

Commission on Electric Utility Restructuring
December 20, 2004, Richmond

The final meeting of the Commission on Electric Utility Restructuring each year typically features deliberations of proposed amendments to the Electric Utility Restructuring Act. However, for the first time since the Act's passage in 1999, no amendments to it were proposed, and thus the Commission did not endorse any legislative proposals for the 2005 Session.

Perspective of Electric Cooperatives

Stan Feueberg of Northern Virginia Electric Cooperative and Jackson Reasor of the Old Dominion Electric Cooperative provided the Commission with perspectives of Virginia's cooperatives with respect to the move to retail competition for electric generation services.

Mr. Feueberg noted that NOVEC is in good financial condition and is instituting a strategy of preparing for the advent of competition. The utility is implementing a three-year, \$90 million infrastructure plan and is reducing its debt, while it has not raised rates in 14 years. Members' questions focused on the tax treatment of electric cooperatives and the extent to which the cooperative's margins are invested.

Mr. Reasor, who as a member of the Virginia Senate chaired the joint subcommittee that developed the Restructuring Act, noted that electric cooperatives have had concerns with the impact that retail choice would have on consumers. However, the cooperatives have concluded that if Virginia will have competition, then the cooperatives want to participate. He affirmed that the electric cooperatives do not want the option to opt out of the Restructuring Act's provisions. On the topic of transferring control of utility transmission assets to regional transmission organizations, he noted that cooperatives have always supported well structured RTOs and acknowledged that wholesale markets need to be in place before there can be effective retail competition. However, ODEC, which has been a member of the PJM Interconnection RTO since the 1990s, has had concerns with PJM. The cooperative supports Appalachian Power and Dominion Virginia Power becoming part of PJM, and hopes that its issues with the RTO will be addressed. He asked the Commission to monitor the PJM process as it goes forward.

ODEC provides electricity for the 12 distribution cooperatives it serves, 10 of which are in Virginia. While nearly half of its power needs is provided through its ownership of interests in nuclear, coal, and combustion turbine projects, the balance of its power is purchased on the wholesale market, principally through contracts of varying terms. In recent years, the cost of purchased electricity has increased significantly. Mr. Reasor anticipates the need to build additional generation facilities in the future, and planning for the future is complicated by the fact that after 2010 the capped rates set under the Restructuring Act are scheduled to end, and it is not known how many current customers will then switch to competing suppliers. Noting that the past several years have witnessed many changes at the state and federal levels, Mr. Reasor asked the Commission to create more stability in the industry. Actions that would enhance industry stability include monitoring implementation of the PJM system, making no major changes in the Restructuring Act, and getting fuel prices under control.

Renewable Energy Study

At the November 23, 2004, meeting of the Restructuring Commission, Mr. Wallmeyer reported that there was general agreement among members of the working group that they would recommend that an independent, unbiased study be conducted of the purported benefits and costs of renewable energy, including health, economic, employment and other benefits arising from increased use of renewable energy sources. The study would seek to provide legislators and policymakers with a factual basis to determine whether efforts to stimulate increased use of renewable energy sources to generate electricity in Virginia would be warranted. Specifically, it would seek to determine if the purported benefits of increased use of renewable energy resources to generate electricity in Virginia outweigh the predicted increased costs, compared to continued reliance on existing energy sources.

At this meeting, it was reported that several utilities do not favor a study of renewables if it involved environmental externalities. The Commission agreed to support the conduct of an independent study, provided that it did not examine a renewable portfolio standard or other form of quota, and did not involve quantifying environmental externalities. In an effort to avoid the expense of retaining a consultant to conduct the study, the members asked staff to determine if the Virginia Center for Coal and Energy Research at Virginia Tech would be interested in conducting such a study at no cost.

Opportunities to Participate in PJM Proceedings

In response to Senator Watkins' request at the previous meeting, representatives of the Attorney General's Office and State Corporation Commission addressed the adequacy of agency resources to participate effectively at the various meetings and activities conducted at PJM. Judith Jagdmann of the Division of Consumer Counsel at the Attorney General's Office reported that she has discussed the matter with the Attorney General. The agency plans to seek legislation in the 2005 Session that will allow the Attorney General's Office to retain a percentage of funds that it collects in successful litigation that benefits Virginia consumers. The retained funds would be used to finance activities of the Division of Consumer Counsel, including PJM-related activities. Howard Spinner of the Division of Economics and Finance at the SCC reported that it has adequate resources in place, and noted that existing resources can be redeployed to ensure adequate participation at PJM and at FERC as tasks previously conducted are not needed in the future.

Consumer Advisory Board Report

The Consumer Advisory Board was established to assist the Commission on Electric Utility Restructuring in its work as prescribed in § 30-205. The Board did not meet during 2003, and met twice in 2004. Chairman Bill Lukhard presented the Commission with the report of the Board's work.

At its first meeting on October 22, 2004, the reconstituted Board received reports on developments relating to electric utility restructuring that occurred in the 22 months since its previous meeting. Other topics covered by the Board at its first meeting included reviews of the

Department of Social Services' annual report on the effectiveness of Low Income Energy Assistance Programs; legislation considered during the 2003 and 2004 Sessions; the implications of Appalachian Power and Dominion Virginia Power obtaining the SCC's approval to join PJM Interconnection; and the role of the SCC in regulating and monitoring the distribution component of electric service.

The second meeting of the Board focused on the issue of the representation of consumer interests before PJM Interconnection. The issue of the adequacy of resources to allow full representation of the consumer interest in PJM proceedings was raised by Irene Leech of the Virginia Citizens Consumer Council (VCCC) during the Board's October 22 meeting. Ms. Leech noted that utilities have personnel whose full-time job is to monitor PJM activities and attend its many meetings. Phillip Golden, counsel to PJM, provided information about PJM's committee structure and representation on PJM committees by the SCC and the "official state consumer advocate," which is the Division of Consumer Counsel at the Attorney General's Office. With respect to involvement by citizens and citizen groups such as the VCCC, Mr. Golden observed that PJM has convened a Public Interest and Environmental Organizations User Group that meets quarterly. Judy Jagdmann of the Attorney General's Office told the Board that her office is active in PJM's Membership, Market Implementation, Reliability, and Electricity Market Committees, and participates in activities of the Public Interest and Environmental Organizations User Group.

In response to questions about how the Consumer Counsel's Office obtains and factors in suggestions from individual consumers about their concerns and interests, Ms. Jagdmann noted that persons may provide input through calling, writing or e-mails. Ms. Jagdmann indicated that she would not object to providing a notice on the agency's web site or other mechanism that would provide a mechanism for soliciting input from individual consumers on issues with which they are concerned. The meeting also included a presentation on applicable provisions of the Freedom of Information Act's open meeting requirements.

In its discussion of the contents of its report to the Restructuring Commission, the Consumer Advisory Board discussed the adequacy of funding for the Low Income Home Energy Assistance Program. Members of the Board raised concerns about the level of funding and that additional outreach efforts through public service announcements could increase private donations to private programs such as Dominion's Energy Share program. Members felt that additional advertising about these programs could also increase the level of participation by low-income families who may be eligible for fuel assistance.

At its meeting on December 10, the Board unanimously endorsed two recommendations with respect to the issue of ensuring the interests of Virginia's consumers are adequately represented in proceedings at PJM Interconnection. First, the Board endorsed the proposal outlined by Ms. Jagdmann for increasing funding for activities of the Division of Consumer Counsel. Second, the Board asked the Office of the Attorney General to consider developing a mechanism or method by which individual consumers can provide input to the Division of Consumer Counsel about issues of concern. The input would not necessarily be limited to matters involving electric utility service. This recommendation also envisions that the Attorney General's Office would

market the input mechanism, through its web site or some other means, so that people would be aware that the Office welcomed input from consumers.

The Board also unanimously endorsed a recommendation that the Department of Social Services arrange for broadcast media to air public service announcements that would encourage voluntary contributions to "Energy Share" and similar energy assistance programs, as well as to increase public awareness of public and private energy assistance programs.

Finally, the Board requested the Commission to authorize the Board to meet during 2005 to monitor the marketing of, and funding for, low income energy assistance programs, to determine whether utilities should be required to make cost-justified, time-of-use rate schedules available to consumers, and to review and analyze the reports that the Virginia Department of Mines, Minerals and Energy presented to the Board in 2002 regarding consumer education for small businesses and residential customers with respect to energy efficiency.