

# Virginia Commission on Energy and Environment

Monday, January 6, 2010, 2:00 p.m.  
Senate Room A, General Assembly Building  
Richmond, Virginia

## Summary

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### I. Welcome and Call to Order

Members Present: Senator Mary Margaret Whipple (chair), Delegate Charles D. Poindexter (vice chair), Senator J. Chapman Petersen, Senator Richard H. Stuart, Delegate Samuel A. Nixon, Jr., Delegate Mark D. Sickles, Mr. Patrick G. Hatcher, Mr. August Wallmeyer, Mr. Arlen Bolstad, Mr. David K. Paylor, and Mr. Stephen A. Walz

The meeting was called to order by Senator Mary Margaret Whipple, Chairman. The Commission has met to address three items of legislation that were carried over from a previous meeting on November 30, 2009, without recommendation. Senator Whipple noted significant pressures on the members due to the upcoming session

### II. Discussion and Presentation of Legislative Initiatives

**Mandatory renewable energy portfolio standard program.** Provides for a mandatory renewable energy portfolio standard program. Under current law, the renewable energy portfolio standard program is a voluntary program to which investor owned utilities apply to receive certain incentives.

Staff led the Commission through the draft legislation, which can be found on the "Materials" link to this meeting. Senator Stuart noted his concern of restrictive limitations on the use of woody biomass and confirmed his support for the use of those resources. Senator Petersen questioned whether the draft should have been more extensive and staff responded that the draft maintained the current system to the greatest extent possible while creating a mandatory program. Senator Whipple asked members of the public to comment on the bill.

Al Weed, with Public Policy Virginia, spoke to the Commission and stated that the current system for incentives, whether for voluntary or mandatory compliance, does not work for several reasons. Most importantly, the program excludes non-investor owner utilities and over incentivizes electricity produced from wind and solar resources. Mitch King, with Old Mill Power Company, asked that the Commission reflect on the actual value of the performance incentive, which is not based on utility costs. In response to questions from Senator Petersen and Delegate Sickles, Mr. King noted that the current, voluntary goals were quite modest and, referencing a report by the State Corporation Commission on Dominion's plan to meet its renewable Portfolio Standard goals, the value of the incentive could be significant—\$987 million. Bill Murray, with Dominion, spoke to the Commission to clarify several issues. Importantly, the high end value reflects an assumption that the utility would

have a penalty, a situation that has not been suggested by any party. In response to a question from Senator Whipple, Mr. Murray noted the numerous generation facilities under development and planning in Virginia and regionally.

Delegate Poindexter noted to the Commission that he felt government subsidies for renewable energy were not the best approach and, as such, he felt that the market should not be interfered with to create Senator Petersen noted that he would support the legislation although he prefers a more comprehensive approach to the drafting. Senator Whipple noted her concern that the states with mandatory programs have an increased opportunity to attract renewable generation and related industries. The Commission voted to recommend the legislation in concept 5-3.

Yeas: Senator Whipple, Senator Petersen, Senator Stuart, Delegate Sickles, and Mr. Hatcher

Nays: Delegate Poindexter, Delegate Nixon, and Mr. Wallmeyer

Abstentions: Mr. Bolstad, Mr. Paylor, and Mr. Walz

**Energy efficiency programs; rate recovery options for utilities.** Eliminates the ability of an investor-owned utility to recover (i) a margin on the operating expenses of energy efficiency programs and (ii) revenue reductions that result from implementation of energy efficiency programs.

Staff explained concerns that the energy efficiency program is different and, as I understand it, allows (i) cost and profit recovery for the implementation of the efficiency program and (ii) profit recovery for the energy not sold because of the implementation of the program. The draft legislation would leave the utility with only cost recovery for the implementation of the energy efficiency programs. Mr. Walz explained that the existing law aimed to place energy efficiency programs, and investments, would be on a par with investment with new generation and noted that the Commission must determine whether the utilities would continue to invest sufficiently in energy efficiency if the incentives were reduced as suggested in the draft legislation.

Lisa Guthrie, with the League of Conservation Voters, spoke to support existing law and explained that the patron of the original bill, Delegate Pollard agreed that utilities must be provided with options that provide a financially competitive alternative with the investment in new generation. Upon questions from Senator Stuart, Ms. Guthrie explained that the recovery of "lost profits" was not a focus point of the discussions on this bill. Cale Jaffe, with the Southern Environmental Law Center and also representing Appalachian Voices and Appalachian Mountain Stewards, expressed support for existing law. Mitch King, Old Mill Power Company, spoke to support concept that utilities be provided recovery on costs and a reasonable profit on the equity investment.

The Commission voted to amend the bill so that only provision deleted in the draft legislation was that which granted utilities to recover lost profits. The Commission then voted to recommend the legislation as amended 5-3.

Yeas: Senator Petersen, Senator Stuart, Delegate Poindexter, Mr. Hatcher, and Mr. Wallmeyer.

Nays: Senator Whipple, Delegate Nixon, and Delegate Sickles.

Abstentions: Mr. Bolstad, Mr. Paylor, and Mr. Walz.

**Natural gas utilities; cost recovery for certain infrastructure improvement costs.**

Authorizes investor-owned natural gas utilities to petition the State Corporation Commission to implement a separate rider that will allow for recovery of certain costs associated with eligible infrastructure replacement projects.

Cathie France, with Virginia Natural Gas, reviewed the legislation and offered to answer any technical questions from the members. Ms. France emphasized that all rates would need to be individually approved by the State Corporation Commission and that the legislation would assist with the planning to replace aging infrastructure. The replacement of pipelines would provide environmental benefits and efficiency rewards. She is not aware of any opposition to the measure. Representative from Washington Gas and Columbia Gas noted their support of the draft legislation. The Commission voted unanimously to recommend the legislation. Mr. Bolstad, Mr. Paylor, and Mr. Walz abstained.

**III. Public Comment**

Senator Whipple asked if there were any members of the public that would like to comment to the Commission.

Ann Flandermeyer, with the Virginia Offshore Wind Commission, hoped that the members would consider legislation expected during the 2010 Session of the General Assembly creating the Virginia Offshore Wind Development Authority that will facilitate and support the development of the offshore wind industry and wind-powered electric energy facilities.

Mr. Walz readdressed legislation that would broaden the authority of Virginia Economic Development Partnership to provide financial incentives to companies that manufacture or assemble equipment, systems, or products used to produce renewable or nuclear energy, or products used for energy conservation, storage, or grid efficiency purposes.

The meeting concluded after the discussion of legislation.