortgage broker's license
BAN20042817	Southern Trust Mortgage, LLC d/b/a Middleburg Mortgage (2 Norfolk Offices) - To open a mortgage lender and broker's office at 1700 Frederica Road, Suite 206, St. Simons Island, GA
BAN20042818	American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 6230 Fairview Road, Suite 211, Charlotte, NC
BAN20042819	American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 3000 N. 10th Street, Suite 400, Arlington, VA
BAN20042820	American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 21351 Ridgetop Circle, Suite 300, Dulles, VA
BAN20042821	Clayton Peters & Associates, Inc. d/b/a CPA Mortgage - To relocate mortgage broker's office from 2200 Clarendon Boulevard, Arlington, VA to 5699 Columbia Pike, Suite 201, Falls Church, VA
BAN20042822	First County Mortgage Services Incorporated - To open a mortgage lender and broker's office at 1643 Crofton Centre, Crofton, MD
BAN20042823	First County Mortgage Services Incorporated - To open a mortgage lender and broker's office at 9405 Chesapeake Street, LaPlata, MD

BAN20042824 First County Mortgage Services Incorporated - To open a mortgage lender and broker's office at One Jadip Lane, Suite 109, Fredericksburg, VA

BAN20042825 Commonwealth Mortgage Corporation - To open a mortgage broker's office at 5105 Williamson Road, Roanoke, VA

BAN20042826 H&R Block Mortgage Corporation - To open a mortgage lender and broker's office at 10151 Deerwood Park Boulevard, Building 200, Suite 200, Jacksonville, FL

BAN20042827 Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 11788 Hollyview Drive, Great Falls, VA

BAN20042828 Pinnacle Financial Corporation d/b/a Tristar Lending Group (In Certain Offices) - To relocate mortgage lender broker's office from 10376 Festival Lane, Manassas, VA to 8429 Sudley Road, Suite 3, Manassas, VA

BAN20042829 The Money Tree Financial Corp. - For additional mortgage authority

BAN20042830 Peoples Home Equity, Inc. - For a mortgage lender and broker license

BAN20042831 1st Pacific Mortgage, Inc. - For a mortgage lender and broker license

BAN20042832 CMS Mortgage Solutions, Inc. - For a mortgage broker's license

BAN20042833 Dream Home Mortgage, Inc. - For a mortgage broker's license

BAN20042834 The Anyloan Company - To relocate mortgage lender broker's office from 200 Commerce, Suite 100, Irvine, CA to 340 Commerce, Suite 100, Irvine, CA

BAN20042835 The Anyloan Company - To open a mortgage lender and broker's office at 1100 The American Road, Morris Plains, NJ

BAN20042836 Centex Home Equity Company, LLC - To relocate mortgage lender broker's office from 804 Moorefield Park Drive, Suite 301, Richmond, VA to 10800 Midlothian Turnpike, Suite 141, Richmond, VA

BAN20042837 A Money Matter Mortgage Inc. - To relocate mortgage broker's office from 7353 McWhorter Place, Suite 210, Annandale, VA to 8200 Greensboro Drive, Suite 250, McLean, VA

BAN20042838 Mid-Atlantic Mortgage Corporation - To relocate mortgage broker's office from Nine North Third Street, Suite 200, Warrenton, VA to 400 Holiday Court, Suite 101, Warrenton, VA

BAN20042839 Heritage Funding, Inc. - To open a mortgage broker's office at 3102 Tyre Neck Road, Portsmouth, VA

BAN20042840 Finance America, LLC - To open a mortgage lender and broker's office at 3355 Michelson, Suite 300, Irvine, CA

BAN20042841 Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To open a mortgage broker's office at 601 Pennsylvania Avenue, N.W., South Building, Suite 900, Washington, DC

BAN20042842 Mason Dixon Funding, Inc. - To open a mortgage lender and broker's office at 11766-L Fair Oaks Shopping Center, Fairfax, VA

BAN20042843 Fahrenheit Financial Services LLC - To open a check casher at 150 Elden Street, Suite 137, Herndon, VA

BAN20042844 Virginia Mortgage, L.L.C. - For a mortgage broker's license

BAN20042845 Belmont Mortgage, Inc. - For a mortgage broker's license

BAN20042846 Select Mortgage Solutions, Inc. - For a mortgage broker's license

BAN20042847 Global Mortgage, Inc. - To open a mortgage broker's office at 5805 Sonoma Road, Bethesda, MD

BAN20042848 Global Mortgage, Inc. - To open a mortgage broker's office at 406 Oakmeads Crescent, Virginia Beach, VA

BAN20042849 Global Mortgage, Inc. - To open a mortgage broker's office at 5347 Lila Lane, Suite 109, Virginia Beach, VA

BAN20042850 American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 101-A Loudoun Street, S.E., Leesburg, VA

BAN20042851 Complete Mortgage Solutions, Inc. - To open a mortgage broker's office at 9858-B Main Street, Fairfax, VA

BAN20042852 Access Mortgage & Financial Corporation - To open a mortgage lender and broker's office at 3898 9th Street, North, Suite 102, Naples, FL

BAN20042853 AEGIS Lending Corporation d/b/a Amalgamated Mortgage (Bethesda MD Office Only) - To open a mortgage lender and broker's office at 2364 Post Road, Suite 301, Warwick, RI

BAN20042854 AEGIS Lending Corporation d/b/a Amalgamated Mortgage (Bethesda MD Office Only) - To open a mortgage lender and broker's office at 639 Granite Street, Suite 230, Braintree, MA

BAN20042855 AEGIS Lending Corporation d/b/a Amalgamated Mortgage (Bethesda MD Office Only) - To open a mortgage lender and broker's office at 300 Centerville Road, Suite 320, East Building, Warwick, RI

BAN20042856 The New York Mortgage Company, LLC d/b/a mortgageline.com - To open a mortgage lender's office at 9 East Lookerman Street, Suite 2A, Dover, DE

BAN20042857 Amerifund Financial, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 6107 Oakbrook Parkway, Suite A, Norcross, GA

BAN20042858 DeepGreen Financial, Inc. - To relocate mortgage lender broker's office from 5800 Lombardo Center, Suite 100, Seven Hills, OH to 22901 Millcreek Boulevard, Highland Hills, OH

BAN20042859 America Funding, Inc. d/b/a McLean Funding, Inc. - To relocate mortgage broker's office from 6870 Elm Street, Suite 100, McLean, VA to 1749 Old Meadow Road, Suite 100, McLean, VA

BAN20042860 Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To relocate mortgage broker's office from 6401 McCoy Road, Centreville, VA to 13065 Autumn Willow Drive, Fairfax, VA

BAN20042861 Excel Mortgage, Inc. - To relocate mortgage broker's office from 50 West Edmonston Drive, Suite 208, Rockville, MD to 50 West Edmonston Drive, Suite 405, Rockville, MD

BAN20042862 Speedy Cash, Inc. - To conduct a payday lending business where a title loan business will also be conducted

BAN20042863 Maryland Residential Lending, L.L.C. - For additional mortgage authority

BAN20042864 Firstline Mortgage, Inc. - For a mortgage broker's license

BAN20042865 Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To relocate mortgage broker's office from 401-A S. Glebe Road, Arlington, VA to 700 South Highland Street, Arlington, VA

BAN20042866 Salem Financial, LC - To open a mortgage broker's office at 215 West Main Street, Radford, VA

BAN20042867 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 7331 Timberlake Road, Suite 202, Lynchburg, VA

BAN20042868 Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 9807 Bristol Avenue, Silver Spring, MD

BAN20042869 Bay Capital Corp. - To open a mortgage lender and broker's office at 8905 Fairview Road, Suite 600, Silver Spring, MD

BAN20042870 Global Home Loans & Finance Inc. d/b/a directloansource.com - To open a mortgage lender and broker's office at 200 North Bayshore Drive, Suite 2419, Miami, FL

BAN20042871 Home Consultants, Inc. d/b/a HCI Mortgage - To open a mortgage lender and broker's office at 11710 Plaza America Drive, Suite 2000, Reston, VA

BAN20042872 Primary Residential Mortgage, Inc. - To open a mortgage lender and broker's office at 13663 Stratford Glen Place, Herndon, VA

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BAN20042873 Capital Financial Home Equity, LLC - To open a mortgage lender and broker's office at 329 Hagenspring Road, Chesapeake, VA  
 BAN20042874 River City Bank - To open a branch at 8051 Mechanicsville Turnpike, Mechanicsville, VA  
 BAN20042875 Tammac Corporation - To relocate mortgage lender's office from 275 Mundy Street, Wilkes Barre, PA to 100 Commerce Boulevard, Suite 200, Wilkes Barre, PA  
 BAN20042876 A+ Financial Corporation - For a mortgage broker's license  
 BAN20042877 Flaherty Funding Corporation - For a mortgage lender and broker license  
 BAN20042878 Advance Funding Group, Inc. - For a mortgage broker's license  
 BAN20042879 Christopher Haywood Stephenson - To acquire 25 percent or more of Virginia Mortgage Group, Inc.  
 BAN20042880 Ivor Underwood Fisher - To acquire 25 percent or more of Virginia Mortgage Group, Inc.  
 BAN20042881 Blue Ridge Mortgage, L.L.C. - To relocate mortgage lender broker's office from 5235 Halifax Road, Halifax, VA to 1021 Dan River Church Road, South Boston, VA  
 BAN20042882 Payday Loans & Check Cashing, LLC - To open a payday lender's office at 506 East Atlantic Street, South Hill, VA  
 BAN20042883 Reliable Financial Group, LLC - To relocate mortgage broker's office from 1777 Reisterstown Road, Commerce, Baltimore, MD to 1777 Reisterstown Road, Suite 236, Baltimore, MD  
 BAN20042884 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 1555 Kisker Road, Suite 132, Saint Charles, MO to 155 Kisker Road, Suite 140, Saint Charles, MO  
 BAN20042885 AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To open a mortgage broker's office at 2739 U.S. Highway 19, Suite 421, Holiday, FL  
 BAN20042886 AmStar Mortgage Corporation d/b/a Lighthouse Mortgage (Chesapeake CI) - To open a mortgage broker's office at 1802 N. Belcher Road, Suite 100, Clearwater, FL  
 BAN20042887 Option One Mortgage Corporation - To relocate mortgage lender broker's office from 8105 Irvine Center Drive, Suite 650, Irvine, CA to 8105 Irvine Center Drive, Suite 750, Irvine, CA  
 BAN20042888 SunTrust Bank - To open a branch at 115 W. Main Street, Bedford, VA  
 BAN20042889 SunTrust Bank - To open a branch at 903 University City Boulevard, Blacksburg, VA  
 BAN20042890 SunTrust Bank - To open a branch at 119 Lee Highway, Chilhowie, VA  
 BAN20042891 SunTrust Bank - To open a branch at 555 N. Franklin Street, N.E., Christiansburg, VA  
 BAN20042892 SunTrust Bank - To open a branch at 72 Kingston Drive, Daleville, VA  
 BAN20042893 SunTrust Bank - To open a branch at 13264 Booker T. Washington Highway, Hardy, VA  
 BAN20042894 SunTrust Bank - To open a branch at 4488 Electric Road, Roanoke, VA  
 BAN20042895 SunTrust Bank - To open a branch at 5050 Rutgers Road, Roanoke, VA  
 BAN20042896 SunTrust Bank - To open a branch at 3565 Orange Avenue, N.E., Roanoke, VA  
 BAN20042897 SunTrust Bank - To open a branch at 4110 Brambleton Avenue, S.W., Roanoke, VA  
 BAN20042898 SunTrust Bank - To open a branch at 670 Brandon Avenue, Roanoke, VA  
 BAN20042899 SunTrust Bank - To open a branch at 5102 Williamson Road, Roanoke, VA  
 BAN20042900 SunTrust Bank - To open a branch at 1401 Hersberger Road, N.W., Roanoke, VA  
 BAN20042901 SunTrust Bank - To open a branch at 161 Electric Road, Salem, VA  
 BAN20042902 SunTrust Bank - To open a branch at 1395 W. Main Street, Salem, VA  
 BAN20042903 SunTrust Bank - To open a branch at 915 Hardy Road, Vinton, VA  
 BAN20042904 SunTrust Bank - To open a branch at 111 Franklin Road, Roanoke, VA  
 BAN20042905 SunTrust Bank - To open a branch at 2706 Ogden Road, Roanoke, VA  
 BAN20042906 SunTrust Bank - To open a branch at 1925 Electric Road, Salem, VA  
 BAN20042907 SunTrust Bank - To open a branch at 999 Hardy Road, Vinton, VA  
 BAN20042908 Eagle Creek Mortgage, LLC - For a mortgage broker's license  
 BAN20042909 Eastern Residential Mortgage, LLC - For additional mortgage authority  
 BAN20042910 DuPont Community Credit Union - To relocate credit union office from 403 West Court Street, Woodstock, VA to 305 West Court Street, Woodstock, VA  
 BFI-2003-00042 Ecowas Forex Bureau, LLC - Alleged violation of VA Code § 6.1-413  
 BFI-2003-00049 Advantage Investors Mortgage Corporation - Alleged violation of VA Code §§ 6.1-416 B, et al.  
 BFI-2003-00054 In re: Proposed regulation relating to conduct of other business in payday lending offices  
 BFI-2003-00062 Prosperity Mortgage Company - Alleged violation of VA Code § 6.1-416 B  
 BFI-2003-00063 Evergreen Financial Services, Inc. d/b/a Evergreen Mortgage Company - Alleged violation of VA Code § 6.1-410  
 BFI-2003-00064 Jim C. Hodge - Alleged violation of VA Code § 6.1-416.1  
 BFI-2003-00065 Northstar Mortgage Corp. - Alleged violation of VA Code § 6.1-416 B  
 BFI-2004-00003 American Residential Funding, Inc. - Alleged violation of VA Code § 6.1-416  
 BFI-2004-00005 David J. Oliverio - Alleged violation of VA Code § 6.1-416.1  
 BFI-2004-00007 Loan Consolidation and Refinancing Company, LLC - Alleged violation of VA Code § 6.1-413  
 BFI-2004-00009 Federated Home Mortgage, Inc. - Alleged violation of 10 VAC 5-160-50  
 BFI-2004-00011 Carteret Mortgage Corporation - Alleged violation of VA Code § 6.1-428  
 BFI-2004-00012 Stacy Snyder - Alleged violation of VA Code § 6.1-416.1  
 BFI-2004-00013 Calusa Investments LLC - For approval of mortgage lender and broker license  
 BFI-2004-00015 Ransford K. Fumey and Abdulai Conteh t/a Landmark Financial & Accounting Associates - Alleged violation of VA Code § 6.1-425  
 BFI-2004-00016 Challenge Financial Investors Corp. d/b/a Challenge Mortgage - Alleged violation of VA Code § 12.1-15  
 BFI-2004-00020 A Money Matter Mortgage, Inc. - Alleged violation of VA Code § 6.1-418  
 BFI-2004-00023 Allied Mortgage Group, Inc. d/b/a Advantage One Financial - Alleged violation of VA Code § 6.1-418  
 BFI-2004-00024 American Mortgage Banc, Inc. - Alleged violation of VA Code § 6.1-418  
 BFI-2004-00025 Approved Mortgage Capital, L.L.C. - Alleged violation of VA Code § 6.1-418  
 BFI-2004-00026 Atlantic Coast Mortgage Group Inc. - Alleged violation of VA Code § 6.1-418  
 BFI-2004-00029 BNB & Associates, L.L.C. - Alleged violation of VA Code § 6.1-418  
 BFI-2004-00032 Colonial Atlantic Mortgage, Inc. - Alleged violation of VA Code § 6.1-418  
 BFI-2004-00034 Condor Financial Group Incorporated - Alleged violation of VA Code § 6.1-418  
 BFI-2004-00035 Financial Advantage Funding Corporation - Alleged violation of VA Code § 6.1-418  
 BFI-2004-00036 First American Mortgage Services, Inc. - Alleged violation of VA Code § 6.1-418



BFI-2004-00037	First Chesapeake Mortgage Corporation of Fredericksburg (Used in VA by: First Chesapeake Mortgage Corporation) - Alleged violation of VA Code § 6.1-418
BFI-2004-00038	First Coast Capital Mortgage, Inc. d/b/a First Capital Mortgage - Alleged violation of VA Code § 6.1-418
BFI-2004-00039	First One Lending Corporation - Alleged violation of VA Code § 6.1-418
BFI-2004-00042	Flick Mortgage Investors, Inc. - Alleged violation of VA Code § 6.1-418
BFI-2004-00044	Godwin Mortgage Group, Inc. - Alleged violation of VA Code § 6.1-418
BFI-2004-00046	Henri Jean-Baptiste d/b/a Express Mortgage & Co. - Alleged violation of VA Code § 6.1-418
BFI-2004-00049	AmeriFirst Home Improvement Finance Co. formerly known as Kenwood Associates, Inc. - Alleged violation of VA Code § 6.1-418
BFI-2004-00051	Loren W. Robinson, Inc. d/b/a Nationwide Mortgage Group - Alleged violation of VA Code § 6.1-418
BFI-2004-00052	Mandarin Mortgage Corp. - Alleged violation of VA Code § 6.1-418
BFI-2004-00053	Master Financial, Inc. - Alleged violation of VA Code § 6.1-418
BFI-2004-00055	Money Organization of Mid-Atlantic, Inc. - Alleged violation of VA Code § 6.1-418
BFI-2004-00060	Penn Mortgage Bank Corp. - Alleged violation of VA Code § 6.1-418
BFI-2004-00062	Prosperity Mortgage Corporation - Alleged violation of VA Code § 6.1-418
BFI-2004-00065	United California Systems International, Inc. - Alleged violation of VA Code § 6.1-418
BFI-2004-00068	USA Home Loans, Inc. - Alleged violation of VA Code § 6.1-418
BFI-2004-00071	The White Oak Mortgage Group, LLC - Alleged violation of VA Code § 6.1-418
BFI-2004-00072	WMC Mortgage Corp. d/b/a American Loan Centers - Alleged violation of VA Code § 6.1-418
BFI-2004-00074	In re: Annual assessment of licensees under Chapter 6 of Title 6.1 of the Code of Virginia
BFI-2004-00075	In re: Annual assessment of licensees under Chapter 16 of Title 6.1 of the Code of Virginia
BFI-2004-00077	Performance Funding, LLC - For revocation of license
BFI-2004-00083	Dana Capital Group, Inc. - Alleged violation of Chapter 16 of Title 6.1 of the Code of Virginia
BFI-2004-00084	Michael R. Berte - Alleged violation of VA Code § 6.1-416.1
BFI-2004-00085	Mortgageit, Inc. d/b/a MIT Lending - Alleged violation of VA Code § 6.1-416 B
BFI-2004-00087	First Industrial Loan Association - For cancellation of certificate
BFI-2004-00091	In re: Annual assessment of financial institutions under Chapters 2 and 3.01 of Title 6.1 of the Code of Virginia
BFI-2004-00092	In re: Annual assessment of industrial loan associations under Chapter 5 of Title 6.1 of the Code of Virginia
BFI-2004-00094	1st Choice Mortgage Corp. - Alleged violation of VA Code § 6.1-418
BFI-2004-00096	American Fidelity, Inc. - Alleged violation of VA Code § 6.1-418
BFI-2004-00097	Barksdale Business Group, Inc. d/b/a Barksdale Loan Consultants - Alleged violation of VA Code § 6.1-418
BFI-2004-00099	Cyber Mortgage Inc. d/b/a Global Mortgage - Alleged violation of VA Code § 6.1-418
BFI-2004-00101	Dream House Mortgage Corporation - Alleged violation of VA Code § 6.1-418
BFI-2004-00102	Genisys Financial Corp. - Alleged violation of VA Code § 6.1-418
BFI-2004-00104	Mobility Financial LLC d/b/a PARTNERSFIRST MORTGAGE - Alleged violation of VA Code § 6.1-418
BFI-2004-00105	Mortgage.Close.com, Inc. - Alleged violation of VA Code § 6.1-418
BFI-2004-00107	Village Mortgage Corporation - Alleged violation of VA Code § 6.1-418
BFI-2004-00108	In re: Proposed regulation relating to exemption from loan-to-value limit for interest-only equity lines
BFI-2004-00109	Main Street Mortgage, LLC - Alleged violation of VA Code § 6.1-413
BFI-2004-00110	In re: Proposed nonprofit credit counseling regulations and repeal of "Nonprofit Debt Counseling Agencies" regulations
BFI-2004-00124	Capitol Financial Services, Inc. d/b/a Capitol Home Mortgage - For revocation of license pursuant to VA Code § 6.1-413
BFI-2004-00125	BancNet, L.L.C. - For revocation of license pursuant to VA Code § 6.1-413
BFI-2004-00126	Bing Sing D. Wang - Alleged violation of VA Code § 6.1-416.1
BFI-2004-00129	MFT Mortgage Specialist, Inc. - Alleged violation of VA Code § 6.1-413
BFI-2004-00130	PowerPlus Mortgage, Inc. - Alleged violation of VA Code § 6.1-413
BFI-2004-00134	Racquel Semeraro - Alleged violation of VA Code § 6.1-416.1

**CLK: CLERK'S OFFICE**

CLK-2004-00003	In the matter of the Investiture of Mark C. Christie
CLK-2004-00004	Arbor Vitae, LLC - Alleged violation of VA Code § 13.1-1064 B
CLK-2004-00005	MDC, LLC - For order vacating a certificate
CLK-2004-00006	Owens & Minor, Inc. - For correction of Commission Records
CLK-2004-00007	Epsilon Systems Solutions, Inc. - For a refund pursuant to VA Code § 58.1-2035
CLK-2004-00008	Wolf Gate Clothiers, LLC - For retroactive issuance of a certificate
CLK-2004-00009	Olin Corporation, Petitioner v. Jimmie (Jimmy) W. Joiner a/k/a Edward P. Nemeth, Defendant - For revocation of Order issuing a Certificate of Amendment
CLK-2004-00011	Glen Williams, Brenda Dameron, Thomas L. Eckert, Jeffrey S. Hamilton, John Corcoran, Monica Dillon, John T. Harris, III, Elizabeth Stokes, John Brownless, et al., Petitioners v. Lorenzo G. Martin & Reginald A. Falice - Petition for Consideration
CLK-2004-00012	D.T.T. Incorporated - For dissolution of corporation pursuant to VA Code § 13.1-749 A
CLK-2004-00013	John F. Deal and Thomas E. Lachenev, Petitioners v. Sona International Corporation - For an order voiding the certificate of merger issued 7/29/04

**INS: BUREAU OF INSURANCE**

INS-2002-01309	Bail Free Bail Bonds, LLC - Alleged violation of VA Code §§ 38.2-1812.2, et al.
INS-2003-00114	Connecticut General Life Insurance Company - Alleged violation of VA Code §§ 38.2-218, et al.
INS-2003-00156	Connecticut General Life Insurance Company - Alleged violation of VA Code §§ 38.2-510 A 15, et al.
INS-2003-00160	CIGNA Healthcare Mid-Atlantic, Inc. - Alleged violation of VA Code §§ 38.2-502, et al.
INS-2003-00187	Henry M. Lewis and Joeneicy A. Lewis - For review of HOW Insurance Company et al. Deputy Receiver's Determination of Appeal
INS-2003-00232	Michelle D. Taylor - Alleged violation of VA Code §§ 38.2-1804, 38.2-1812.2 and 38.2-1822 E
INS-2003-00234	Michael Segal - Alleged violation of VA Code §§ 38.2-1826 and 38.2-1831

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INS-2003-00242	Aetna Life Insurance Company - Alleged violation of VA Code §§ 38.2-3407.15 B 1, et al.
INS-2003-00244	The Prudential Insurance Company of America - Alleged violation of VA Code § 38.2-610
INS-2003-00245	American Home Shield of Virginia, Inc. - Alleged violation of 14 VAC 5-270-50
INS-2003-00247	Peoples Benefit Life Insurance Company - Alleged violations of VA Code §§ 38.2-502, et al.
INS-2003-00248	The Guardian Life Insurance Company of America - Alleged violation of VA Code §§ 38.2-510 A 15, et al.
INS-2003-00250	Teresa Diane Bullock - Alleged violation of VA Code §§ 38.2-512, et al.
INS-2003-00253	Boston Mutual Life Insurance Company - Alleged violation of VA Code § 38.2-3419.1 and 14 VAC 5-190-10
INS-2003-00256	Century Indemnity Company - Alleged violation of VA Code § 38.2-1036
INS-2003-00257	Brewer Land Title Ltd., LLC - Alleged violation of VA Code § 6.1-2.21
INS-2003-00258	General American Life Insurance Company - For refund of premium license tax for tax year 2002 due to Guaranty Fund Association credit
INS-2003-00259	Unity Financial Life Insurance Company - Alleged violation of VA Code §§ 38.2-1833 C and 38.2-1833 E
INS-2003-00260	Ballard Insurance Agency of Galax, Inc. - Alleged violation of VA Code § 38.2-1813
INS-2003-00262	Virginia Contractors Group Self-Insurance Association - Alleged violation of 14 VAC 5-370-80
INS-2003-00264	Edward and Kathryn Ciparis - For review of HOW Insurance Company, et al. Deputy Receiver's Determination of Appeal
INS-2003-00265	American Home Shield of Virginia, Inc. - Alleged violation of VA Code §§ 38.2-305 B, et al.
INS-2003-00266	Joseph Lee Crews - Alleged violation of VA Code §§ 38.2-1822 and 38.2-1831
INS-2003-00267	Virginia Property and Casualty Insurance Guaranty Association - For Disbursement of Assets
INS-2003-00268	Robert and Cynthia Trocki - For Review of HOW Insurance Company, et al. Deputy Receiver's Determination of Appeal
INS-2003-00269	Willis Insurance Services of California, Inc. - Alleged violation of VA Code § 38.2-4806 D
INS-2003-00271	Downtown Title & Escrow Company, Inc. - Alleged violation of VA Code § 6.1-2.21
INS-2003-00272	In the matter of Adopting Rules Governing Use of the 2001 CSO Mortality Table in Determining Reserve Liabilities and Nonforfeiture Benefits
INS-2004-00001	PRUCO Life Insurance Company - Alleged violation of VA Code § 38.2-610
INS-2004-00002	Lafayette D. Johnson - Alleged violation of VA Code § 38.2-512 and 14 VAC 5-30-40
INS-2004-00003	Kristina Marie Natalini - Alleged violation of VA Code § 38.2-512, 14 VAC 5-170-180 and 14 VAC 5-200-175
INS-2004-00004	Christine Joann Riddell - Alleged violation of VA Code § 38.2-4806 D
INS-2004-00005	John Victor Wagner, Jr. - Alleged violation of VA Code § 38.2-4806 D
INS-2004-00006	Paul N. Trapp - Alleged violation of VA Code § 38.2-4806 D
INS-2004-00007	Matt Lydon McDonough - Alleged violation of VA Code § 38.2-4806 D
INS-2004-00008	Marsh USA Inc. - Alleged violation of VA Code § 38.2-4806 D
INS-2004-00009	Fountainhead Title Group Corporation - Alleged violation of VA Code § 6.1-2.23
INS-2004-00010	Regal Insurance Company - Alleged violation of VA Code §§ 38.2-1833 C and 38.2-1833 E
INS-2004-00011	Charles M. Day, Jr. - Alleged violation of VA Code §§ 38.2-512 and 38.2-1822
INS-2004-00012	Markel American Insurance Company - For refund of retaliatory costs incurred during 2002 taxable year
INS-2004-00013	Lawyers Title Insurance Corporation - For refund of retaliatory costs incurred during 2002 taxable year
INS-2004-00014	Shenandoah Life Insurance Company - For refund of retaliatory costs incurred during 2002 taxable year
INS-2004-00015	Trigon Health & Life Insurance Company - For refund of retaliatory costs incurred during 2002 taxable year
INS-2004-00016	American Zurich Insurance Company - Alleged violation of VA Code §§ 38.2-1812 and 38.2-1822
INS-2004-00017	Fidelity Security Life Insurance Company - For approval of an assumption reinsurance agreement pursuant to VA Code § 38.2-136 C
INS-2004-00018	Kenneth J. Alexander - Alleged violation of VA Code § 38.2-1826
INS-2004-00019	Michele L. Mankamy - Alleged violation of VA Code § 38.2-1826 C
INS-2004-00020	Benjamin W. Wilcox - Alleged violation of VA Code § 38.2-4806 D
INS-2004-00021	Advantage Equity Services, Inc. - Alleged violation of VA Code § 6.1-2.23
INS-2004-00022	In the matter of refunding overpayments of the premium license tax on direct gross premium income and retaliatory tax of insurance companies for the taxable year 2002
INS-2004-00023	In the matter of refunding overpayments of the assessment for the maintenance of the Bureau of Insurance on direct gross premium income of insurance companies for the assessable year 2002
INS-2004-00024	In the matter of refunding overpayments of the MCHIP Fund assessment based on direct gross premium income of insurance companies for the assessable year 2002
INS-2004-00025	American Manufacturers Mutual Insurance Company - To voluntarily consent to discontinue writing new or renewal business in Virginia
INS-2004-00026	American Protection Insurance Company - To voluntarily consent to discontinue writing new or renewal business in Virginia
INS-2004-00027	Specialty National Insurance Company - To voluntarily consent to discontinue writing new or renewal business in Virginia
INS-2004-00028	American Motorists Insurance Company - To voluntarily consent to discontinue writing new or renewal business in Virginia
INS-2004-00029	Lumbermens Mutual Casualty Company - To voluntarily consent to discontinue writing new or renewal business in Virginia
INS-2004-00030	Kemper Casualty Insurance Company - To voluntarily consent to discontinue writing new or renewal business in Virginia
INS-2004-00031	Optima Health Insurance Company - Alleged violation of VA Code §§ 38.2-502, et al.
INS-2004-00032	Mildred Mullins - Alleged violation of VA Code § 38.2-1831
INS-2004-00033	MAMSI Life and Health Insurance Company - Alleged violation of VA Code § 38.2-5902 A
INS-2004-00034	Keisha Diane Johnson - Alleged violation of VA Code § 38.2-1822
INS-2004-00035	Mark Stopchinski - Alleged violation of VA Code §§ 38.2-502, et al.
INS-2004-00036	Premier Insurance Agents, Inc. - Alleged violation of VA Code §§ 38.2-502, et al.
INS-2004-00037	Wendell L. Cheatham, Jr. - Alleged violation of VA Code § 38.2-512
INS-2004-00038	Brian Title Company, Inc. - Alleged violation of VA Code § 6.1-2.26 and 14 VAC 5-395-60
INS-2004-00039	Veterans Life Insurance Company - Alleged violation of VA Code § 38.2-610
INS-2004-00040	Dominion Dental Services, Inc. - Alleged violation of VA Code §§ 38.2-502, et al.
INS-2004-00041	Mid-South Insurance Company - Alleged violation of VA Code § 38.2-1040
INS-2004-00042	Paul E. Eromobor - Alleged violation of VA Code §§ 38.2-310, 38.2-512, et al.
INS-2004-00043	Cherie Annntonette Robinson - Alleged violation of VA Code § 38.2-4806 D
INS-2004-00044	Tracey Hitzler - Alleged violation of VA Code §§ 38.2-1819 and 38.2-1831
INS-2004-00045	TS Connections LLC - Alleged violation of VA Code §§ 6.1-2.23, et al.

INS-2004-00046 GE Financial Assurance Holdings, Inc. - For refund of retaliatory costs incurred during 2002 taxable year  
 INS-2004-00047 Highland Title & Escrow LLC - Alleged violation of VA Code §§ 6.1-2.21, et al.  
 INS-2004-00048 Avemco Insurance Company - Alleged violation of 14 VAC 5-234-40 C  
 INS-2004-00049 Federated Mutual Insurance Company - Alleged violation of 14 VAC 5-234-40 C  
 INS-2004-00050 Continental General Insurance Company - Alleged violation of VA Code § 38.2-3407.14  
 INS-2004-00051 Andre A. Arjun - Alleged violation of VA Code §§ 38.2-512 and 38.2-1826  
 INS-2004-00052 Chicago Title Insurance Company - Alleged violation of VA Code § 6.1-2.21  
 INS-2004-00053 Fidelity National Title Insurance Company of New York - Alleged violation of VA Code § 6.1-2.21  
 INS-2004-00054 Progressive American Insurance Company - Alleged violation of VA Code § 38.2-1906  
 INS-2004-00055 Progressive Specialty Insurance Company - Alleged violation of VA Code § 38.2-1906  
 INS-2004-00056 Progressive Classic Insurance Company - Alleged violation of VA Code § 38.2-1906  
 INS-2004-00057 Progressive Casualty Insurance Company - Alleged violation of VA Code § 38.2-1906  
 INS-2004-00058 Progressive Northwestern Insurance Company - Alleged violation of VA Code § 38.2-1906  
 INS-2004-00059 National Interstate Insurance Company - Alleged violation of VA Code §§ 38.2-317 and 38.2-1906  
 INS-2004-00060 Great American Assurance Company - Alleged violation of VA Code §§ 38.2-317 and 38.2-1906  
 INS-2004-00062 Elliot H. Cepler - Alleged violation of VA Code § 38.2-512  
 INS-2004-00063 Carefirst Bluechoice, Inc. - Alleged violation of VA Code §§ 38.2-502, et al.  
 INS-2004-00064 Andrew G. Stopchinski - Alleged violation of VA Code §§ 38.2-502, et al.  
 INS-2004-00065 Mayflower National Life Insurance Company - Alleged violation of VA Code §§ 38.2-1833 C and 38.2-1833 E  
 INS-2004-00066 Robert J. Armbruster, Jr. - Alleged violation of VA Code §§ 38.2-502 and 38.2-503  
 INS-2004-00067 Commonwealth Dealers Life Insurance Company - Alleged violation of VA Code §§ 38.2-501 (1), et al.  
 INS-2004-00068 In the matter of Adopting Revisions to the Rules Governing Advertisement of Accident and Sickness Insurance  
 INS-2004-00069 Roland R. Larmore, Jr. - Alleged violation of VA Code § 38.2-1813  
 INS-2004-00070 Jack and Helen Baker - For review of HOW Insurance Company, et al. Deputy Receiver's Determination of Appeal  
 INS-2004-00072 David R. Emery - Alleged violation of VA Code §§ 38.2-512 and 38.2-1813  
 INS-2004-00073 Commonwealth Dealers Life Insurance Company - Alleged violation of VA Code § 38.2-3126 B  
 INS-2004-00074 Nova Land Title Company - Alleged violation of VA Code § 6.1-2.23 and 14 VAC 5-395-60  
 INS-2004-00075 Anthony N. Corrao - Alleged violation of VA Code § 38.2-1826 A  
 INS-2004-00076 Rashad Majied - Alleged violation of VA Code §§ 38.2-512, et al.  
 INS-2004-00077 Leon Davis - Alleged violation of VA Code §§ 38.2-512, et al.  
 INS-2004-00079 United Legal Benefits of Virginia, Inc. - Alleged violation of VA Code § 38.2-1300  
 INS-2004-00080 Gregory N. Hepburn, Jr. - Alleged violation of VA Code § 38.2-1826 C  
 INS-2004-00081 John M. Barney - Alleged violation of VA Code § 38.2-1826 C  
 INS-2004-00084 Carilion Health Plans, Inc. - For voluntary suspension of license pursuant to VA Code § 38.2-4316  
 INS-2004-00085 Old Republic National Title Insurance Company - Alleged violation of VA Code § 38.2-1833  
 INS-2004-00086 Farmers Insurance Exchange - Alleged violation of VA Code §§ 38.2-1812 and 38.2-1822  
 INS-2004-00087 Eunice Robinson - Alleged violation of VA Code §§ 38.2-1809, et al.  
 INS-2004-00088 Mid Atlantic Title Services, Inc. - Alleged violation of VA Code § 6.1-2.26 and 14 VAC 5-395-30  
 INS-2004-00089 National Fraternal Society of the Deaf - For suspension of license pursuant to VA Code § 38.2-4131  
 INS-2004-00090 Millenium Title & Settlement Company, Inc. - Alleged violation of VA Code §§ 6.1-2.23, 6.1-2.26 and 14 VAC 5-395-30  
 INS-2004-00091 Minnesota Lawyers Mutual Insurance Company - Alleged violation of VA Code §§ 38.2-1833 C and 38.2-1833 E  
 INS-2004-00092 Brotherhood Mutual Insurance Company - Alleged violation of VA Code §§ 38.2-231, et al.  
 INS-2004-00093 Robert Luis Dowdy - Alleged violation of VA Code § 38.2-4806 D  
 INS-2004-00094 Napco, LLC - Alleged violation of VA Code § 38.2-4806 D  
 INS-2004-00096 Horace Mann Insurance Company - Alleged violation of VA Code § 38.2-317 A  
 INS-2004-00097 Morris D. Loskove - Alleged violation of VA Code § 38.2-1826 A  
 INS-2004-00098 Harrington Settlement Company, LLC - Alleged violation of VA Code §§ 6.1-2.23 and 6.1-2.24  
 INS-2004-00099 Southern Maryland Title, LLC - Alleged violation of VA Code § 6.1-2.21  
 INS-2004-00100 United Southern Title & Escrow Corp. - Alleged violation of VA Code § 6.1-2.21  
 INS-2004-00101 Michael S. Butler - Alleged violation of VA Code § 38.2-512  
 INS-2004-00102 Melissa Leeanne Pell - Alleged violation of VA Code § 38.2-1826 C  
 INS-2004-00103 Irene Cecelia Daer - Alleged violation of VA Code § 38.2-1826 C  
 INS-2004-00106 Press & Press PLLC - Alleged violation of VA Code § 6.1-2.23  
 INS-2004-00107 UNICARE Health Plan of Virginia, Inc. - Alleged violation of VA Code §§ 38.2-316.A, et al.  
 INS-2004-00108 Brian A. Smith t/a A-1 Insurance Agency - Alleged violation of VA Code §§ 38.2-1809, 38.2-1812.2 and 38.2-1813  
 INS-2004-00109 James A. Ivey, Sr. - Alleged violation of VA Code § 38.2-512  
 INS-2004-00110 Cotton States Life Insurance Company - Alleged violation of VA Code §§ 38.2-1833 C and 38.2-1833 E  
 INS-2004-00111 Pinnacle Premium Budget Plan, Inc. - Alleged violation of 14 VAC 5-390-60  
 INS-2004-00112 Mutual Benefits Corporation - For revocation of license  
 INS-2004-00113 Nancy A. Walker - For a review of a decision by the Virginia Property Insurance Association pursuant to VA Code § 38.2-2712  
 INS-2004-00114 Cherie Anttionette Robinson - Alleged violation of VA Code § 38.2-4807 A and 14 VAC 5-350-160  
 INS-2004-00115 Bankers Insurance Company - Alleged violation of VA Code § 38.2-1812  
 INS-2004-00116 Real Estate Closings, Inc. - Alleged violation of VA Code §§ 6.1-2.21, et al.  
 INS-2004-00117 Platinum Title & Escrow LLC - Alleged violation of VA Code §§ 6.1-2.21, et al.  
 INS-2004-00118 Amica Mutual Insurance Company - Alleged violation of VA Code §§ 38.2-1833 C and 38.2-1833 E  
 INS-2004-00119 Kanawha Insurance Company - Alleged violation of VA Code §§ 38.2-1833 C and 38.2-1833 E  
 INS-2004-00120 Alphonso L. Grant - For suspension of licenses pursuant to VA Code § 38.2-1831 A 9  
 INS-2004-00121 Brian Michael Graham - Alleged violation of VA Code § 38.2-1826 A  
 INS-2004-00123 In the matter of Repealing and Restating the Rules Governing Health Maintenance Organizations  
 INS-2004-00124 National Council on Compensation Insurance, Inc. - For revision of advisory loss costs and assigned risk workers' compensation insurance rates

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INS-2004-00125	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 2003
INS-2004-00126	In the matter of refunding overpayments of the premium license tax on direct gross premium income of surplus lines brokers for the taxable year 2003
INS-2004-00127	In the matter of refunding overpayments of the Virginia State Police, Insurance Fraud Fund assessment based on direct gross premium income of insurance companies for the assessable year 2003
INS-2004-00128	In the matter of refunding overpayments of the Help Eliminate Automobile Theft (HEAT) Fund assessment based on direct gross premium income of insurance companies for the assessable year 2003
INS-2004-00129	In the matter of refunding overpayments of the MCHIP Fund assessment based on direct gross premium income of insurance companies for the assessable year 2003
INS-2004-00130	Federal Insurance Company, Great Northern Insurance Company, Pacific Indemnity Company and Vigilant Insurance Company - Alleged violation of VA Code §§ 38.2-231, et al.
INS-2004-00131	James Blayne Kelly - Alleged violation of VA Code §§ 38.2-502, et al.
INS-2004-00133	Roberta L. Garcia-Guajardo and The Garcia Insurance Agency, Ltd. - For revocation of license
INS-2004-00134	In re: Approval of a consent order by and between Cincinnati Life Insurance Company, and the Superintendent of the Ohio Department of Insurance, for and on behalf of the State of Ohio, the Virginia Bureau of Insurance and the Insurance Regulators of the affected states in the United States and District of Columbia
INS-2004-00135	Klaus D. Petri - Alleged violation of VA Code § 38.2-1812
INS-2004-00136	Jimmy L. Searcy and Jim Searcy Bail Bond Corp. - Alleged violation of VA Code §§ 38.2-1812.2, et al.
INS-2004-00137	Terry N. Ferguson, Sr. and AA Bonding, Inc. - Alleged violation of VA Code § 38.2-1812
INS-2004-00138	Renee D. Morris - Alleged violation of VA Code § 38.2-1812
INS-2004-00139	Brenda J. Searcy - Alleged violation of VA Code §§ 38.2-1812.2, et al.
INS-2004-00140	Herlen C. Porterfield, III - Alleged violation of VA Code § 38.2-1826 C
INS-2004-00141	David Alexander Martin and Martin Insurance Agency, Inc. - Alleged violation of VA Code §§ 38.2-512, 38.2-1809 and 38.2-1813
INS-2004-00142	Amanda Sue Vowels - Alleged violation of VA Code § 38.2-4806 D
INS-2004-00143	Allied Solutions Specialty Lines, LLC - Alleged violation of VA Code § 38.2-4806 D
INS-2004-00145	Ralph John Blust - Alleged violation of VA Code § 38.2-4806 D
INS-2004-00146	James Robert Arnold - Alleged violation of VA Code § 38.2-4806 D
INS-2004-00147	Robert Luis Dowdy - Alleged violation of VA Code § 38.2-4806 D
INS-2004-00149	Douglas Scott Guldán - Alleged violation of VA Code § 38.2-4806 D
INS-2004-00150	Judy Ellen Halliburton - Alleged violation of VA Code § 38.2-4806 D
INS-2004-00151	John Candler Hamilton - Alleged violation of VA Code § 38.2-4806 D
INS-2004-00153	Timothy W. Horton - Alleged violation of VA Code § 38.2-4806 D
INS-2004-00154	Ima of Kansas, Inc. - Alleged violation of VA Code § 38.2-4806 D
INS-2004-00155	Larry Frank Johnson - Alleged violation of VA Code § 38.2-4806 D
INS-2004-00156	Margaret Estelle McGruder - Alleged violation of VA Code § 38.2-4806 D
INS-2004-00157	Richard Wilford Mortimer, Jr. - Alleged violation of VA Code § 38.2-4806 D
INS-2004-00158	Ronnie Sam Patel - Alleged violation of VA Code § 38.2-4806 D
INS-2004-00159	Peachtree West Insurance Brokers, Inc. - Alleged violation of VA Code § 38.2-4806 D
INS-2004-00160	Timothy Martin Pedersen - Alleged violation of VA Code § 38.2-4806 D
INS-2004-00161	Carol Ann Rizzo - Alleged violation of VA Code § 38.2-4806 D
INS-2004-00162	Bryan W. Sanders - Alleged violation of VA Code § 38.2-4806 D
INS-2004-00163	Sports & Fitness Insurance Corporation - Alleged violation of VA Code § 38.2-4806 D
INS-2004-00165	Paul N. Trapp - Alleged violation of VA Code § 38.2-4806 D
INS-2004-00166	Linda Shaw Trigg - Alleged violation of VA Code § 38.2-4806 D
INS-2004-00168	The Young Insurance Agency Group, Inc. - Alleged violation of VA Code § 38.2-4806 D
INS-2004-00169	ECM Insurance Services, Inc. - Alleged violation of VA Code § 38.2-4806 D
INS-2004-00170	In re: Approval of a multi-state regulatory settlement agreement by and between American National Insurance Company, and the Commissioner of Insurance for the Texas Department of Insurance, for and on behalf of the State of Texas, the Virginia Bureau of Insurance and the Insurance Regulators of the affected states in the United States and the District of Columbia
INS-2004-00171	Daryl C. Trawick - Alleged violation of VA Code §§ 38.2-1826 A and 38.2-1826 C
INS-2004-00172	Medical Savings Insurance Company - Alleged violation of VA Code §§ 38.2-610 and 38.2-612
INS-2004-00173	United Teacher Associates Insurance Company - Alleged violation of VA Code §§ 38.2-1833 C, et al.
INS-2004-00174	Melinda A. Ball - For revocation of defendant's license
INS-2004-00175	The Ohio National Life Insurance Company - Alleged violation of VA Code §§ 38.2-1833 C, et al.
INS-2004-00176	Ohio National Life Assurance Corporation/Cincinnati - Alleged violation of VA Code §§ 38.2-1883 C, et al.
INS-2004-00177	Raymond and Debra Janess - For review of HOW Insurance Company, et al. Deputy Receiver's Determination of Appeal
INS-2004-00178	DentaQuest Virginia Inc. - Alleged violation of VA Code §§ 38.2-1833 C, et al.
INS-2004-00179	The American Life Insurance Company of New York - Alleged violation of VA Code §§ 38.2-1833 C and 38.2-1833 E
INS-2004-00180	Investors Consolidated Insurance Company - For approval of an assumption reinsurance agreement with pursuant to VA Code § 38.2-136 C
INS-2004-00181	Daniel E. Bowden - Alleged violation of 14 VAC 5-30-40
INS-2004-00182	Frank Edward Rogers, Jr. - Alleged violation of VA Code § 38.2-1813
INS-2004-00183	In re: Approval of a multi-state regulatory settlement agreement by and between New York Life Insurance Company, and the State of New York Insurance Department, for and on behalf of the State of New York, the Virginia Bureau of Insurance and the Insurance Regulators of all States in the United States and the District of Columbia
INS-2004-00184	Save-Rite Insurance Agency, Inc. - Alleged violation of VA Code §§ 38.2-1813 and 38.2-1822
INS-2004-00185	Shawne Lee Bowman and James M. Bishop - Alleged violation of VA Code §§ 38.2-502, 38.2-504 and 38.2-512
INS-2004-00186	Signature Title Examinations, Inc. - Alleged violation of VA Code § 6.1-2.23
INS-2004-00187	Bruce Kim Hart - Alleged violation of VA Code §§ 38.2-502, et al.
INS-2004-00188	Danny G. Mullins and Mullins Insurance Agency, Inc. - Alleged violation of VA Code § 38.2-1813
INS-2004-00189	Andreas E. Gerohristodoulos and Advantage Insurance Agency - Alleged violation of VA Code § 38.2-1813

INS-2004-00190 The American Insurance Company - Alleged violation of VA Code §§ 38.2-2113, et al.  
 INS-2004-00191 Hartford Fire Insurance Co., Hartford Casualty Insurance Co., Hartford Underwriters Insurance Co. and Twin City Fire Insurance Co. - Alleged violation of VA Code § 38.2-1906 D

INS-2004-00192 Sunset Title, LLC - Alleged violation of VA Code § 6.1-2.26  
 INS-2004-00193 Armando Flores - Alleged violation of VA Code § 38.2-1826 C  
 INS-2004-00194 Ebony Evon Coleman - Alleged violation of VA Code §§ 38.2-1809 and 38.2-1822  
 INS-2004-00195 Anitra Michelle Dunston - Alleged violation of VA Code § 38.2-1826 C  
 INS-2004-00196 Russell John David Garcia - Alleged violation of VA Code § 38.2-1826 C  
 INS-2004-00197 Patrick Michael Jochum - Alleged violation of VA Code § 38.2-1826 C  
 INS-2004-00198 Mary Murphy and Plantation Title, Inc. - Alleged violation of VA Code § 38.2-1813  
 INS-2004-00199 Racheal Renee Tartaglia - Alleged violation of VA Code § 38.2-1826 C  
 INS-2004-00200 Steven Christopher Wilhelmson - Alleged violation of VA Code § 38.2-1826 C  
 INS-2004-00201 William S. Webb Co., Inc. - Alleged violation of VA Code § 38.2-1826 C  
 INS-2004-00202 Tony Lee Harden - Alleged violation of VA Code § 38.2-1826 C  
 INS-2004-00203 Home Connects Lending Services, LLC - Alleged violation of VA Code § 6.1-2.23 and 14 VAC 5-395-60  
 INS-2004-00204 Atlantic Coast Title, Inc. - Alleged violation of VA Code § 6.1-2.23  
 INS-2004-00205 MBH Settlement Group LC - Alleged violation of VA Code § 6.1-2.23  
 INS-2004-00206 AHT of Virginia, Inc. - Alleged violation of VA Code § 6.1-2.21  
 INS-2004-00207 Life Insurance Company of North America - Alleged violation of VA Code §§ 38.2-1833 C and 38.2-1833 E  
 INS-2004-00208 Liberty National Auto Club, Inc. - Alleged violation of VA Code § 13.1-400.5  
 INS-2004-00209 Protective Life Insurance Company - Alleged violation of VA Code §§ 38.2-316 A, 38.2-316 B, et al.  
 INS-2004-00211 Delbert R. Huelle - Alleged violation of VA Code § 38.2-1826 C  
 INS-2004-00212 Joseph Michael Thomas - Alleged violation of VA Code § 38.2-1826 C  
 INS-2004-00213 Brian Neil Harris - Alleged violation of VA Code § 38.2-1826 C  
 INS-2004-00214 Capital Bonding Corporation - Alleged violation of VA Code § 38.2-1826 C  
 INS-2004-00215 Amy Sue Milkovic - Alleged violation of VA Code § 38.2-1826 C  
 INS-2004-00216 Stephanie Dawn Bersee - Alleged violation of VA Code § 38.2-1826 C  
 INS-2004-00217 CapitalCare, Inc. - Alleged violation of VA Code §§ 38.2-316 A, 38.2-316 B, et al.  
 INS-2004-00218 George Allen Clayton - Alleged violation of VA Code §§ 38.2-512 and 38.2-3103  
 INS-2004-00219 George Thomas Kiser, Jr. - Alleged violation of VA Code §§ 38.2-1826 B and 38.2-1831  
 INS-2004-00220 Unitrin Auto and Home Insurance Company - Alleged violation of VA Code §§ 38.2-1833 C and 38.2-1833 E  
 INS-2004-00221 Aetna Health, Inc. - For issuance of Consent Order  
 INS-2004-00222 2-10 Home Buyers Warranty of Virginia, Inc. - Alleged violation of 14 VAC 5-270-50  
 INS-2004-00223 Raymond S. Painley - Alleged violation of VA Code §§ 38.2-502, 38.2-503 and 38.2-1813  
 INS-2004-00224 Steven A. Perdue - Alleged violation of VA Code § 38.2-1826 C  
 INS-2004-00225 Gail Adaline Brittingham - Alleged violation of VA Code § 38.2-1826 C  
 INS-2004-00226 Jaime Erin Connelly - Alleged violation of VA Code § 38.2-1826 C  
 INS-2004-00227 Scott Thomas Horton - Alleged violation of VA Code § 38.2-1826 C  
 INS-2004-00228 Jennifer May Espinoza - Alleged violation of VA Code § 38.2-1826 C  
 INS-2004-00229 Safeco Insurance Company of America - Alleged violation of VA Code § 38.2-2114 C 1  
 INS-2004-00230 General Insurance Company of America - Alleged violation of VA Code § 38.2-2114 C 1  
 INS-2004-00231 First National Insurance Company of America - Alleged violation of VA Code § 38.2-2114 C 1  
 INS-2004-00233 John G. Weisbrot - Alleged violation of VA Code § 38.2-1826 C  
 INS-2004-00234 Crystal Lee Christian - Alleged violation of VA Code § 38.2-1826 C  
 INS-2004-00235 Perry Francis Even - Alleged violation of VA Code § 38.2-1826 C  
 INS-2004-00236 Felix Colbert Heckstall - Alleged violation of VA Code § 38.2-1826 C  
 INS-2004-00237 James Douglas McKinney, Jr. - Alleged violation of VA Code § 38.2-1826 C  
 INS-2004-00238 Nicholas Patrick Myers - Alleged violation of VA Code § 38.2-1826 C  
 INS-2004-00239 Melissa O. Paschall - Alleged violation of VA Code § 38.2-1826 C  
 INS-2004-00240 Cyril Lisa Montoya-Stoltz - Alleged violation of VA Code § 38.2-1826 C  
 INS-2004-00241 Aviation Insurance Group Agency, Ltd. - Alleged violation of VA Code § 38.2-1826 C  
 INS-2004-00243 Thomas M. Higgins - Alleged violation of VA Code § 38.2-512  
 INS-2004-00244 Reciprocal of America & The Reciprocal Group - For approval of agreement to stay proceedings and tolling agreement  
 INS-2004-00245 Virginia Property Insurance Association - Alleged violation of VA Code §§ 38.2-305 and 38.2-2703  
 INS-2004-00246 Floyd G. Furr & Laurajohn, Inc. - Alleged violation of VA Code §§ 38.2-512 and 38.2-1813  
 INS-2004-00247 Alphastaff, Inc. - Alleged violation of 14 VAC 5-410-40 D  
 INS-2004-00248 USA Corporate Care Benefit Plans Trust - Alleged violation of 14 VAC 5-410-40 D  
 INS-2004-00249 Starmark Trust - Construction Industry - Alleged violation of 14 VAC 5-410-40 D  
 INS-2004-00250 Starmark Trust - Manufacturing Industry - Alleged violation of 14 VAC 5-410-40 D  
 INS-2004-00251 Starmark Trust - Wholesale Industry - Alleged violation of 14 VAC 5-410-40 D  
 INS-2004-00252 Starmark Trust - Retail Industry - Alleged violation of 14 VAC 5-410-40 D  
 INS-2004-00253 Starmark Trust - Service Industry - Alleged violation of 14 VAC 5-410-40 D  
 INS-2004-00254 Starmark Trust - Transportation and Public Utilities Industry - Alleged violation of 14 VAC 5-410-40 D  
 INS-2004-00255 18 Plus Health Plan Trust - Alleged violation of 14 VAC 5-410-40 D  
 INS-2004-00256 John Hancock Life Insurance Company - Alleged violation of VA Code § 38.2-3419.1 and 14 VAC 5-190-50  
 INS-2004-00257 Boston Mutual Life Insurance Company - Alleged violation of VA Code § 38.2-3419.1 and 14 VAC 5-190-50  
 INS-2004-00259 IDS Life Insurance Company - Alleged violation of VA Code § 38.2-3419.1 and 14 VAC 5-190-50  
 INS-2004-00260 Major Surplus, Inc. - For revocation of defendant's license pursuant to VA Code § 38.2-1826 C  
 INS-2004-00261 John A. Rocco - For revocation of defendant's license pursuant to VA Code § 38.2-1826 C  
 INS-2004-00262 Joseph John Knott, Jr. - For revocation of defendant's license pursuant to VA Code § 38.2-1826 C  
 INS-2004-00263 Larry Van Sullivan - For revocation of defendant's license pursuant to VA Code § 38.2-1826 C  
 INS-2004-00265 Amanda Augustine - For revocation of defendant's license pursuant to VA Code § 38.2-1826 C

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INS-2004-00266	Chase Title, Inc. - Alleged violation of VA Code § 6.1-2.21
INS-2004-00267	First United Title, LLC - Alleged violation of VA Code § 6.1-2.21
INS-2004-00268	Central Benefits National Life Insurance Company - Alleged violation of VA Code §§ 38.2-1833 C and 38.2-1833 E
INS-2004-00269	Equitrust Life Insurance Company - Alleged violation of VA Code §§ 38.2-1833 C and 38.2-1833 E
INS-2004-00270	Home Title & Escrow Insurance Agency, Inc. - Alleged violation of VA Code § 6.1-2.23
INS-2004-00271	Horizon Title, Inc. - Alleged violation of VA Code § 6.1-2.23
INS-2004-00272	First Washington Title & Escrow Corporation - Alleged violation of VA Code § 6.1-2.23
INS-2004-00273	Jasper C. Williams & Supreme Insurance Agency, Inc. - Alleged violation of VA Code §§ 38.2-1804 and 38.2-1813
INS-2004-00274	Curtis Lester Biersch - Alleged violation of VA Code § 38.2-4806 D
INS-2004-00275	Joan Jordan Campbell - Alleged violation of VA Code § 38.2-4806 D
INS-2004-00276	Donna J. Chapman - Alleged violation of VA Code § 38.2-4806 D
INS-2004-00277	Inner Harbour Insurance, Inc. - Alleged violation of VA Code § 38.2-4806 D
INS-2004-00278	National Health Club Association - Alleged violation of VA Code § 38.2-4806 D
INS-2004-00279	Timothy Martin Pedersen - Alleged violation of VA Code § 38.2-4806 D
INS-2004-00281	Susan Marie Schmitz - Alleged violation of VA Code § 38.2-4806 D
INS-2004-00282	York Insurance Company - Alleged violation of VA Code § 38.2-1036
INS-2004-00283	Aon Risk Services, Inc. of Rhode Island - Alleged violation of VA Code § 38.2-4806 D
INS-2004-00284	Francis W. Hardy - Alleged violation of VA Code §§ 38.2-502, 38.2-503, 38.2-512 and 38.2-3403
INS-2004-00285	Markel American Insurance Company - For refund of retaliatory costs incurred during 2003 taxable year
INS-2004-00286	Lawyers Title Insurance Corporation - For refund of additional retaliatory costs incurred during 2003 taxable year
INS-2004-00287	Trigon Health & Life Insurance Company - For refund of retaliatory costs incurred during 2003 taxable year
INS-2004-00289	Monitor Title & Escrow of Herndon, LLC - Alleged violation of VA Code §§ 6.1-2.23 and 38.2-1822
INS-2004-00290	John Partridge and Monitor Title & Escrow, Inc. - Alleged violation of VA Code §§ 6.1-2.21, 6.1-2.23 and 38.2-1822
INS-2004-00291	Security Life Insurance Company of America - Alleged violation of VA Code §§ 38.2-316 A, et al.
INS-2004-00292	Ira Aaron Roth - Alleged violation of VA Code § 38.2-1813
INS-2004-00294	Richard A. Katz - Alleged violation of VA Code §§ 38.2-512 and 38.2-1813
INS-2004-00296	Government Employees Insurance Co., Geico General Insurance Co., Geico Casualty Co. and Geico Indemnity Co. - Alleged violation of VA Code § 38.2-510 A 1
INS-2004-00297	In the matter of refunding overpayments of the assessment for the maintenance of the Bureau of Insurance on direct gross premium income of insurance companies for the assessable year 2002
INS-2004-00298	In the matter of refunding overpayments of the premium license tax on direct gross premium income of insurance companies for the taxable year 2002
INS-2004-00299	In the matter of refunding overpayments of the retaliatory tax of insurance companies for the taxable year 2002
INS-2004-00300	In the matter of refunding overpayments of the premium license tax on direct gross premium income of insurance companies for the taxable year 2003
INS-2004-00301	In the matter of refunding overpayments of the assessment for the maintenance of the Bureau of Insurance on direct gross premium income of insurance companies for the assessable year 2003
INS-2004-00302	Anthem Health Plans of Virginia, Inc. - Alleged violation of VA Code §§ 38.2-316 A, et al.
INS-2004-00303	Willis Insurance Services of California, Inc. - Alleged violation of VA Code §§ 38.2-218, 38.2-219, et al.
INS-2004-00304	Cynthia Marie Craft - Alleged violation of VA Code §§ 38.2-1813 and 38.2-1822
INS-2004-00305	Michael M. Vaughan and Coastal Bonding Company, Inc. - Alleged violation of VA Code §§ 38.2-509, 38.2-1809 and 38.2-1813
INS-2004-00306	First National Title Insurance Agency, Inc. - Alleged violation of VA Code § 6.1-2.26 and 14 VAC 5-395-30
INS-2004-00307	Daniel R. Vecchio - Alleged violation of VA Code § 38.2-1826 C
INS-2004-00308	In the matter of refunding overpayments of the retaliatory tax of insurance companies for the taxable year 2003
INS-2004-00309	Sompo Japan Insurance Company of America - For refund of retaliatory tax for tax year 1998 due to carryback of net operating losses
INS-2004-00310	Virginia Mutual Insurance Company - Alleged violation of VA Code §§ 38.2-231, et al.
INS-2004-00311	John M. Barker, Jr. - Alleged violation of VA Code §§ 38.2-502, 38.2-512 and 14 VAC 5-30-40
INS-2004-00312	CUNA Mutual Insurance Society - To discontinue issuing credit life or credit disability insurance on loans with a set duration of more than 10 years in accordance with VA Code § 38.2-3717
INS-2004-00313	Mercury Casualty Company - Alleged violation of VA Code § 38.2-509 A 2
INS-2004-00315	Civil Service Employees Insurance Company - Alleged violation of VA Code § 38.2-1300
INS-2004-00316	The Title Group of Virginia, Inc. - Alleged violation of VA Code §§ 6.1-2.21 and 6.1-2.23
INS-2004-00318	Precision Title & Settlement Agency, Inc. a/k/a Express Title & Settlement Agency, Inc. - Alleged violation of VA Code §§ 6.1-2.21, 6.1-2.23, 6.1-2.26, 14 VAC 5-395-30 and 14 VAC 5-395-60
INS-2004-00320	In re: Assessment upon certain companies and surplus lines brokers to pay the expense of the Bureau of Insurance for the calendar year 2005
INS-2004-00321	Liberty Mutual Insurance Co., Liberty Mutual Fire Insurance Co., Liberty Insurance Corp., First Liberty Insurance Corp. and LM Insurance Corp. - Alleged violation of VA Code §§ 38.2-231, et al.
INS-2004-00322	AmeriTitle, Inc. - Alleged violation of VA Code §§ 6.1-2.21, 6.1-2.23 and 6.1-2.23:1
INS-2004-00323	Mark Sullivan and Sullivan Insurance Services, Inc. - Alleged violation of VA Code §§ 38.2-512, 38.2-1813 and 38.2-1822
INS-2004-00324	Atland Title Group, Ltd. - Alleged violation of VA Code §§ 6.1-2.21 and 6.1-2.23
INS-2004-00326	Docu-File, Inc. - Alleged violation of VA Code §§ 6.1-2.21 and 6.1-2.26
INS-2004-00327	Hearn Furniture Sales, Inc. - Alleged violation of VA Code §§ 38.2-1822 and 38.2-1833
INS-2004-00329	Martin Furniture Company, Inc. - Alleged violation of VA Code §§ 38.2-1822 and 38.2-1833
INS-2004-00332	Schewel Furniture Company, Inc. - Alleged violation of VA Code §§ 38.2-1822 and 38.2-1833
INS-2004-00333	Standard Distributors, Inc. t/a Standard Furniture Company - Alleged violation of VA Code §§ 38.2-1822 and 38.2-1833
INS-2004-00334	The Oak, Inc. t/a Bloom Brothers Furniture - Alleged violation of VA Code §§ 38.2-1822 and 38.2-1833
INS-2004-00335	Settlement Corp. - Alleged violation of VA Code § 6.1-2.23
INS-2004-00336	USA Discounters Ltd. - Alleged violation of VA Code §§ 38.2-1822 and 38.2-1833
INS-2004-00338	Windsor Insurance Company, Regal Insurance Company and American Deposit Insurance Company - Alleged violation of VA Code §§ 38.2-305, et al.
INS-2004-00343	William Eugene Alexander - Alleged violation of VA Code § 38.2-1826 C

INS-2004-00344 Henry Preston Dickerson - Alleged violation of VA Code § 38.2-1826 C  
 INS-2004-00345 John Wayne Goff - Alleged violation of VA Code § 38.2-1826 C  
 INS-2004-00347 Robert C. Sayre - Alleged violation of VA Code § 38.2-1826 C  
 INS-2004-00348 Kenneth Stolarik - Alleged violation of VA Code § 38.2-1826 C

**PST: DIVISION OF PUBLIC SERVICE TAXATION**

PST-2003-00056 Gordonsville Energy, L.P. - For review and correction of assessment of the value of property subject to local taxation -Tax Year 2003  
 PST-2003-00065 Hopewell Cogeneration Limited Partnership - For review and correction of assessment of the value of property subject to local taxation -Tax Year 2003  
 PST-2003-00066 Buchanan Generation, LLC - For Review and Correction of the Assessment of the Value of Property for Tax Year 2003  
 PST-2003-00067 ACC Telecommunications of Virginia, LLC - For review and correction of the assessment of the value of property for tax year 2003  
 PST-2003-00068 Adelpia Business Solutions of Virginia, LLC - For review and correction of the assessment of the value of property for tax year 2003  
 PST-2003-00069 Qwest Communications Corporation of Virginia - For review and correction of the assessment of the value of property for tax year 2003  
 PST-2003-00070 Cable & Wireless USA of Virginia, Inc. - For Review and Correction of 2003 Personal Property Assessments  
 PST-2003-00071 XO Virginia, LLC - For review and correction of the assessment of the value of property for tax year 2003  
 PST-2003-00072 Verizon Virginia Inc. - For review and correction of assessment of the value of property subject to local taxation - Tax Year 2003  
 PST-2004-00001 Cogentrix Virginia Leasing Corporation - For review and correction of the assessment of the value of property for tax year 2003  
 PST-2004-00002 James River Cogeneration Company - For review and correction of the assessment of the value of property for tax year 2003  
 PST-2004-00003 Cogentrix of Richmond, Inc. - For review and correction of the assessment of the value of property for tax year 2003  
 PST-2004-00023 AT&T Corp., AT&T Communications of Virginia, LLC and TCG Virginia, Inc. - For Refund of Late Payment Penalties  
 PST-2004-00030 Level 3 Communications, LLC - For Review and Correction of Certification of Gross Receipts - Tax Year 2003

**PUC: DIVISION OF COMMUNICATIONS**

PUC-1996-00117 AT&T Communications of Virginia - For arbitration of unresolved issues from interconnection negotiations with GTE South, Inc.  
 PUC-2003-00176 Volo Communications of Virginia, Inc. - For certificates to provide local exchange and interexchange telecommunications services  
 PUC-2003-00185 United Telephone - Southeast, Inc., Central Telephone Company of Virginia and dPi Teleconnect, L.L.C. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996  
 PUC-2003-00186 Lightyear Communications of Virginia, Inc. and Lightyear Network Solutions, LLC - For approval to transfer assets and control  
 PUC-2003-00187 United Telephone-Southeast, Inc., Central Telephone Company of Virginia and XO Virginia, LLC - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996  
 PUC-2003-00188 United Telephone-Southeast, Inc., Central Telephone Company of Virginia and MCI WORLDCOM Communications of Virginia, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996  
 PUC-2004-00001 Comtech 21, LLC - For certificates to provide local exchange and interexchange telecommunications services  
 PUC-2004-00002 YTV, Inc. - For approval of transfers of control  
 PUC-2004-00004 Cable & Wireless USA of Virginia, Inc. - For cancellation of certificate to provide local exchange telecommunications services  
 PUC-2004-00005 NTELOS Telephone Inc. and Triton PCS Operating Company L.L.C. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996  
 PUC-2004-00006 NTELOS Telephone Inc. and Sprint Communications Company L.P. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996  
 PUC-2004-00007 Allegiance Telecom, Inc., Debtor-In-Possession, Assignor and Qwest Communications International Inc., Assignee - For approval of assignment of assets  
 PUC-2004-00008 NTELOS Telephone Inc. and VA PCS Alliance - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996  
 PUC-2004-00009 NextG Networks Atlantic, Inc. - For certificates to provide local exchange and interexchange telecommunications services  
 PUC-2004-00010 Kinex Telecom, Inc. - For certificates to provide local exchange and interexchange telecommunications services  
 PUC-2004-00011 C3 Networks and Communications Limited Partnership - For cancellation of certificates to provide local exchange and interexchange telecommunications services  
 PUC-2004-00012 El Paso Networks, L.L.C. - For cancellation of certificates to provide local exchange and interexchange telecommunications services  
 PUC-2004-00013 Lightyear Network Solutions, LLC - For a certificate to provide local exchange telecommunications services  
 PUC-2004-00014 Touch America, Inc. - Virginia - For cancellation of certificate to provide interexchange telecommunications services  
 PUC-2004-00015 Shenandoah Telephone Company and NTELOS Network, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996  
 PUC-2004-00016 Syniverse Networks of Virginia, Inc. - For a certificate to provide local exchange telecommunications services  
 PUC-2004-00017 France Telecom Corporate Solutions L.L.C. - For a certificate to provide local exchange telecommunications services  
 PUC-2004-00018 Phone Reconnect of America, LLC - For cancellation of certificate to provide local exchange telecommunications services  
 PUC-2004-00019 Williams Communications of Virginia, Inc. - To cancel existing certificates to provide local exchange and interexchange telecommunications services and to reissue certificates reflecting new name  
 PUC-2004-00020 NTELOS Telephone Inc. and Virginia Cellular LLC d/b/a Cellular One - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996.  
 PUC-2004-00021 Plan B Communications of Virginia, Inc. - For cancellation of certificates to provide local exchange and interexchange telecommunications services  
 PUC-2004-00022 ACN Communication Services Virginia, LLC - For a certificate to provide local exchange telecommunications services  
 PUC-2004-00024 Allegiance Telecom, Inc., Debtor-in-Possession and XO Communications, Inc. - For approval of a change in ownership and control  
 PUC-2004-00027 Peoples Mutual Telephone Company - To modify requirement to institute local number portability pursuant to § 251(f) of the Telecommunications Act of 1996  
 PUC-2004-00028 NewSouth Holdings, Inc., NewSouth Communications of Virginia, Inc., and NuVox, Inc. - For approval of transfer of control

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- PUC-2004-00030 Verizon Virginia Inc. and Verizon South Inc. - For arbitration of an amendment to interconnection agreements with competitive local exchange carriers and commercial mobile radio service providers in Virginia pursuant to § 252 of the Communications Act of 1934, as amended, and the Triennial Review Order
- PUC-2004-00031 Cable & Wireless USA of Virginia, Inc. - To cancel existing certificate to provide interexchange telecommunications services
- PUC-2004-00032 Central Telephone Company of Virginia, United Telephone-Southeast, Inc. and Level 3 Communications, LLC - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2004-00033 Dominion Resources, Inc., DFV Capital Corporation, DT Services, Inc., Dominion Fiber Ventures, LLC, Virginia Electric and Power Company and Elantic Networks, Inc. - For approval of a change of control
- PUC-2004-00034 Sunset Digital Communications, Inc. - For a certificate to provide interexchange telecommunications services
- PUC-2004-00035 Charter Fiberlink VA - CCVII, LLC - For certificates to provide local exchange and interexchange telecommunications services
- PUC-2004-00036 Charter Fiberlink VA-CCO, LLC - For certificates to provide local exchange and interexchange telecommunications services
- PUC-2004-00037 Charter Fiberlink VA-CCVI, LLC - For certificates to provide local exchange and interexchange telecommunications services
- PUC-2004-00038 Focal Communications Corporation, Focal Financial Services, Inc., Focal Communications Corporation of Virginia and Corvis Corporation and Corvis Acquisition Company, Inc. - For approval to transfer control
- PUC-2004-00039 Verizon Virginia Inc and MCI WorldCom Communications of Virginia, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2004-00040 Verizon Virginia Inc. and MCIMetro Access Transmission Services of Virginia, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2004-00041 McGraw Communications of Virginia, Inc. - For extension of time for requirement to file audited financial statements
- PUC-2004-00042 Verizon Virginia Inc. and Cavalier Telephone, LLC - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2004-00043 Verizon Virginia Inc. and AT&T Communications of Virginia, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2004-00044 AFN Telecom, LLC - For cancellation of certificate to provide interexchange telecommunications services
- PUC-2004-00045 Cambrian Communications of Virginia, LLC - For cancellation of certificates to provide local exchange and interexchange telecommunications services
- PUC-2004-00046 FairPoint Communications, Inc., Thomas H. Lee Equity Fund IV, L.P., Kelso Investment Associates V, L.P. and Kelso Equity Partners V, L.P. - For approval to relinquish control
- PUC-2004-00047 Verizon South Inc. - To introduce High Capacity Digital Channel Service - DS3 and classify it as competitive under its Plan For Alternative Regulation
- PUC-2004-00048 Verizon Virginia Inc. - To introduce High Capacity Digital Channel Service - DS3 and classify it as competitive under its Plan for Alternative Regulation
- PUC-2004-00049 Metropolitan Telecommunications Holding Company and MetTel of VA, Inc. - For approval to transfer control
- PUC-2004-00050 Essex Acquisition Corporation and NOW Communications of Virginia, Inc. - For authority for Essex Acquisition Corporation to acquire assets of NOW Communications of Virginia, Inc.
- PUC-2004-00051 DIECA Communications, Inc. d/b/a Covad Communications Company and GoBeam Services of Virginia, Inc. - For approval of a transfer of control
- PUC-2004-00052 Smiley's Billiard, Inc. - Alleged violation of VA Code §§ 56-508.15, 56-508.16 and 20 VAC 5-407-40
- PUC-2004-00053 Anthony T. Sacco t/a New World I, Inc. - Alleged violation of VA Code §§ 56-508.15, 56-508.16 and 20 VAC 5-407-40
- PUC-2004-00054 Knight's Service Center - Alleged violation of VA Code §§ 56-508.15, 56-508.16 and 20 VAC 5-407-40
- PUC-2004-00055 Kelvin's, Inc. - Alleged violation of VA Code §§ 56-508.15, 56-508.16 and 20 VAC 5-407-40
- PUC-2004-00056 Federal Communications Commission - For Agreement in Redefining the Service Area of United Telephone Company-Southeast Virginia pursuant to 47 C.F.R. § 54.207(d)
- PUC-2004-00058 NationsLine Virginia, Inc. - For a certificate to provide local exchange telecommunications services
- PUC-2004-00059 Ameritech Payphone Services, Inc. - Alleged violation of VA Code §§ 56-508.15, et seq.
- PUC-2004-00060 TelCove, Inc., Adelpia Business Solutions of Virginia, L.L.C. and ACC Telecommunications of Virginia, LLC - For approval of transfer of assets
- PUC-2004-00061 Eureka Telecom, LLC - For cancellation of certificates to provide local exchange and interexchange telecommunications services
- PUC-2004-00062 RCN Telecom Services of Virginia, Inc. - For cancellation of certificates to provide local exchange and interexchange telecommunications services
- PUC-2004-00063 Essex Acquisition Corporation - For update of a certificate to provide local exchange telecommunications services and cancellation of a certificate to provide interexchange telecommunications services
- PUC-2004-00064 The City of Franklin - For a certificate to provide local exchange telecommunications services
- PUC-2004-00065 ACC Telecommunications of Virginia, LLC - For approval to discontinue the provision of local exchange and interexchange telecommunications services in the greater Richmond, Charlottesville, & Shenandoah Valley geographical areas
- PUC-2004-00066 Teligent, Inc., Teligent of Virginia, Inc. and Aspen Partners-Series A, A Series of Aspen Capital Partners, L.P. - For approval to transfer control
- PUC-2004-00067 Global NAPs South, Inc. - For order against Verizon Virginia Inc. awarding relief for breach of contract in failing to make reciprocal compensation payments
- PUC-2004-00068 Global Connection Inc. of Virginia - For certificates to provide local exchange and interexchange telecommunications services
- PUC-2004-00069 Central Telephone Company of Virginia - For Approval of a Revenue Neutral Restructuring Proposal Pursuant to § H of Its Alternative Regulatory Plan
- PUC-2004-00071 Adelpia Business Solutions of Virginia, L.L.C. - For update of certificates to provide local exchange and interexchange telecommunications services to reflect the new company name
- PUC-2004-00073 The Competitive Carrier Coalition - For an Expedited Order that Verizon Virginia Inc. and Verizon South Inc. Remain Required to Provision Unbundled Network Elements on Existing Rates and Terms Pending the Effective Date of Amendments to the Parties' Interconnection Agreements
- PUC-2004-00074 AT&T Communications of Virginia, LLC and TCG Virginia, Inc. - For an Order Preserving Local Exchange Market Stability
- PUC-2004-00075 United Telephone-Southeast, Inc., Central Telephone Company of Virginia and ShenTel Communications Company - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2004-00076 United Telephone-Southeast, Inc., Central Telephone Company of Virginia and 1-800-RECONEX, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996



PUC-2004-00079 CNT Telecom Services, Inc. - For certificates to provide local exchange and interexchange telecommunications services

PUC-2004-00081 KMC Telecom of Virginia, Inc., KMC Telecom V of Virginia, Inc., and KMC Data LLC - For arbitration pursuant to § 252(b) of the Telecommunications Act of 1996 and 20 VAC 5-419-30 of the Commission's Procedural Rules for Implementing §§ 251 and 252 of the Telecommunications Act of 1996

PUC-2004-00082 United Telephone-Southeast Inc., Central Telephone Company of Virginia and TelCove of Virginia LLC - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

PUC-2004-00083 NTELOS Telephone Inc. and United States Cellular Corporation - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

PUC-2004-00084 NTELOS Telephone Inc. and T-Mobile USA, Inc - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

PUC-2004-00085 United Telephone-Southeast Inc., Central Telephone Company of Virginia and Kinex Telecom, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

PUC-2004-00086 Verizon Virginia Inc. and KDL of Virginia, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

PUC-2004-00087 Verizon South Inc. and Trans National Communications International of Virginia, LLC - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

PUC-2004-00088 Verizon Virginia Inc. and PNG Telecommunications of Virginia, LLC - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

PUC-2004-00089 Verizon South Inc. and PNG Telecommunications of Virginia, LLC - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

PUC-2004-00090 Verizon Virginia Inc. and Trans National Communications International of Virginia, LLC - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

PUC-2004-00091 Verizon South Inc. and KDL of Virginia, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

PUC-2004-00092 Verizon Virginia Inc. and Verizon South Inc. - For Approval of a Plan for Alternative Regulation

PUC-2004-00093 Looking Glass Networks of Virginia, Inc. - For approval of an indirect transfer of control

PUC-2004-00094 Winstar of Virginia, LLC - For discontinuance of certain telecommunications services to certain customers in the Commonwealth of Virginia

PUC-2004-00095 Brookneal Exchange Customers - For Extended Local Service to Central Telephone Company of Virginia's Halifax, South Boston, Turbeville, Virgilina, and Volens Exchange

PUC-2004-00096 IDS Telecom, LLC - For cancellation of certificates to provide local exchange and interexchange telecommunications services

PUC-2004-00097 Dominion Telecom, Inc. - To cancel existing certificates to provide local exchange and interexchange telecommunications services and to reissue certificates reflecting new corporate name

PUC-2004-00098 XO Virginia, LLC, Allegiance Telecom of Virginia, Inc. and XO Communications Services, Inc. - For Approval of an Internal Corporate Reorganization

PUC-2004-00099 United Telephone-Southeast Inc., Central Telephone Company of Virginia (Sprint) and Virginia Global Communications Systems, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

PUC-2004-00100 ICG Telecom Group of Virginia, Inc. - For authority to discontinuance certain services in the Commonwealth of Virginia

PUC-2004-00101 MCCC ICG Holdings LLC and ICG Communications, Inc. - For approval to complete a transfer of control

PUC-2004-00103 MCImetro Access Transmission Services of Virginia Inc. and MCI WORLDCOM Communications of Virginia, Inc. - To approve MCI's adoption of a Commission approved interconnection agreement in its entirety

PUC-2004-00104 Lightyear Communications of Virginia, Inc. - For cancellation of its local exchange certificate

PUC-2004-00105 Corvis Corporation - For approval of restructuring of regulated subsidiaries

PUC-2004-00106 Broadwing Communications, LLC - For a certificate to provide local exchange telecommunications services

PUC-2004-00107 Focal Communications Corporation of Virginia - For cancellation of certificates

PUC-2004-00108 SBC Long Distance, Inc. - For certificates to provide local exchange and interexchange telecommunications services

PUC-2004-00109 Central Telephone Company of Virginia, United Telephone-Southeast Inc. (Sprint) and MCImetro Access Transmission Services of Virginia Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

PUC-2004-00110 Blonder Tongue Telephone, LLC - For a certificate to provide local exchange telecommunications services

PUC-2004-00111 Central Telephone Company of Virginia, United Telephone-Southeast, Inc. and Progress Telecom Virginia, LLC - Master Interconnection, Collocation and Resale Agreement under § 252(e) of the Telecommunications Act of 1996

PUC-2004-00112 AT&T Communications of Virginia, LLC and TCG Virginia, Inc. - Alternative Dispute Resolution Petition and Motion to Enforce Provisions of Interconnection Agreements with Verizon Virginia Inc.

PUC-2004-00113 Choice One Communications of Virginia Inc. - For approval of a change of control

PUC-2004-00117 DIECA Communications, Inc. d/b/a Covad Communications Company - For Declaratory Order and Emergency Motion to Enjoin Verizon's Compliance With All Legal Obligations Relating to Broadband/Voice Line Sharing

PUC-2004-00118 Citizens Telephone Cooperative & Triton PCS Operating Company LLC - For Approval of the Interconnection and Reciprocal Compensation Agreement under § 251(b)(5) of the Telecommunications Act of 1996.

PUC-2004-00119 Central Telephone Company of Virginia, United Telephone-Southeast, Inc. (Sprint) and ALLTEL Communications of Virginia, Inc. - For approval of a Commercial Mobile Radio Services Interconnection Agreement under § 252(e) of the Telecommunications Act of 1996

PUC-2004-00120 Peoples Mutual Telephone Company and Triton PCS Operating Company L.L.C. - For approval of a Wireless Interconnection and Reciprocal Compensation Agreement pursuant to § 252(e) of the Telecommunications Act of 1996

PUC-2004-00121 International Telephone Group of Virginia, Inc. - To cancel existing certificate to provide local exchange telecommunications services and to reissue certificate reflecting new corporate name

PUC-2004-00122 NewSouth Communications of Virginia, Inc., NewSouth Communications Corp. and NewSouth Holdings, Inc. - For approval of a direct transfer of control

PUC-2004-00123 Verizon Virginia Inc. - For Withdrawal of Exemption from Physical Collocation at its Mason Cove Central Office

PUC-2004-00124 ITC/DeltaCom, Inc. - For consent to the indirect transfer of control of its operating subsidiary

PUC-2004-00125 Shenandoah Telephone Co., Shenandoah Telecommunications Co., Shenandoah Cable Television Co., Shentel Service Co., Shenandoah Valley Leasing Co., Shenandoah Mobile Co., Shenandoah Long Distance Co., Shenandoah Network Co., Shentel

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	Foundation, Shenandoah Personal Communications Co., Shentel Communications Co. and Shentel Management Co. - For approval of transactions pursuant to the Affiliates Act
PUC-2004-00126	Verizon Virginia Inc. and TCG Virginia Inc. For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
PUC-2004-00127	American Fiber Systems VA, Inc. - For cancellation of certificates to provide local exchange and interexchange telecommunications services
PUC-2004-00128	MFN Global Services, LLC - For certificates to provide local exchange and interexchange telecommunications services
PUC-2004-00130	GoBeam Services of Virginia, Inc. - To cancel existing certificates to provide local exchange and interexchange telecommunications services
PUC-2004-00131	Neutral Tandem-Virginia, LLC - For certificates to provide local exchange and interexchange telecommunications services
PUC-2004-00133	RCN Telecom Services of Washington, D.C., Inc. and Starpower Communications, LLC - For approval of transfer of control
PUC-2004-00134	MCI WorldCom Communications of Virginia, Inc., Intermedia Communications of Virginia, Inc. and MCI WorldCom Network Services of Virginia, Inc. - For cancellation of certificates to provide local exchange and interexchange telecommunications services
PUC-2004-00135	BridgeCom Holdings, Inc. and Broadview Networks of Virginia, Inc. - For approval of a transfer of control
PUC-2004-00137	Cox Enterprises, Inc., Cox Communications, Inc. and Cox Virginia Telcom, Inc. - For approval of a change of control
PUC-2004-00139	MCIMetro Access Transmission Services of Virginia, Inc., MCI WorldCom Communications of Virginia, Inc. and MCI WorldCom Networks Services of Virginia, Inc. - For approval of intracorporate mergers of MCI WorldCom Communications of Virginia, Inc., and MCI WorldCom Network Services of Virginia, Inc., into MCIMetro Access Transmission Services of Virginia, Inc.
PUC-2004-00140	Verizon South Inc. and Level 3 Communications, LLC - For approval of Amendment No. 1 and Amendment No. 2 to the interconnection agreement
PUC-2004-00141	Verizon Virginia Inc. - To reclassify ISDN PRI Service (IntelliLinQ) and its associated Features, ATM Cell Relay Service, and Frame Relay Services as competitive under its Plan for Alternative Regulation
PUC-2004-00142	Verizon South Inc. - To reclassify ISDN PRI Service (IntelliLinQ) and its associated Features and Frame Relay Services as competitive under its Plan for Alternative Regulation
PUC-2004-00146	Cypress Communications Holding Company of Virginia, Inc., Cypress Communications Holding Co., Inc. and TechInvest Holding Co., Inc. - For approval of the transfer of control of Cypress Communications Holding Co. of Virginia, Inc. from Cypress Communications Holding Co., Inc. to TechInvest Holding Co., Inc.
PUC-2004-00147	MountaiNet Telephone Company and Scott County Telephone Cooperative, Inc. - For authority to transfer direct control of MountaiNet Telephone Company to SCTC Management Group, Inc.
PUC-2004-00151	FairPoint Communications, Inc., Thomas H. Lee Equity Fund IV, L.P., Kelso Investment Associates V, L.P. and Kelso Equity Partners V, L.P. - For approval to relinquish control
PUC-2004-00153	Verizon Virginia Inc. and Massachusetts Local Telephone Company, Inc. - For approval of an Amended, Extended and Restated Interconnection Agreement
PUC-2004-00154	Verizon South Inc. and TCG Virginia Inc. - For approval of Amendment No. 1 to the Interconnection Agreement
PUC-2004-00155	Verizon Virginia Inc. and OpenBand of Virginia, LLC - For approval of an Amended, Extended and Restated Interconnection Agreement
PUC-2004-00156	Verizon Virginia Inc. and NationsLine Virginia, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
PUC-2004-00157	Verizon South Inc. and NationsLine Virginia, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
PUC-2004-00158	Verizon South Inc. and OpenBand of Virginia, LLC - For approval of an Amended, Extended and Restated Interconnection Agreement under § 252(e) of the Telecommunications Act of 1996
PUC-2004-00159	Alticom of Virginia, Inc. - For cancellation of a certificate to provide local exchange telecommunications services
PUC-2004-00160	ServiSense.com of Virginia, Inc. - For cancellation of a certificate to provide local exchange telecommunications services
PUC-2004-00161	Central Telephone Company of Virginia, United Telephone-Southeast, Inc. and Sprint Communications Company of Virginia, Inc. - For approval of a Master Interconnection Agreement under § 252(e) of the Telecommunications Act of 1996
PUC-2004-00162	Virginia Telecommunications Industry Association - For a modification to Rules Governing Disconnection of Local Exchange Telephone Service, 20 VAC 5-413 et seq.

**PUE:****DIVISION OF ENERGY REGULATION**

PUE-2002-00357	United Construction - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00437	JWS Communications, Inc. - Alleged violation of VA Code § 56-265.18
PUE-2002-00485	Peters and White Construction Company - Alleged violation of VA Code § 56-265.17 D
PUE-2002-00492	Summit USA Land Development Corporation - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00527	Callinder's General Construction - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00581	Clark Brothers, LLC - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00607	John D. Tilghman, Individually t/a Jaclyn, Inc. (formerly Jaclyn Hauling, Inc.) - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00614	C & W Homes, Inc. t/a C & W Builder Services - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00667	Martha E. Brickhouse, Trustee in Liquidation for Mid-Atlantic Utilities, Inc. and Mid-Atlantic Utilities, Inc. - Alleged violation of VA Code §§ 56-265.24 A, et al.
PUE-2002-00685	Fanton Masonry, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2003-00015	Michelle Giles, Trustee in Liquidation for Concrete Perfectionists & Hauling, Inc. and Concrete Perfectionists & Hauling, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2003-00104	Magellan Telecommunications, L.L.C. - Alleged violation of VA Code §§ 56-265.24 A, et al.
PUE-2003-00152	Magellan Telecommunications, LLC - Alleged violation of VA Code § 56-265.24 A
PUE-2003-00196	J.S.C. Excavating & Land Development, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2003-00207	Premier Communications, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2003-00225	Rappahannock Electric Cooperative and Virginia Electric & Power Company d/b/a Dominion Virginia Power - For revision of certificates under the Utility Facilities Act
PUE-2003-00226	Rappahannock Electric Cooperative and Virginia Electric & Power Company d/b/a Dominion Virginia Power - For revision of certificates under the Utility Facilities Act

PUE-2003-00227	Northern Virginia Electric Cooperative and Virginia Electric & Power Company d/b/a Dominion Virginia Power - For revision of certificates under the Utility Facilities Act
PUE-2003-00228	Central Virginia Electric Cooperative and Virginia Electric & Power Company d/b/a Dominion Virginia Power - For revision of certificates under the Utility Facilities Act
PUE-2003-00229	A & N Electric Cooperative and Delmarva Power and Light Company d/b/a Conectiv Power Delivery – For revision of certificates under the Utility Facilities Act
PUE-2003-00251	K & J Cable, Inc. - Alleged violation of VA Code §§ 56-265.24 A, et al.
PUE-2003-00256	Orius Telecommunication Services, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2003-00278	JP Communications Group, LLC - For a permanent license to conduct business as an electric aggregator
PUE-2003-00322	Virginia Gas Pipeline Company and NUI Energy Brokers, Inc. - For approval of application to renew affiliate agreement for successive terms under Chapter 4 of Title 56 of the Code of Virginia
PUE-2003-00347	Con-Quest Concrete Construction, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2003-00348	Roger Harvey, Trustee in Liquidation for Dart Plumbing, Inc. and Dart Plumbing, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2003-00354	Martin Mather, Individually and t/a Omega Concrete - Alleged violation of VA Code § 56-267.17 A
PUE-2003-00381	Fred Silva, Individually and t/a Silva Construction - Alleged violation of VA Code § 56-265.24 A
PUE-2003-00382	Mario Rodriguez, Individually and t/a Skytec - Alleged violation of VA Code § 56-265.24 A
PUE-2003-00384	Tessa Construction & Tech Company, LLC - Alleged violation of VA Code § 56-265.24 A
PUE-2003-00386	Magellan Telecommunications, LLC - Alleged violation of VA Code § 56-265.24 A
PUE-2003-00387	Rockingham Construction Co., Inc. - Alleged violation of VA Code §§ 56-265.24 A, et al.
PUE-2003-00391	Central Locating Service, Ltd. - Alleged violation of VA Code §§ 56-265.19 A, et al.
PUE-2003-00397	Norton Concrete Co., Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2003-00398	Utilx Corporation - Alleged violation of VA Code § 56-265.24 A
PUE-2003-00413	Central Locating Service, Ltd. - Alleged violation of VA Code §§ 56-265.19 A, et al.
PUE-2003-00417	Leo Construction Company - Alleged violation of VA Code § 56-265.24 A
PUE-2003-00431	Cat-Track Excavating, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2003-00433	Jager Excavating, Inc. - Alleged violation of VA Code § 56-265.17 D
PUE-2003-00439	Rappahannock Construction Company, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2003-00443	Michael D. Tabor, Trustee in Liquidation for Tabor Enterprises, Inc. and Tabor Enterprises, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2003-00444	Edward John Farrar, Individually and t/a Virginia Beach Landscaping and Grading - Alleged violation of VA Code § 56-265.17 A
PUE-2003-00463	Columbia Gas of Virginia, Inc. - Alleged violation of VA Code § 56-265.19 A
PUE-2003-00464	Atmos Energy Corporation - Alleged violation of VA Code § 56-5.1
PUE-2003-00466	Roanoke Gas Company - Alleged violation of VA Code § 56-5.1
PUE-2003-00467	Central Locating Service, Ltd. (CLS) - Alleged violation of VA Code § 56-265.19 A
PUE-2003-00468	Columbia Gas of Virginia, Inc. - Alleged violation of VA Code § 56-5.1
PUE-2003-00469	Utiliquest, LLC - Alleged violation of VA Code § 56-265.19 A
PUE-2003-00470	Roanoke Gas Company - Alleged violation of VA Code § 56-5.1
PUE-2003-00472	Virginia Natural Gas, Inc. - Alleged violation of VA Code § 56-5.1
PUE-2003-00473	Washington Gas Light Company - Alleged violation of VA Code § 56-5.1
PUE-2003-00474	Walnut Run Waterworks, Inc. - For authority to acquire and dispose of utility assets pursuant to the Utility Transfers Act and for the issuance of a Certificate pursuant to VA Code §§ 56-265.2 and 56-265.3
PUE-2003-00476	B & K Construction Co. of Tidewater, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2003-00480	Digital Cable & Communication - Alleged violation of VA Code § 56-265.17 B
PUE-2003-00484	Innerview, Ltd. - Alleged violation of VA Code § 56-265.24 A
PUE-2003-00486	Michael C. Brown Custom Builder, LLC - Alleged violation of VA Code § 56-265.17 A
PUE-2003-00499	Advantage Home Services - Alleged violation of VA Code § 56-265.17 A
PUE-2003-00501	C. W. Strittmatter, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2003-00503	Communications Professionals, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2003-00504	Danilo Gudiel, Individually and t/a Danilo Cable - Alleged violation of VA Code § 56-265.17 A
PUE-2003-00505	Tony Ataide, Individually and t/a Faro Construction Corporation - Alleged violation of VA Code § 56-265.17 A
PUE-2003-00507	Atmos Energy Corporation - For an increase in rates
PUE-2003-00508	Hilton Cable Enterprises, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2003-00510	K B Contracting LLC - Alleged violation of VA Code § 56-265.24 A
PUE-2003-00512	Mastec North America, Inc. - Alleged violation of VA Code § 56-265.17 B 1
PUE-2003-00514	Hawk, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2003-00515	Sagres Construction Corporation - Alleged violation of VA Code § 56-265.24 A
PUE-2003-00517	Fred Silva, Individually and t/a Silva Construction - Alleged violation of VA Code § 56-265.24 A
PUE-2003-00520	Summit USA Land Development Corporation - Alleged violation of VA Code § 56-265.17 A
PUE-2003-00521	Tibbs Paving, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2003-00522	Washington Homes of Virginia, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2003-00523	Wedge Construction, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2003-00524	William F. Klein, Jr., Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2003-00525	Tessa Construction & Tech Company, LLC - Alleged violation of VA Code § 56-265.24 A
PUE-2003-00526	Four Points Excavating, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2003-00529	Central Locating Service, Ltd. - Alleged violation of VA Code §§ 56-265.19 A, et al.
PUE-2003-00530	Columbia Gas of Virginia, Inc. - Alleged violation of VA Code § 56-265.19 A
PUE-2003-00533	Washington Gas Light Company - Alleged violation of VA Code § 56-5.1
PUE-2003-00539	Virginia-American Water Company - For a general increase in rates
PUE-2003-00545	Broomik, L.L.C. and Park Place Water Works, Inc. - For authority to acquire and dispose of utility assets pursuant to the Utility Transfers Act and for the issuance of a certificate pursuant to VA Code §§ 56-265.2 and 56-265.3
PUE-2003-00549	Branch Highways, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2003-00550	All Things Green, Inc. - Alleged violation of VA Code § 56-265.24 A

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PUE-2003-00552	Barfield Concrete, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2003-00553	Blankenship Enterprises, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2003-00554	CallCom, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2003-00555	Central Locating Service, Ltd. - Alleged violation of VA Code §§ 56-265.19 A, et al.
PUE-2003-00556	Dan Ryan Builders, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2003-00557	David F. Lucas Electrical Contractor, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2003-00558	Eastern Technical Communications, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2003-00561	H. P. Alexander, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2003-00562	H. W. Roberson Company, Incorporated - Alleged violation of VA Code § 56-265.17 A
PUE-2003-00563	Henderson Construction Co., Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2003-00564	Hilton Cable Enterprises, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2003-00565	Key Construction Company, Incorporated - Alleged violation of VA Code § 56-265.24 A
PUE-2003-00567	Micor Communications\Virginia, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2003-00570	Promark Utility Locators, Inc. - Alleged violation of VA Code § 56-265.19 A
PUE-2003-00571	Red Valley Excavating, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2003-00572	Robert S. Humphreys - Alleged violation of VA Code § 56-265.17 A
PUE-2003-00573	Russell Fence Co., Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2003-00574	Virginia Natural Gas, Inc. - Alleged violation of VA Code § 56-265.19 A
PUE-2003-00576	Craven's Nursery LLC - Alleged violation of VA Code § 56-265.17 A
PUE-2003-00578	Land Consultants, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2003-00579	LOBO Construction Company - Alleged violation of VA Code § 56-265.17 A
PUE-2003-00582	SLM Concrete Company, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2003-00583	Teel & Duncan, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2003-00585	The Word Group, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2003-00586	Urban Engineering & Associates, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2003-00587	Utiliquist, LLC - Alleged violation of VA Code §§ 56-265.19 A, et al.
PUE-2003-00588	Washington Gas Light Company - Alleged violation of VA Code § 56-265.19 A
PUE-2003-00589	S and N Communications, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2003-00590	D. A. Foster Company - Alleged violation of VA Code §§ 56-265.24 A, et al.
PUE-2003-00591	Columbia Gas of Virginia, Inc. - Alleged violation of VA Code § 56-265.19 A
PUE-2003-00592	Atmos Energy Corporation - Alleged violation of VA Code § 56-265.19 A
PUE-2003-00596	Vivex, Inc. - For a permanent license to conduct business as an electric aggregator
PUE-2003-00603	Washington Gas Light Company - For an expedited increase in rates and charges and revisions to the tariffs and terms and conditions of service for natural gas service
PUE-2003-00604	Delmarva Power & Light Company, d/b/a Conectiv Power Delivery - To revise Cogeneration and Small Power Production Rates under Service Classification "X"
PUE-2004-00001	In the matter concerning whether there is a sufficient degree of competition such that the elimination of default service will not be contrary to the public interest
PUE-2004-00002	Central Virginia Electric Cooperative - For authority to incur long-term debt
PUE-2004-00003	Appalachian Power Company - For approval under Chapter 3 of Title 56 of the Code of Virginia to enter into interest rate management agreements
PUE-2004-00004	Virginia Electric and Power Company - To revise its cogeneration tariff pursuant to PURPA § 210
PUE-2004-00005	The Joline K. Gleaton Family Trust, the Marion A. Gleaton Family Trust, and Gleaton's Mobile Homes, L.L.C. and Bradley P. Dressler - For authority to transfer utility assets under Chapter 5, Title 56 of the Code of Virginia
PUE-2004-00007	Delmarva Power & Light Company - For authority to borrow up to \$275 million in short-term debt and for continued participation in the Pepco Holdings System Money Pool
PUE-2004-00008	Kilby Shores Water Company - For approval to sell the water facility assets serving the Kilby Shores subdivision to the City of Suffolk pursuant to Chapter 5 of Title 56 of the Code of Virginia
PUE-2004-00009	Tidewater Water Company - For approval to sell the water facility assets serving the Riverview Plantation subdivision pursuant to Chapter 5 of Title 56 of the Code of Virginia
PUE-2004-00010	Tidewater Water Company - For approval to sell the water utility assets serving the Arbor Meadows and Nansemond Shores subdivision to the City of Suffolk pursuant to Chapter 5 of Title 56 of the Code of Virginia
PUE-2004-00011	David G. Petrus, Receiver for Aubon Water Company - For an increase in rates
PUE-2004-00012	Virginia Natural Gas, Inc. - For recovery through its gas cost recovery mechanism of charges under a Propane Sales Agreement
PUE-2004-00013	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
PUE-2004-00014	Mecklenburg Electric Cooperative - For authority to make a loan to an affiliate
PUE-2004-00015	Virginia Gas Distribution Company - For permission to abandon service in a portion of service territory
PUE-2004-00016	Atmos Energy Corporation and Atmos Energy Services, LLC - For authority to enter into a services agreement between affiliated interests
PUE-2004-00017	Columbia Gas of Virginia, Inc. - For an extension of time in which to file proposed transportation tariffs
PUE-2004-00018	Aqua America, Inc. and Allete Water Services, Inc. - For approval to transfer stock
PUE-2004-00019	Virginia-American Water Company - For authority to issue debt securities to an affiliate
PUE-2004-00020	Staff of the State Corporation Commission - For Declaratory Judgment Interpreting Various Sections of the Utility Facilities Act of Title 56 of the Code of Virginia, and for other Relief
PUE-2004-00021	Central Virginia Electric Cooperative - For authority to issue long-term debt
PUE-2004-00022	Washington Gas Light Company - For approval of certain affiliate transactions pursuant to Chapter 4 of Title 56 of the Code of Virginia
PUE-2004-00023	Noah's Landing Public Service Corporation - For a certificate pursuant to VA Code §§ 56-265.2 and 56-265.3
PUE-2004-00024	BARC Electric Cooperative - For authority to issue long-term debt
PUE-2004-00025	Shenandoah Valley Electric Cooperative - For authority to sell public service property
PUE-2004-00029	Founders Bridge Utility Company, Inc. - For authority to acquire utility assets and for a certificate

PUE-2004-00030 Northern Neck Electric Cooperative - For authority to incur long-term debt

PUE-2004-00031 The Potomac Edison Company d/b/a Allegheny Power - 2003 Annual Informational Filing

PUE-2004-00032 The Potomac Edison Company d/b/a Allegheny Power - For authority to sell public service corporation property

PUE-2004-00033 B&J Enterprises, L.C. - For a change in rates, rules, and regulations

PUE-2004-00034 Delmarva Power & Light Company - Annual Informational Filing (AIF) for 2003

PUE-2004-00035 Dale Service Corporation - For an expedited increase in rates

PUE-2004-00036 Atmos Energy Corporation - For approval of an amendment to purchased gas adjustment rider

PUE-2004-00038 Bluefield Valley Water Works, Inc. - For amendment to certificate to provide water service

PUE-2004-00039 Shenandoah Valley Electric Cooperative - For authority to issue long-term debt

PUE-2004-00040 Lake Monticello Service Company - Annual Informational Filing for Calendar Year 2003

PUE-2004-00041 Virginia Electric and Power Co. - 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. - Trabue-Winterpock 230 kV Transmission Line

PUE-2004-00042 Columbia Gas of Virginia, Inc. - For an Annual Informational Filing for 2003

PUE-2004-00044 Independent Energy Consultants, Inc. - For a permanent license to conduct business as an electric and natural gas aggregator

PUE-2004-00045 Columbia Gas of Virginia, Inc. - For changes of names on certificates

PUE-2004-00046 Kentucky Utilities Company t/a Old Dominion Power Company - Annual Information Filing for 2003

PUE-2004-00047 Virginia Electric and Power Company - For authority to establish a credit facility

PUE-2004-00048 Dominion Virginia Power - Annual Informational Filing for calendar year 2003

PUE-2004-00049 Appalachian Power Company d/b/a American Electric Power - 2003 Annual Information Filing

PUE-2004-00050 United States Gypsum Company, Petitioner v. Virginia Natural Gas, Inc. and Sequent Energy Management f/k/a AGL Energy Services, Inc. - For alleged misconduct

PUE-2004-00051 Virginia Electric and Power Company - For expedited approval of authority to assume debt securities under Chapter 3 of Title 56 of the Code of Virginia

PUE-2004-00052 Virginia Electric and Power Co., UAE Mecklenburg Cogeneration, L.P. and United American Energy Corp. - For approval of disposition and acquisition of stock, for certificate to operate generating facilities, for expedited consideration and other relief as necessary

PUE-2004-00054 A & N Electric Cooperative and Delmarva Power and Light Company d/b/a Conectiv Power Delivery - For revision of certificates under the Utility Facilities Act

PUE-2004-00055 Rappahannock Electric Cooperative and Virginia Electric & Power Company d/b/a Dominion Virginia Power - For revision of certificates under the Utility Facilities Act

PUE-2004-00056 Northern Virginia Electric Cooperative and Virginia Electric & Power Company d/b/a Dominion Virginia Power - For revision of certificates under the Utility Facilities Act

PUE-2004-00057 Northern Neck Electric Cooperative and Virginia Electric & Power Company d/b/a Dominion Virginia Power - For revision of certificates under the Utility Facilities Act

PUE-2004-00058 Northern Virginia Electric Cooperative - For authority to issue long-term debt

PUE-2004-00059 Atmos Energy Corporation - For authority to issue common equity and long-term debt

PUE-2004-00060 In the matter of amending regulations governing net energy metering

PUE-2004-00061 Virginia Pilot Association - For a declaratory judgement that the Virginia Pilot Association is correctly calculating pilotage fees for certain vessels operated by Carnival Corporation

PUE-2004-00062 Virginia Electric and Power Company - To construct 500 kV Bristers-Morrisville transmission line and 500 kV Bristers Switching Station in Fauquier County

PUE-2004-00063 Columbia Gas of Virginia, Inc. - For partial waiver of tariff

PUE-2004-00064 Buckeye Energy Brokers, Inc. - For a permanent license to conduct business as an electric and natural gas aggregator

PUE-2004-00065 Delmarva Power and Light Company and Conectiv Delmarva Generation, Inc. - For approval of a transaction pursuant to Chapter 4 of Title 56 of the Code of Virginia

PUE-2004-00067 Virginia Gas Distribution Co., Virginia Gas Pipeline Co., and Virginia Gas Storage Co. - For approval of application for permission to transfer regulated gas for operational purposes between affiliates pursuant to Chapter 4 of Title 56 of the Code of Virginia

PUE-2004-00068 In the matter of establishing rules and regulations pursuant to the Virginia Electric Utility Restructuring Act for exemptions to minimum stay requirements and wires charges

PUE-2004-00069 C&P Isle of Wight Water Co. - For approval to transfer water supply facilities to the City of Suffolk pursuant to Chapter 5 of Title 56 of the Code of Virginia

PUE-2004-00070 Riverview Plantation Homeowner's Association, Inc. - For approval to transfer the water facility assets serving the Riverview Plantation subdivision pursuant to Chapter 5 of Title 56 of the Code of Virginia

PUE-2004-00071 Appalachian Power Company - For consent to and approval of a Modification of an existing Inter-Company Agreement with Ohio Valley Electric Corporation and other affiliates pursuant to Title 56, Chapter 4, of the Code of Virginia

PUE-2004-00072 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

PUE-2004-00073 Columbia Gas of Virginia, Inc. - For approval of firm transportation service, firm storage service, storage service transportation, and liquefied natural gas storage service agreements pursuant to Chapter 4 of Title 56 of the Code of Virginia

PUE-2004-00074 Virginia-American Water Company and American Water Capital Corp. - For continuing authority to participate in a financial services agreement with an affiliate

PUE-2004-00075 Atmos Energy Corporation - For authority to incur short-term debt

PUE-2004-00076 Captain's Cove Utility Co., Inc., First Charter Land Associates and Robert E. Warfield, Harold P. Glick and Roger A. Young - For approval to acquire the capital stock of Captain's Cove Utility Co., Inc., pursuant to Chapter 5 of Title 56 of the Code of Virginia

PUE-2004-00079 Virginia-American Water Company, United Water Virginia, Inc. and American Water Resources, Inc. - For authority to enter into an Agreement for Support Services pursuant to Chapter 4 of Title 56 of the Code of Virginia

PUE-2004-00080 Adelphia Communications Corporation and FrontierVision Operating Partners, L.P. - For application of § 56-466.1, 56-247 and 56-6 of the Code of Virginia to the pole attachment rates of Northern Neck Electric Cooperative

PUE-2004-00081 Valley Ridge Water Company - For approval of a transfer of assets

PUE-2004-00082 Utility Resource Solutions, L.P. - For a license to conduct business as a competitive service provider for natural gas

PUE-2004-00083 Virginia Electric and Power Company - For approval of special rates and terms and conditions for electric service pursuant to VA Code § 56-235.2 and for expedited consideration of the application

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- PUE-2004-00084 David G. Petrus, Bryon Lambert and Highland Lake Waterworks, Inc. - For approval of transfer of control pursuant to Chapter 5 of Title 56 of the Code of Virginia
- PUE-2004-00085 Washington Gas Light Company - For amendments to Rate Schedule No. 9, Firm Delivery Gas Supplier Agreement of its Gas Tariff
- PUE-2004-00086 Washington Gas Light Company - For authority to enter into interest rate swap agreements
- PUE-2004-00087 Carolina Investments Inc. d/b/a Advantage Energy - For a permanent license to conduct business as an electric and natural gas aggregator
- PUE-2004-00088 Appalachian Power Company - For authority to participate in an inter-company money pool
- PUE-2004-00089 Virginia Electric & Power Company - For approval of Acquisition of Generating Facility Assets under Chapter 5 of Title 56 of Code of Virginia and for a Certificate to operate Generating Facilities pursuant to VA Code § 56-580.D or 56-265.2.A
- PUE-2004-00090 Virginia Electric & Power Company - For approval of acquisition of partnership interests under Chapter 5 of Title 56 of Code of Virginia, for certificate to operate generating facilities, pursuant to 56-580.D or 56-265.2A and for expedited consideration
- PUE-2004-00091 Virginia Electric & Power Company - For Expedited Approval of Authority to Assume Debt Securities Under Chapter 3 of Title 56 of the Code of Virginia
- PUE-2004-00092 Atmos Energy Corporation - For authority to issue long-term debt and common stock
- PUE-2004-00093 Dale Service Corp. and Interstate Management, Inc. for and on behalf of the Trustees of the Irene V. Hylton Charitable Lead Trust - For approval of a lease agreement pursuant to Chapter 4 of Title 56 of the Code of Virginia
- PUE-2004-00094 Columbia Gas of Virginia, Inc. - For approval of a Schedule ITS-2 Service Agreement pursuant to Chapter 4 of Title 56 of the Code of Virginia
- PUE-2004-00095 Appalachian Power Co.-For consent to and approval of an Extension and Modification of an existing Inter-Company Power Agreement, Modification No. 1 to an Extension and Modification of an existing Inter-Company Power Agreement, and Termination of First Supplementary Transmission Agreement with Ohio Valley Electric Corporation and other affiliates pursuant to Title 56, Chapter 4 of the Code of Virginia
- PUE-2004-00096 Appalachian Power Company and Bassett Furniture Industries, Inc. - For authority to acquire and dispose of utility assets pursuant to the Utility Transfers Act and for the issuance of a certificate pursuant to VA Code §§ 56-265.2 and 56-265.3
- PUE-2004-00097 AGL Resources, Inc. and NUI Corporation - For approval of a change in control through merger under Chapter 5 of Title 56 of the Code of Virginia, request for expedited consideration and for such other relief as may be necessary under the law
- PUE-2004-00098 B&J Enterprises, L.C. - Alleged violation of VA Code §§ 12.1-13, et al.
- PUE-2004-00099 Kentucky Utilities Company - For authority to issue long-term debt
- PUE-2004-00100 Aqua Virginia, Inc. f/k/a Lake Monticello Service Company - For cancellation and reissuance of certificates to reflect corporate name change
- PUE-2004-00101 Commonwealth Energy Corporation d/b/a electric America - For a license to conduct business as an electric competitive service provider
- PUE-2004-00102 Virginia Electric & Power Company - For modification of Fuel Monitoring Procedures pursuant to VA Code §§ 56-249.3 and 56-249.4
- PUE-2004-00103 Toll Road Investors Partnership II, L.P. - Dulles Greenway Schedule of Toll Rates
- PUE-2004-00104 Toll Road Investors Partnership II, L.P. - Dulles Greenway Schedule of Toll Rates: Time-of-Day or Congestion Rates
- PUE-2004-00105 American PowerNet Management, LP - For licenses to conduct business as a competitive service provider and aggregator for electricity
- PUE-2004-00106 Rappahannock Electric Cooperative - For authority to issue long-term debt
- PUE-2004-00107 Columbia Gas of Virginia, Inc. - For approval of an Electronic Data Interchange Trading Partner Agreement pursuant to Chapter 4 of Title 56 of the Code of Virginia
- PUE-2004-00108 Virginia Gas Pipeline Company, Virginia Gas Distribution Company, Virginia Gas Storage Company, and AGL Services Company - For approval of a services agreement under Chapter 4 of Title 56 of the Code of Virginia
- PUE-2004-00110 Virginia Gas Pipeline Company, Virginia Gas Distribution Company, Virginia Gas Storage Company and AGL Resources, Inc. - For authorization to issue short-term debt to affiliates under Chapters 3 and 4 of Title 56 of the Code of Virginia
- PUE-2004-00111 Investigation of gas supply asset assignment and agency agreement between Virginia Natural Gas, Inc., and Sequent Energy Management, L.P., f/k/a AGL Energy Services, Inc.
- PUE-2004-00112 Roanoke Gas Company - For an expedited increase in its rates
- PUE-2004-00113 Delmarva Power & Light Company - For exemption from Rules Governing the Use of Bidding Programs to Purchase Electricity from Other Power Suppliers and Part of Chapter 4 of Title 56
- PUE-2004-00115 Paramount Energy, LC - To furnish natural gas service pursuant to VA Code § 56-265.4:5
- PUE-2004-00116 Virginia Electric and Power Company - For authority to issue long-term debt
- PUE-2004-00117 Northern Virginia Building Industry Association v. Northern Virginia Electric Cooperative - For an Order enjoining NOVEC from implementation of policy requiring builders and developers to install electrical facilities in underground conduit system
- PUE-2004-00118 The Potomac Edison Company d/b/a Allegheny Power - For authority to issue and sell up to \$440 million of debt securities and/or credit facilities
- PUE-2004-00119 WPS Energy Services, Inc. - For licenses to conduct business as a competitive service provider and aggregator for electricity
- PUE-2004-00120 Northern Virginia Electric Cooperative and NOVEC Solutions, Inc. - For approval of affiliate transactions
- PUE-2004-00121 Classic Concept Builders, Inc. and Stanley Martin Companies, Inc. v. Dale Service Corporation - For an order compelling Dale Service Corp. to condemn an easement
- PUE-2004-00122 Appalachian Power Company - For authority to receive cash capital contributions from an affiliate
- PUE-2004-00123 Appalachian Power Company - For authority to issue long-term debt
- PUE-2004-00124 Delmarva Power & Light Company - For an increase in its electric rates pursuant to VA Code §§ 56-249.6 and 56-582
- PUE-2004-00125 Delmarva Power & Light Company and Conectiv Energy Supply, Inc. - For approval of transactions under Chapter 4 of Title 56 of the Code of Virginia
- PUE-2004-00126 Southwestern Virginia Gas Company - 2004 Annual Informational Filing
- PUE-2004-00127 Pivotal Propane of Virginia, Inc. - Rule to Cause
- PUE-2004-00128 Appalachian Power Company - To revise its fuel factor pursuant to VA Code § 56-249.6
- PUE-2004-00129 Atmos Energy Corporation and Atmos Energy Holdings, Inc. - For authority to incur short-term debt and to lend short-term debt to an affiliate
- PUE-2004-00130 Virginia Electric and Power Company - For authority to issue common stock
- PUE-2004-00132 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

PUE-2004-00133 Virginia Gas Pipeline Company and Virginia Gas Storage Company - For approval pursuant to Chapter 4 of Title 56 of the Code of Virginia  
 PUE-2004-00134 Virginia Electric & Power Co.-For authority to assume debt securities, for waiver of or, in alternative, determination that Commission's Bidding Rules do not apply to proposed transaction, for expedited consideration and for such other relief as may be necessary  
 PUE-2004-00139 Virginia Electric & Power Company - For approval and certification of Churchland-Sewells Point 230 kV Transmission Line

**SEC: DIVISION OF SECURITIES AND RETAIL FRANCHISING**

SEC-2003-00008 Premier Capital Management, LLC - Alleged violation of VA Code §§ 13.1-504 A, et al.  
 SEC-2003-00029 Thomas Lee Kinnamon Christianson - Alleged violation of VA Code §§ 13.1-507, et al.  
 SEC-2003-00038 Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney, Inc. - Alleged violation of VA Code §§ 13.1-502, et al.  
 SEC-2003-00039 William Franklin Dodge, II - Alleged violation of VA Code §§ 13.1-502, et al.  
 SEC-2003-00040 Jonathan Roberts Financial Group, Inc. and John R. Carlson - Alleged violation of VA Code §§ 13.1-507, et al.  
 SEC-2003-00041 Merrill Lynch, Pierce, Fenner & Smith, Incorporated - Alleged violation of 5-20-280 A 3  
 SEC-2003-00064 Virzona, Inc. f/k/a - Alleged violation of VA Code §§ 13.1-501(1), 13.1-502(2) and 13.1-502(3)  
 SEC-2003-00065 Mathieu Reginald Reyna - Alleged violation of VA Code §§ 13.1-504 A, et al.  
 SEC-2003-00066 Thomas Joseph Spellman - Alleged violation of VA Code § 13.1-507  
 SEC-2003-00067 David T. Shannon, Jr. d/b/a Shinette, LLC - Alleged violation of VA Code §§ 13.1-501, et al.  
 SEC-2003-00070 Farmers Livestock Market, Inc. - Alleged violation of VA Code §§ 13.1-504 A and 13.1-507  
 SEC-2003-00071 Buck Simmons a/k/a Theado Edward Simmons, Jr. - Alleged violation of VA Code §§ 13.1-504 A, et al.  
 SEC-2003-00072 Robert Snyder - Alleged violation of VA Code §§ 13.1-501 et seq.  
 SEC-2003-00076 Chesapeake Investment Services, Inc., Chesapeake Investment Advisors, Inc. and Yu-Dee Chang – Alleged violation of VA Code §§ 13.1-503 B, et al.  
 SEC-2003-00077 Dry Cleaning To-Your-Door, Franchise Corporation and Margo Sloan - Alleged violation of VA Code §§ 13.1-560, et al.  
 SEC-2003-00078 Margo Sloan - Alleged violation of VA Code § 13.1-560  
 SEC-2003-00080 Mutual Benefits Corporation - Alleged violation of VA Code §§ 13.1-504 B, et al.  
 SEC-2004-00001 Griswold Special Care of Virginia, Inc. - Alleged violation of VA Code § 13.1-563 (b)  
 SEC-2004-00002 Special Care, Inc. d/b/a Griswold Special Care - Alleged violation of VA Code § 13.1-563 (b)  
 SEC-2004-00005 Kenneth E. Brown - For order imposing special supervision  
 SEC-2004-00009 Mr. Smoothie Franchises, Inc. - Alleged violation of VA Code § 13.1-560  
 SEC-2004-00010 National Covenant Properties ("NCP") - For an Order of Exemption under VA Code § 13.1-514.1 B  
 SEC-2004-00011 Barbara A. Goetting - Alleged violation of VA Code §§ 13.1-502(1), 13.1-502(2) and 13.1-502(3)  
 SEC-2004-00012 Stephen Paul Goetting - Alleged violation of VA Code §§ 13.1-501(1), 13.1-502(2) and 13.1-502(3)  
 SEC-2004-00013 Nite Time Decor, Inc. - Alleged violation of VA Code § 13.1-560  
 SEC-2004-00014 Catholic United Investment Trust - For an Order of Exemption pursuant to VA Code § 13.1-514.1 B  
 SEC-2004-00021 Centreville Baptist Church - For an Order of Exemption pursuant to VA Code § 13.1-514.1 B  
 SEC-2004-00022 Mission Investment Fund of the Evangelical Lutheran in America - For Order of Exemption pursuant to VA Code § 13.1-514.1 B  
 SEC-2004-00031 Cumberland Management Group, Inc. - Alleged violation of VA Code §§ 13.1-502 (2), et al.  
 SEC-2004-00032 Wolf Creek Exploration, Ltd. and George T. McDonald, II - Alleged violation of VA Code §§ 13.1-504 A, et al.  
 SEC-2004-00033 John A. Anderfuren d/b/a Custom Home Planning - Alleged violation of VA Code § 13.1-504 A  
 SEC-2004-00034 Virginia Poultry Growers Cooperative, Inc. - Alleged violation of VA Code § 13.1-504 B  
 SEC-2004-00035 Michael Sindram v. Division of Securities and Retail Franchising, David B. Robinson, and Roger Sebrill - Verified Complaint and Request for Injunctive Relief  
 SEC-2004-00036 William B. Cain - Alleged violation of VA Code §§ 13.1-507, et al.  
 SEC-2004-00037 Robert Heath Fox d/b/a Fox Development Group, Inc. - Alleged violation of VA Code § 13.1-518

**URS: DIVISION OF UTILITY AND RAILROAD SAFETY**

URS-2004-00001 Comcast of Virginia, Inc. - Alleged violation of VA Code §§ 56-265.19 A, et al.  
 URS-2004-00002 Berry Paving and Concrete Construction Company, Inc. - Alleged violation of VA Code § 56-265.17  
 URS-2004-00003 Bishop's Grading & Excavating, Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00004 Blair Construction, Inc. - Alleged violation of VA Code §. 56-265.17 A  
 URS-2004-00005 Bookman Construction Co. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00006 Contracting Enterprises, Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00007 Couch Construction Company, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00008 Curtis W. Key Plumbing Contractors, Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00009 Custom Contracting Services, Ltd. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00010 D. L. B., Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00012 Eastern Technical Communications, Inc. - Alleged violation of VA Code § 56-265.17 C  
 URS-2004-00014 Virginia Electric and Power Company - Alleged violation of VA Code §§ 56-265.17 B and C  
 URS-2004-00015 Sagres Construction Corporation - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00016 Promark Utility Locators, Inc. - Alleged violation of VA Code § 56-265.19 A  
 URS-2004-00017 New River Lawn Care, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00018 Columbia Gas of Virginia, Inc. - Alleged violation of VA Code § 56-265.19 A  
 URS-2004-00019 Four Dogs Excavating, L.L.C. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00020 Hilton Cable Enterprises, Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00021 Atmos Energy Corporation - Alleged violation of VA Code § 56-265.19 A  
 URS-2004-00022 Central Locating Service, LTD - Alleged violation of VA Code §§ 56-265.19 A and D, et al.  
 URS-2004-00023 Utiliquest, LLC - Alleged violation of VA Code §§ 56-265.19 A, et al.  
 URS-2004-00024 J.F.C., Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00025 K & D Electric - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00026 Job Care, Inc. - Alleged violation of VA Code § 56-265.17 A

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URS-2004-00027 Mark Pauley, Individually and t/a M. L. P. Concepts - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00028 Lakeside Concrete, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00030 Lanco Paving, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00031 RDM Construction Corp. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00032 Rountree Construction Co., Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00033 Leo Construction Company - Alleged violation of VA Code § 56-265.18  
 URS-2004-00034 Tidewater Mechanical Contractors, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00036 Marvin Builders, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00037 Watts Contractors, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00038 Weaver Works, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00039 Nationwide Utility Services, LLC - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00040 Northern Pipeline Construction, Co. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00041 Omega Construction Company - Alleged violation of VA Code § 56-265.24 D  
 URS-2004-00042 Post Time Sign Services, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00043 Rene Alvarado-Mendoza, Trustee in Liquidation for R & G Contracting, Inc. and R & Contracting, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00046 R. G. Griffith, Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00047 Atlas Plumbing, LLC F/K/A Atlas Plumbing & Mechanical, Inc. - Alleged violation of VA Code § 56-265.17 B  
 URS-2004-00048 S and N Communications, Inc. - Alleged violation of VA Code § 56-265.17 D  
 URS-2004-00049 B & S Site Development, LLC - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00050 Seneca Excavation & Landscaping, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00052 Tessa Construction & Tech Company, LLC - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00053 The Davey Tree Expert Company - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00054 CJ's Expert Tree & Lawn Service - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00055 CMC Concrete Construction, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00056 Watermark Enterprises, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00057 Commercial Services Group, Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00058 WCS Enterprises Inc. - Alleged violation of VA Code § 56-265.24 D  
 URS-2004-00059 Corporate Landscape Management of North Carolina, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00060 William B. Hopke Company, Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00061 D J S Excavating Co., Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00063 David R. Dill Concrete, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00064 Winchester Plumbing and Heating, Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00065 Dawson Company, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00066 Washington Gas Light Company - Alleged violation of VA Code § 56-265.19 A  
 URS-2004-00067 Virginia Natural Gas, Inc. - Alleged violation of VA Code § 56-265.19 A  
 URS-2004-00068 Dittmar Company - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00069 Dominion Consulting & Management, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00070 E. C. Pace Company, Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00071 E. E. Lyons Const. Co., Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00072 Foundation Waterproofing of Virginia, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00073 Columbia Gas of Virginia, Inc. - Alleged violation of pipeline safety act.  
 URS-2004-00074 Atmos Energy Corporation - Alleged violation of VA Code 56-5.1  
 URS-2004-00075 Verizon Virginia Inc. - Alleged violation of VA Code §§ 56-265.19 A, et al.  
 URS-2004-00076 Utiliquest, LLC - Alleged violation of VA Code §§ 56-265.19 A, et al.  
 URS-2004-00077 Bowman Dalton Construction, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00078 Breden Mechanical, Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00079 Carroll Concrete & Excavation, LC - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00080 Jack St. Clair, Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00082 LOBO Construction Company - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00083 Pike Electric, Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00084 SLM Concrete Company, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00085 Soil Tech, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00086 Southwest Construction, Incorporated - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00087 Washington Gas Light Company - Alleged violation of VA Code § 56-265.19 A  
 URS-2004-00088 A & M Concrete Corp. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00089 Basinger Brothers Backhoe Service, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00091 Bayside Concrete, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00092 Darnell Landscaping, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00093 Hawthorne Landscaping, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00094 Home Associates of Virginia, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00095 James Jarrell Construction - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00096 Landscapes Unlimited, L.L.C. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00097 Liberty Irrigation - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00099 Peninsula Septic Tank Company, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00100 Rountree Construction Co., Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00101 S and N Communications, Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00102 William Smith Concrete Services, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00103 Raines Boring and Drilling, Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00104 T. A. Sheets Mechanical General Contractor, Inc. - Alleged violation of VA Code § 56-265.17 D  
 URS-2004-00105 Promark Utility Locators, Inc. - Alleged violation of VA Code § 56-265.19 A  
 URS-2004-00106 Hampton Roads Mechanical Contractors, Inc. - Alleged violation of VA Code § 56-265.17 A



URS-2004-00107 William B. Hopke Co., Inc. - Alleged violation of VA Code § 56-265.24 A  
URS-2004-00108 Central Locating Service, Ltd. - Alleged violation of VA Code § 56-265.19 A  
URS-2004-00109 Atmos Energy Corporation - Alleged violation of VA Code § 56-265.19 A  
URS-2004-00110 Virginia Natural Gas, Inc. - Alleged violation of VA Code § 56-265.19 A  
URS-2004-00111 B & H Concrete Construction Corporation - Alleged violation of VA Code § 56-265.17 A  
URS-2004-00113 Commonwealth Paving, LLC - Alleged violation of VA Code § 56-265.17 A  
URS-2004-00114 Concrete Slab Jacking, Inc. - Alleged violation of VA Code § 56-265.24 A  
URS-2004-00115 Cuco & Sons, Inc. - Alleged violation of VA Code § 56-265.17 A  
URS-2004-00116 Eastern Technical Communications, Inc. - Alleged violation of VA Code § 56-265.24 A  
URS-2004-00118 Gulick Excavating, Incorporating - Alleged violation of VA Code § 56-265.17 A  
URS-2004-00119 Job Care, Inc. - Alleged violation of VA Code § 56-265.17 A  
URS-2004-00120 PCM Services, Inc. - Alleged violation of VA Code § 56-265.17 A  
URS-2004-00121 PR Construction and Development Company - Alleged violation of VA Code § 56-265.17 A  
URS-2004-00122 Roy's Water & Sewer Service - Alleged violation of VA Code § 56-265.17 A  
URS-2004-00123 Star City Paving - Alleged violation of VA Code § 56-265.17 A  
URS-2004-00124 Universal Energy Corporation - Alleged violation of VA Code § 56-265.17 A  
URS-2004-00126 APAC -Atlantic, Inc. - Alleged violation of VA Code § 56-265.24 A  
URS-2004-00128 B & K Construction Co. of Tidewater, Inc. - Alleged violation of VA Code § 56-265.24 A  
URS-2004-00129 Blair Construction, Inc. - Alleged violation of VA Code § 56-265.17 A  
URS-2004-00131 Calvary Electrical Construction Company - Alleged violation of VA Code § 56-265.17 A  
URS-2004-00132 Contracting & Design, Inc. - Alleged violation of VA Code § 56-265.17 A  
URS-2004-00133 Forbes Construction - Alleged violation of VA Code § 56-265.17 A  
URS-2004-00134 G. H. Sullivan Excavating - Alleged violation of VA Code § 56-265.24 A  
URS-2004-00135 Greenwood Ironworks, Inc. - Alleged violation of VA Code § 56-265.17 A  
URS-2004-00136 Howard B. Hankins, Inc. - Alleged violation of VA Code § 56-265.24 A  
URS-2004-00137 J. C. Driskill, Incorporated - Alleged violation of VA Code § 56-265.24 A  
URS-2004-00138 Marvin V. Templeton & Sons, Inc. - Alleged violation of VA Code § 56-265.17 A  
URS-2004-00139 Mid Eastern Builders, Inc. - Alleged violation of VA Code § 56-265.24 A  
URS-2004-00142 Paul Bunyan, Inc. - Alleged violation of VA Code § 56-265.17 A  
URS-2004-00144 Pool-Mart, Inc. - Alleged violation of VA Code § 56-265.17 A  
URS-2004-00145 Precon Construction Company - Alleged violation of VA Code § 56-265.24 A  
URS-2004-00146 Richard L. Crowder Construction, Inc. - Alleged violation of VA Code § 56-265.24 A  
URS-2004-00147 Rountree Construction Co., Inc. - Alleged violation of VA Code § 56-265.24 A  
URS-2004-00148 Suburban Grading & Utilities, Inc. - Alleged violation of VA Code § 56-265.24 A  
URS-2004-00149 USA Deck, Inc. - Alleged violation of VA Code § 56-265.17 B  
URS-2004-00150 Virginia Electric and Power Company - Alleged violation of VA Code § 56-265.17 B  
URS-2004-00151 Ward & Stancil, Inc. - Alleged violation of VA Code § 56-265.17 A  
URS-2004-00152 Waverton Associates, Inc. - Alleged violation of VA Code § 56-265.17 A  
URS-2004-00153 Washington Gas Light Company - Alleged violation of VA Code § 56-265.19 A  
URS-2004-00154 Rockingham Construction Co., Inc. - Alleged violation of VA Code § 56-265.24 A  
URS-2004-00155 S and N Communications, Inc. - Alleged violation of VA Code § 56-265.24 A  
URS-2004-00156 Kevcor Contracting Corp. - Alleged violation of VA Code § 56-265.24 B  
URS-2004-00157 Jeffrey Stack, Inc. t/a JSI Paving & Construction - Alleged violation of VA Code §§ 56-265.24 A and B  
URS-2004-00158 Virginia Natural Gas, Inc. - Alleged violation of VA Code § 56-265.19 A  
URS-2004-00160 Utiliquest, LLC - Alleged violation of VA Code §§ 56-265.19 A, et al.  
URS-2004-00161 Washington Gas Light Company - Alleged violation of the VA Code § 56-5.1  
URS-2004-00162 Roanoke Gas Company - Alleged violation of the Pipeline Safety Act  
URS-2004-00163 Adelphia Cable Communications - Alleged violation of VA Code § 56-265.19 A  
URS-2004-00165 King Excavating, Inc. - Alleged violation of VA Code § 56-265.17 A  
URS-2004-00166 Mid-Atlantic Cable Installation, LLC - Alleged violation of VA Code § 56-265.17 A  
URS-2004-00167 Miller's Plumbing and Heating Service - Alleged violation of VA Code § 56-265.17 A  
URS-2004-00168 Petroleum Recovery and Remediation Management, Inc. - Alleged violation of VA Code § 56-265.17 A  
URS-2004-00169 S. W. Rodgers Co., Inc. - Alleged violation of VA Code § 56-265.24 A  
URS-2004-00170 Turner Construction Co. - Alleged violation of VA Code § 56-265.17 A  
URS-2004-00172 Atkins Excavating, Inc. - Alleged violation of VA Code § 56-265.24 A  
URS-2004-00175 Branscome, Inc. - Alleged violation of VA Code § 56-265.24 A  
URS-2004-00177 Counts & Dobyns, Inc. - Alleged violation of VA Code § 56-265.24 A  
URS-2004-00178 D N D Backhoe Service, Inc. - Alleged violation of VA Code § 56-265.17 A  
URS-2004-00179 F. L. Showalter, Incorporated - Alleged violation of VA Code § 56-265.24 B  
URS-2004-00180 Gary Staples Plumbing, Inc. - Alleged violation of VA Code § 56-265.17 A  
URS-2004-00183 Mechanicsville Disposal & Septic - Alleged violation of VA Code § 56-265.17 A  
URS-2004-00184 Monroe Dudley - Alleged violation of VA Code § 56-265.17 A  
URS-2004-00185 OCS of VA, Inc. - Alleged violation of VA Code § 56-265.24 A  
URS-2004-00186 Osborne Irrigation, Inc. - Alleged violation of VA Code § 56-265.24 A  
URS-2004-00188 Robert L. Dowdy, Incorporated - Alleged violation of VA Code § 56-265.17 A  
URS-2004-00191 Tidal Construction Inc. - Alleged violation of VA Code § 56-265.24 A  
URS-2004-00192 Virginia Natural Gas, Inc. - Alleged violation of VA Code § 56-265.19 A  
URS-2004-00193 W. H. McCutcheon Plumbing and Contracting, Inc. - Alleged violation of VA Code § 56-265.24 A  
URS-2004-00194 William Smith Concrete Services, Inc. - Alleged violation of VA Code § 56-265.17 A  
URS-2004-00195 William A. Hazel, Inc. - Alleged violation of VA Code §§ 56-265.17 A, et al.  
URS-2004-00196 Virginia Electric and Power Company - Alleged violation of VA Code § 56-265.24 A  
URS-2004-00197 Atmos Energy Corporation - Alleged violation of VA Code § 56-265.19 A

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URS-2004-00198 Columbia Gas of Virginia, Inc. - Alleged violation of VA Code § 56-265.19 A  
 URS-2004-00199 Central Locating Service, LTD. - Alleged violation of VA Code § 56-265.19 A  
 URS-2004-00200 Rountree Construction Co., Inc. - Alleged violation of VA Code §§ 56-265.24 A, et al.  
 URS-2004-00201 Washington Gas Light Company - Alleged violation of VA Code § 56-265.19 A  
 URS-2004-00202 Utiliquest, LLC - Alleged violation of VA Code §§ 56-265.19 A, et al.  
 URS-2004-00204 Avon Corporation - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00205 D. A. Foster Company - Alleged violation of VA Code § 56-265.17 D  
 URS-2004-00206 Donovan Trucking & Excavating - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00207 Excalibur Construction Corporation - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00208 Goldin & Stafford, LLC - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00209 Green Village Concrete, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00210 HVAC, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00211 Leo Construction Company - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00213 Perry Engineering Company, Incorporated - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00214 Quality Tree Care, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00215 Hawk, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00216 The Brickman Group, LTD. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00217 Twin Shores Contracting Co., Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00218 Village Landscapes & Irrigation, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00219 William A. Hazel, Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00221 APAC-Atlantic, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00223 Brandonbilt Foundations Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00224 Clean Masters, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00225 Commonwealth Excavating, Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00228 Guy C. Eavers Excavating Corp. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00230 Mid Eastern Builders, Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00231 Mid-Atlantic Pipeliners, Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00234 Southern Construction Company, Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00235 The Fishel Company - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00236 Wilton Construction, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00237 Roanoke Gas Company - Alleged violation of VA Code § 56-265.19 A  
 URS-2004-00238 Atmos Energy Corporation - Alleged violation of VA Code § 56-265.19 A  
 URS-2004-00239 JSI Paving & Construction - Alleged violation of VA Code § 56-265.17 B  
 URS-2004-00240 Central Locating Service, Ltd. - Alleged violation of VA Code § 56-265.19 A  
 URS-2004-00241 Virginia Electric & Power Company - Alleged violation of VA Code §§ 56-265.17 A, et al.  
 URS-2004-00242 Columbia Gas of Virginia, Inc. - Alleged violation of VA Code § 56-265.19 A  
 URS-2004-00243 Utiliquest, LLC - Alleged violation of VA Code §§ 56-265.19 A, et al.  
 URS-2004-00244 Art-Ray Corporation - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00246 D & M Concrete Construction, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00252 Promark Utility Locators, Inc. - Alleged violation of VA Code §§ 56-265.19 A and D  
 URS-2004-00253 R. J. Smith Construction Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00254 Rappahannock Construction Company, Inc. - Alleged violation of VA Code § 56-265.18  
 URS-2004-00257 Tidewater Utility Construction, Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00258 W. A. Fisher, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00259 W. M. Jordan Company, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00260 Watson Electrical Construction Co. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00261 Western Branch Concrete, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00262 Leo Construction Company - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00263 Atmos Energy Corporation - Alleged violation of VA Code § 56-265.19 A  
 URS-2004-00264 Virginia Natural Gas, Inc. - Alleged violation of VA Code § 56-265.19 A  
 URS-2004-00265 Branscome, Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00266 The Fishel Company - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00267 Columbia Gas of Virginia, Inc. - Alleged violation of VA Code § 56-265.19 A  
 URS-2004-00268 Washington Gas Light Company - Alleged violation of VA Code § 56-265.19 A  
 URS-2004-00269 Breedren Mechanical, Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00270 D. A. Foster Company - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00272 King Excavating, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00273 Lane Homes of Virginia, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00275 Northern Pipeline Construction Co. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00276 Rockingham Construction Co., Inc. - Alleged violation of VA Code § 56-265.17 D  
 URS-2004-00277 Verizon Virginia Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00278 Weaver Construction Co. Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00279 Utiliquest, LLC - Alleged violation of VA Code §§ 56-265.19 A, et al.  
 URS-2004-00280 Central Locating Service, Ltd. - Alleged violation of VA Code §§ 56-265.19 A, et al.  
 URS-2004-00283 C. W. Wright Construction Co., Incorporated - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00284 D. A. Foster Company - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00285 D.J.S. Excavating Co., Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00286 Fixture Specialists, Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00287 Hamilton & Sons Cement Contractors - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00288 John J. Kirlin, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00289 Joseph Kent Excavating, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00293 R. B. Hinkle Construction, Inc. - Alleged violation of VA Code § 56-265.24 A

URS-2004-00294 Rockingham Construction Co., Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00295 Stonewall Concrete Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00296 Triple R Construction Co., Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00297 Winchester Plumbing and Heating, Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00298 E & P Electrical Contracting Company, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00299 Foster Fence Company - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00300 McDaniel Concrete Contractor - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00302 James H. Joyner Landscaping - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00305 LHM Services - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00306 Logan Electric Service, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00307 Mallory Electric Co. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00308 Mid-Atlantic Pipeliners, Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00309 Owens Corning Basement Finishing System - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00310 Suburban Grading & Utilities, Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00311 The Fishel Company - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00312 Vico Construction Corporation - Alleged violation of VA Code § 56-265.24 B  
 URS-2004-00313 Virginia Electric & Power Company - Alleged violation of VA Code § 56-265.24 B  
 URS-2004-00314 Virginia Natural Gas, Inc. - Alleged violation of VA Code § 56-265.19 A  
 URS-2004-00317 Comcast Cablevision of Prince William County - Alleged violation of VA Code § 56-265.19 A  
 URS-2004-00318 A. E. Harold, Jr. Hauling - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00319 A. R. Silva Services - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00320 APAC-Atlantic, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00321 Asphalt Roads & Materials Co., Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00323 Blakemore Construction Corporation - Alleged violation of VA Code § 56-265.17 D  
 URS-2004-00324 Brown Building Corporation - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00325 C & A Associates Incorporated - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00326 C & D Pools, Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00327 Columbia Gas of Virginia, Inc. - Alleged violation of VA Code § 56-265.19 A  
 URS-2004-00328 Utiliquist, LLC - Alleged violation of VA Code § 56-265.19 A  
 URS-2004-00333 Atlantic Clearing & Grading Co. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00335 Basic Construction Company, L.L.C. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00336 Blue Ridge Concrete Company, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00337 Campbell's Septic Tank Cleaning, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00338 Central Locating Service, Ltd. - Alleged violation of VA Code § 56-265.19 A  
 URS-2004-00339 H. E. Dietz, Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00340 Richardson - Wayland Electrical Corporation - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00341 Virginia Natural Gas, Inc. - Alleged violation of VA Code § 56-265.19 A  
 URS-2004-00342 G & G Service & Contracting, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00343 Hampton Roads Mechanical Contractors, Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00345 A & W Contracting Corporation - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00346 Almo Construction, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00347 White Oak Nurseries, Inc. f/k/a American Home Landscape, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00348 Atmos Energy Corporation - Alleged violation of VA Code § 56-265.19 A  
 URS-2004-00349 Blue Ridge Nursery & Landscaping, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00350 Carolina Carports, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00351 Independent Consultants & Engineers, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00352 Joe Bandy and Son, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00353 Leo Construction Company - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00354 Orius Telecommunication Services, Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00355 Patriot Development Corporation - Alleged violation of VA Code § 56-265.17 D  
 URS-2004-00356 Plummer Bros. Construction Co. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00357 Promark Utility Locators, Inc. - Alleged violation of VA Code § 56-265.19 A  
 URS-2004-00358 R. B. Hinkle Construction, Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00359 Royal Concrete, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00360 S&N Communications, Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00361 William A. Hazel, Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00362 Washington Gas Light Company - Alleged violation of VA Code §§ 56-265.19 A, et al.  
 URS-2004-00363 Four Points Excavating, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00364 Columbia Gas of Virginia, Inc. - Alleged violation of VA Code § 56-265.19 A  
 URS-2004-00366 Sunny Acres Landscaping, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00368 Basic Construction Company, L.L.C. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00369 Beacon Electric - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00370 Bohannon Electrical, Heating & Air Condition Services, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00371 Cascade Contracting, Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00372 Dvorak Communication, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00373 Fastlane Construction, Inc. - Alleged violation of VA Code § 56-265.17 A  
 URS-2004-00374 J. H. Martin & Sons Contractors, Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00375 Leo Construction Company - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00376 Mid Eastern Builders, Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00377 Richard L. Crowder Construction, Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00378 Tidewater Utility Construction, Inc. - Alleged violation of VA Code § 56-265.24 A  
 URS-2004-00380 Hampton Roads Mechanical Contractors, Inc. - Alleged violation of VA Code § 56-265.17 A

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URS-2004-00383 Superior Paving Corporation - Alleged violation of VA Code § 56-265.17 A  
URS-2004-00385 Champion Fence - Alleged violation of VA Code § 56-265.24 A  
URS-2004-00386 Columbia Gas of Virginia, Inc. - Alleged violation of VA Code § 56-265.19 A  
URS-2004-00388 Atlas Plumbing, LLC - Alleged violation of VA Code § 56-265.24 A  
URS-2004-00389 D. A. Foster Company - Alleged violation of VA Code § 56-265.24 A  
URS-2004-00390 Washington Gas Light Company - Alleged violation of VA Code § 56-265.19 A  
URS-2004-00391 Virginia Natural Gas, Inc. - Alleged violation of VA Code § 56-265.19 A  
URS-2004-00397 Atmos Energy Corporation - Alleged violation of VA Code § 56-265.19 A  
URS-2004-00403 Deck America, Inc. - Alleged violation of VA Code § 56-265.17 B  
URS-2004-00405 Donovan Trucking & Excavating - Alleged violation of VA Code § 56-265.24 A  
URS-2004-00406 Douglas Boger Construction Company, Inc. - Alleged violation of VA Code § 56-265.24 A  
URS-2004-00408 Hall Associates - Alleged violation of VA Code § 56-265.17 A  
URS-2004-00411 Landmark Builders of Dublin, Inc. - Alleged violation of VA Code § 56-265.17 A  
URS-2004-00415 Northern Pipeline Construction Co. - Alleged violation of VA Code § 56-265.24 A  
URS-2004-00420 S&N Communications, Inc. - Alleged violation of VA Code § 56-265.17 B  
URS-2004-00422 Star Concrete Foundations, Inc. - Alleged violation of VA Code § 56-265.17 A  
URS-2004-00424 Washington Gas Light Company - Alleged violation of VA Code § 56-265.19 A  
URS-2004-00426 Jamestown Contracting, L.L.C. - Alleged violation of VA Code § 56-265.17 A  
URS-2004-00428 Marvin V. Templeton & Sons, Inc. - Alleged violation of VA Code § 56-265.17 A  
URS-2004-00429 Piedmont Contracting, L.C. - Alleged violation of VA Code § 56-265.24 B  
URS-2004-00433 William A. Hazel, Inc. - Alleged violation of VA Code § 56-265.24 B  
URS-2004-00434 Virginia Electric and Power Company - Alleged violation of VA Code § 56-265.19 A  
URS-2004-00439 H. E. Dietz, Inc. - Alleged violation of VA Code §§ 56-265.17 A, et al.  
URS-2004-00441 Columbia Gas of Virginia, Inc. - Alleged violation of VA Code § 56-265.19 A  
URS-2004-00442 Central Locating Service, Ltd. - Alleged violation of VA Code §§ 56-265.19 A, et al.