



CHRISTIAN & BARTON, LLP
ATTORNEYS AT LAW

February 19, 2011

BY HAND & E-MAIL

The Honorable Thomas K. Norment, Jr. (district03@senate.virginia.gov)
The Honorable Robert Tata (DelBTata@house.virginia.gov)
The Honorable John C. Watkins (district10@senate.virginia.gov)
The Honorable Timothy D. Hugo (DelTHugo@house.virginia.gov)
The Honorable Richard L. Saslaw (district35@senate.virginia.gov)
The Honorable William R. Janis (DelBJanis@house.virginia.gov)
The Honorable L. Louise Lucas (district18@senate.virginia.gov)
The Honorable Kenneth R. Plum (DelKPlum@house.virginia.gov)
The Honorable Terry G. Kilgore (DelTKilgore@house.virginia.gov)
The Honorable James M. Scott (DelJScott@house.virginia.gov)

Re: Supplemental Comments to the Commission on Electric Utility Regulation

Dear Senator Norment and other members of the Commission on Electric Utility Regulation:

On behalf of the Virginia Committee for Fair Utility Rates and the Old Dominion Committee for Fair Utility Rates (collectively, “Committees”), we wish to thank you for your attention to our letter of February 15, 2011. In that letter, the Committees commented upon three issues identified in the published agenda for the meeting of February 17, 2011, of the Commission on Electric Utility Regulation (“CEUR”). During that meeting, Senator Norment invited interested parties to identify issues related to the 2007 electricity regulation law for possible consideration by the CEUR in coming months. We appreciate the opportunity to comment more broadly, beyond the three issues identified in the February 17 agenda, and, accordingly wish to supplement our earlier letter with recommendations concerning two additional issues, as described below, for consideration by the CEUR.

1. **Restore the SCC’s authority to institute rate reductions on its own motion.** A utility may initiate a rate increase case *at any time* pursuant to the SCC’s rules governing utility rate increase applications, *i.e.*, pursuant to rules implementing chapter 10 of title 56 of the Code of Virginia. (Va. Code § 56-585.1 B) The SCC, however, may not initiate a chapter 10 case to reduce a utility’s rates, even though the utility’s rates may be excessive. (Va. Code § 56-585.1 C) Denying the SCC the authority to initiate a chapter 10 case to *reduce* rates – but permitting a utility to institute such a case to *increase* rates at any time – is unfair to customers and potentially harmful to jobs and the economy. Restoration of such authority to the SCC is especially important in view of the powerful incentives in the 2007 law for a utility to “manage” its costs in order to minimize the likelihood of rate reductions and refunds of excessive earnings.

2. **Restore the SCC's authority to determine a utility's capital structure for ratemaking purposes.** The 2007 law inappropriately restricts the SCC's authority to determine a utility's capital structure by requiring, with certain narrow exceptions, use of an actual, end-of-test period capital structure and cost of capital. This deprives the SCC of necessary discretion to determine a capital structure and cost of capital that is reasonable for ratemaking purposes and invites the utility to "manage" these important ratemaking elements to the utility's advantage.

Again, we appreciate the opportunity to provide these comments to the CEUR.

Sincerely,

/s/ Louis R. Monacell

/s/Edward L. Petrini

cc Ms. Ellen Porter
Mr. Frank Munyan
Ms. Patty Lung

#1128394