

Post-Capped Rate Subcommittee of the Commission on Electric Utility Restructuring
November 2, 2006
Richmond, Virginia

The Subcommittee of the Committee on Electric Utility Restructuring charged with studying the provision of electric generation service following the expiration of the capped rate period met for a second time on November 2, 2006. The meeting was used to address matters relating to the scope of the Subcommittee's work and to prioritize the issues that participants at its preceding meeting had suggested be considered.

The chairman noted that while he expects the Subcommittee to move forward deliberately, he anticipates that the study will continue into 2007. The Commission on Electric Utility Restructuring will meet in December to receive the State Corporation Commission's annual report on the status of competition and the Attorney General's annual report on stranded cost recovery. The meeting will also include a review of electric utility-related legislation intended for introduction in the 2007 Session. All members of the General Assembly will be requested to present any such bills that they plan to introduce. The Commission has acted as gate-keeper for legislation that may affect the implementation of the Virginia Electric Utility Restructuring Act.

The chairman indicated that he may be receptive to the idea of using a neutral facilitator to assist the subcommittee in its deliberations later in the process. It was also suggested that the unique circumstances facing various providers of electric service, including cooperatives and investor-owned utilities that have divested their generation assets, may necessitate different treatment. The chairman also any stakeholder who feels he is disadvantaged by not being represented on the subcommittee to contact him.

The balance of the meeting focused on consideration of items to be incorporated into the Subcommittee's work plan. The Subcommittee members agreed that their work should begin with a consideration of whether the objectives of the Restructuring Act can be accomplished in light of the changes that have transpired in wholesale electricity markets since the Act was enacted in 1999.

Senator Watkins observed that the unleashing of an unregulated monopoly appears possible if the Restructuring Act is not amended. Addressing the situation may require extending the capped rate period after conducting a rate case, or adjusting the pricing structure to ensure it meets default service criteria.

The chairman concurred that it would be appropriate to revisit the issue of current wholesale market conditions, including the contrast between what was contemplated at the outset of the restructuring process and today's reality.

The Subcommittee also discussed the capped rate period, which currently is scheduled to expire on December 31, 2010. At that time, provisions capping retail electricity rates for default service customers will end, and rates are scheduled to be thereafter based on the rates in competitive regional markets.

Senator Watkins suggested that the Subcommittee look at states that have not restructured to determine how the costs of new power plants are built into rates, and areas where power is being purchased from and sold into. There is a need to compare what is happening in states that have deregulated compared to those states that continue to regulate their electric utilities, and to examine what has worked and what has not. Commissioner Morrison cautioned that it will profit the Subcommittee little to look at other states in order to determine what would have happened if Virginia did not have capped rates, because the SCC has the data based on various rates of return. He suggested that the natural gas industry presents a different model, where competing utilities have open access but the rates for service provided by incumbents are regulated based on cost of service.

Dr. Leech suggested that the group examine what would happen to default service rates if the proposed coal plant in Wise County is completed. Under the Restructuring Act, the costs of the plant plus a reasonable return are to be recovered under the utility's default service rates.

The chairman requested that the subcommittee's next meeting include a tutorial on the default service provisions of the Act. The meeting will also include information on wholesale market prices, to be provided by the SCC and PJM. The issue of the transparency of the PJM market, and SCC access to information, may also be addressed.

Senator Watkins suggested that the Subcommittee ask incumbent utilities and PJM to prepare written briefs outlining their opinions on the issue of whether expanding open access to the wholesale market would increase competition in Virginia. Judge Morrison observed that the Restructuring Act currently requires open access, in that a licensed competitive service provider has the right today to sell power to customers in the Commonwealth.

The Subcommittee indicated that it will not focus its work on issues relating to further divestiture of generation assets or miscellaneous topics identified at its September 28 meeting, though some may be addressed in the context of discussions of other issues. The members of the Subcommittee will be invited to the full Restructuring Committee's meeting to be held in mid-December, and the Subcommittee anticipates holding its next meeting in early January. At that time the Subcommittee anticipates considering a detailed work plan covering its work through 2007.