Virginia State Corporation Commission

Draft Language Furnished to the Legislative Transition Task Force

January 4, 2001

Competitive Billing

Drafting note: The draft language below reflects the Commission's recommendations and draft plan in its December 12, 2000 report to the Legislative Transition Task Force concerning retail electric billing and metering services.

§ 56-581.1:1. Competitive billing.

A. On and after January 1, 2002, licensed suppliers and aggregators subject to the provisions of this chapter shall (i) bill their retail customers directly for services rendered, or (ii) coordinate the provision of billing services to their retail customers wherein such customers' distributors consolidate the charges for services rendered to retail customers by such customers' suppliers, distributors, and aggregators. Distributors shall provide billing services to their retail customers in accordance with the billing option requested by such customers' licensed suppliers and aggregators.

B. 1. On and after January 1, 2003, licensed suppliers subject to the provisions of this chapter may provide their retail customers bills that consolidate the charges for services rendered to retail customers by such customers' suppliers, distributors, and aggregators. Distributors shall provide support for such supplier consolidated billing.

2. Notwithstanding the provisions of subdivision B 1, upon application of any incumbent electric utility, on and after January 1, 2002, the Commission may authorize such utility to support supplier billing that consolidates the charges for services rendered to retail customers by such customers' suppliers, distributors, and aggregators. If any such application is approved, suppliers may provide consolidated billing to customers within the service territory of any such incumbent electric utility prior to January 1, 2003.

C. 1. No municipal electric utility or electric cooperative shall be subject to the requirements of subsection B unless any such municipal electric utility or electric cooperative, or an affiliate of either, offers competitive electric energy supply to retail customers (i) in the service territory of another Virginia incumbent electric utility, or (ii) within the geographic area served by a municipal electric utility. The competitive activities of municipal or cooperative power supply organizations, or their affiliates, shall not, however, be deemed competitive activity relative to individual member municipal electric utilities or electric cooperative distribution utilities.

2. The Commission may, however, upon application and for good cause shown, permit any municipal electric utility or cooperative distribution utility to retain its exemption under subdivision C 1 notwithstanding its offer of, or proposal to offer, competitive electric energy supply to retail customers in the service territory of any other Virginia incumbent utility. In approving any such application, the

Commission shall ensure that any such approval is in the public interest and will not inhibit the development of effective competition within the service territory of the applicant.

D. [Option 1] Incumbent electric utilities shall be permitted to recover net, additional costs attributable solely to such utilities' implementation of competitive billing under this section. The Commission shall determine the method or methods by which utilities may recover any such costs.

[Option 2] Incumbent electric utilities shall be permitted recover billing costs attributable to such utilities' implementation of this chapter. The Commission shall determine the method or methods by which utilities may recover any such costs

E. Upon application of any incumbent electric utility, the Commission may delay the implementation of any provision of this section, but no implementation date established hereunder shall be delayed for more than one year. Any such delay authorized shall be interposed solely for the purposes of resolving issues related to billing accuracy, timeliness or quality; consumer readiness; or adverse effects on the development of competition in electric service. The Commission shall, within a reasonable amount of time, report any such delays and the reasons therefore to the Legislative Transition Task Force.

F. The Commission shall promulgate rules and regulations to carry out the provisions of this section.

§ 58.1-2901. (Applicable for tax years beginning on and after January 1, 2001) Collection and remittance of tax.

A. The service provider shall collect the tax from the consumer by adding it as a separate charge to the consumer's monthly statement. Until the consumer pays the tax to such service provider, the tax shall constitute a debt of the consumer to the Commonwealth, localities, and the State Corporation Commission. If any consumer receives and pays for electricity but refuses to pay the tax on the bill that is imposed by § 58.1-2900, the service provider shall notify the State Corporation Commission of the name and address of such consumer. If any consumer fails to pay a bill issued by a service provider including the tax that is imposed by § 58.1-2900, the service provider shall follow its normal collection procedures with respect to the charge for electric service and the tax, and upon collection of the bill or any part thereof shall (i) apportion the net amount collected between the charge for electric service and the tax and (ii) remit the tax portion to the State Corporation Commission and the appropriate locality. After the consumer pays the tax to the service provider, the taxes collected shall be deemed to be held in trust by such provider until remitted to the State Corporation Commission and the appropriate locality.

When determining the amount of tax to collect from consumers of an electric utility that is a cooperative which purchases, for the purpose of resale within the Commonwealth, electricity from a federal entity that made payments during such taxable period to the Commonwealth in lieu of taxes in accordance with a federal law requiring such payments to be calculated on the basis of such federal entity's gross proceeds from the sale of electricity, the service provider shall deduct from each of the respective tax amounts calculated in accordance with § 58.1-2900 an amount equal to the calculated tax amounts multiplied by the ratio that the total cost of the power, including facilities rental, supplied by said federal entity to said cooperative for resale within the Commonwealth bears to said cooperative's total operating revenue within the Commonwealth for the taxable period. The State Corporation Commission may audit the records and books of said cooperative to verify that the tax imposed by this chapter has been correctly determined and properly remitted.

B. A service provider shall remit monthly to the Commission the amount of tax paid during the preceding month by the service provider's consumers, except for (i) amounts added on the bills to utilities owned and operated by municipalities which are collected by the entity providing transmission directly to such utilities (or an association or agency of which the municipality is a member), which they shall remit directly to the Commission and (ii) the portion which represents the local consumption tax, which portion shall be remitted to the locality in which the electricity was consumed and shall be based on such locality's license fee rate which it imposed. Amounts of the tax that are added on the bills to utilities owned and operated by municipalities, which are collected by the entity providing transmission directly to such utilities (or an association or agency of which the municipality is a member), shall be remitted monthly by such entity to the Commission, except that the portion which represents the local consumption tax shall be remitted to the locality in which the electricity was consumed and shall be based on such locality's license fee rate which it imposed.

C. The electric utility consumption tax shall be remitted monthly, on or before the last day of the succeeding month of collection. Those portions of the electric utility consumption tax that relate to the state consumption tax and the special regulatory tax shall be remitted to the Commission; the portion that relates to the local consumption tax shall be remitted to the localities. Failure to remit timely will result in a ten percent penalty.

D. Taxes on electricity sales in the year ending December 31, 2000, relating to the local consumption tax, shall be paid in accordance with § 58.1-3731. Monthly payments in accordance with subsection C shall commence on February 28, 2001.

E. For purposes of this section, "service provider" means the person who delivers electricity to the consumer. Such term shall mean suppliers of retail generation services furnishing their retail customers consolidated bills under the provisions of § 56-581.1:1, and, in such event, such suppliers shall be solely responsible for billing, collecting and remitting the taxes provided herein.

F. The portion of the electric utility consumption tax relating to the local consumption tax replaces and precludes localities from imposing a license tax in accordance with § 58.1-3731 and the business, professional, occupation and license tax in accordance with Chapter 37 (§ 58.1-3700 et seq.) on electric suppliers subsequent to December 31, 2000, except as provided in subsection D. If the license fee rate imposed by a locality is less than the equivalent of the local consumption tax rate component of the consumption tax paid under subsection A of § 58.1-2900, the excess collected by the Commission shall constitute additional state consumption tax revenue and shall be remitted by the Commission to the state treasury.

G. The Department of Taxation may audit the books and records of any electric utility owned and operated by a municipality (or an association or agency of which the municipality is a member) to verify that the tax imposed by this chapter has been correctly determined and properly remitted to the Commission.