

June 10, 1998

The Honorable Thomas K. Norment, Jr.  
The Honorable Clifton A. Woodrum  
Co-Chairmen, Structure and Transition Task Force  
SJR 91 Joint Subcommittee Examining the Restructuring of the Electric Utility Industry

Dear Senator Norment and Delegate Woodrum:

RE: Comments on competitive services, market power, and suppliers of last resort.

The Virginia State Legislative Committee of the American Association of Retired Persons appreciates this opportunity to submit comments on competitive services, market power and suppliers of last resort. These are crucial issues to examine in the move to restructure the electric utility industry in Virginia. AARP views these issues from a residential consumer perspective.

#### COMPETITIVE SERVICES.

It is AARPs understanding that only the generation component of the electric utility is to reach retail competition. The "transmission" and distribution components would remain regulated. With the possibility that services AARP would view as functions of distribution, such as metering, billing, education, etc. may now be considered for competition, we do not have specific recommendations as to which services should become competitive.

However, for any services determined to be offered on a competitive basis, we maintain there must be clear guidelines to promote competition and to preserve regulation where competition does not become effective. Strict enforcement of anti-trust laws and specific definitions of what constitutes competition must be put in place before deregulation takes place. AARP does not support the use of alternative regulation until there is effective competition for a service. Under effective competition for any service there should be multiple providers for that service to all customer classes and a significant percentage of each customer class should have chosen an alternative provider.

Though Consumer Protection and Environment and Education issues are delegated to another task force, we believe that the Structure and Transition Task Force should Senator Norment and Delegate Woodrum

Page 2

consider that education of consumers should be the responsibility of an independent entity (i.e. the State Corporation Commission or an independent contractor).

#### MARKET POWER.

Market power is one of the most critical aspects of electric utility restructuring and one where legislative policy is essential.

One policy option to address market power in a restructured electric utility industry is to completely separate the ownership and control of transmission and distribution lines from the ownership of power plants. This procedure is known as divestiture.

However, H.B.1172 as enacted states:

The State Corporation Commission and those parties involved in electric

generating and transmission facilities and the sale of electricity in Virginia shall work together to strive to establish one or more independent system operators and one or more regional power exchanges that serve the public interest in the Commonwealth by January 1, 2001.

An Independent System Operator (ISO), an entity that will independently manage a transmission grid owned by one or more electric generation companies can be established. Depending on how it is structured, an ISO lessens or eliminates the potential for owners of the transmission system to favor one generation facility over another in providing transmission access. An ISO could also serve as an important entity to alleviate transmission congestion and ensure safety and reliability of electric service.

AARP believes that to ensure a fully competitive market, electric companies should be required to divest their generation capacity from their transmission and distribution capacity.

However in view of the charge given in H.B. 1172 relative to Independent System Operators, AARP believes that the state in conjunction with the Federal Energy Regulatory Commission should ensure that any ISO structure that would involve Virginia Consumers should include the following characteristics:

- An ISO should be responsible to a broad group of stockholders, including representatives for residential consumers, who are entirely independent of transmission owners and generators;

- An ISO should provide for comparable and non-discriminatory service to all

Senator Norment and Delegate Woodrum

Page 3

- end- users of the transmission system;

- The geographic region over which an ISO has jurisdiction should be of sufficient size to avoid charges from multiple transmission operators and to increase supply options for consumers;

- An ISO should ensure that all end-users of the transmission system receive safe and reliable service; and

- An ISO should minimize system congestion and other real or potential transmission constraints.

AARP believes that this task force and the Joint Committee should carefully scrutinize the costs and benefits of various market structures and propose a model that ensures protections benefits for residential ratepayers.

#### SUPPLIERS OF LAST RESORT.

The obligation to serve all consumers has been a cornerstone of utility service and should remain so. Every consumer should have a provider who has the ultimate obligation to provide the necessary basic service. This would include the responsibility to maintain the facilities necessary to generate electricity or the actual purchase and delivery of electric service.

There must be a provider of last resort designated for each area of the state, The provider of last resort could be an incumbent utility (or part of it) or a new entrant. For the foreseeable future, it appears that distribution and transmission will remain monopoly services of a single entity.

However, whether or not distribution and transmission become competitive, there must be an entity responsible for the maintenance of the facilities necessary to provide electricity service. At the beginning of transition, the incumbent utility should be responsible for distribution, transmission, and generation. If there is a new entity certified by the State to be the provider of last resort, the incumbent utility may shed the obligation to ensure generation for every customer served by its transmission and distribution system.

The provider of last resort obligation may result in costs that are deemed unaffordable for specific customers or in specific areas of the state. The commission should designate such areas as high cost and the provider of last resort in such area would be designated eligible for support from a universal service fund. The provider of last resort would be allowed to receive support to cover the difference between the cost of service and the rates charged. To the extent that an area is a high cost area there should be Senator Norment and Delegate Woodrum

Page 4

only one service provider allowed to draw funds from a universal service fund to support its service. It makes no sense from a public policy or efficiency point of view to subsidize the existence of more than one supplier in a high cost area.

The provider of last resort must demonstrate the prudence of investments which it claims have been made to meet its provider of last resort obligations. The costs it claims to need subsidies for must be prudently used and useful. The provider of last resort should not be allowed to earn a return on capital that is no longer used and useful. Any recovery of these assets should take place from a stranded investment fund. All revenues associated with investments must be included in any calculation of special revenue shortfalls.

All electricity produced in the state, delivered to the state, or consumed within the state should contribute to the universal service fund on a competitively neutral independent basis. The most likely entity to collect and manage the fund would be an independent system operator. This entity is likely to be set up to maintain reliability and competitively neutral functioning of the network. With an independent system operator in place, it would be most efficient and effective for the ISO to assess all electricity suppliers at a uniform rate. Since the ISO has account of every kilowatt hour sold and is likely to have knowledge of self-generation as part of its obligation to ensure reliability that would eliminate any possibility that anyone would escape the charge.

Thank you for the opportunity to offer these comments.

Sincerely,

William L. Lukhard, Vice-Chairman  
AARP Virginia State Legislative Committee

Jack R. Hundley, Coordinator  
Capital City Task Force