

**Comments before the
Commonwealth of Virginia
SJR-91 Joint Subcommittee Task Force
On
Structure and Transition**

By

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My name is Steven E. Winberg. I am the Director of Energy Policy for Consolidated Natural Gas Company.

CNG is an integrated energy company and is the parent of Virginia Natural Gas, CNG Transmission, and CNG International, one of our newest units, headquartered in Reston. Another of our newest units, CNG Retail Company, serves residential, commercial and industrial customers with natural gas, electricity and various other energy-related products and services. At present, CNG Retail has almost 250,000 customers, which makes us the largest residential marketer in the country. And because CNG is very interested in participating in the retail electric market in Virginia we appreciate the opportunity to participate in the discussions of this Task Force.

Staff requested that stakeholders focus on three issues:

1. Determining which electricity services will be competitive services following restructuring.
2. Market power (particularly that related to transmission constraints).

3. Suppliers of last resort and default providers.

On June 3, Beverly Jones, CNG's Vice President of External Affairs and Policy Development, testified before the Joint Subcommittee and addressed the issues of Transmission Constraints and Market Power. Rather than take the time to restate our position on these issues, I have attached a copy of her testimony for your review. I will address the two remaining issues.

Determining which electricity services will be competitive services following restructuring

Because of the confusion surrounding most restructuring debates resulting from the absence of a shared glossary, it's worthwhile to spend a few minutes defining terms. In particular, the terms "restructuring," "unbundling" and "deregulation" are often used interchangeably, but they actually can mean different things.

"Restructuring"

Sometimes this term is used broadly, to describe the process in which an industry undergoes basic change, moving from more to less regulation. For example, "electric industry restructuring" may describe the process by which the industry is changing from one dominated by a number of large, regulated utilities engaged in every aspect of the electric business, to one characterized by four major sectors:

1. Competitive power generators ("gencos"),
2. interstate transmission facilities regulated by FERC ("ISOs" or "transcos"),
3. state-regulated local distribution companies that transport power from the interstate grid to homes and businesses ("discos"), and

4. suppliers or marketers who market power and perhaps other products to homeowners and businesses.

Once a state has begun to change the rules by which its electric companies operate, the term "restructuring" typically describes the process by which a utility begins to offer its customers a choice of suppliers. Often the term is used in the context of a plan that the utility files with its state commission. A restructuring plan evaluates all the functions a utility currently provides and discusses how it plans to change them. It may describe how and when the utility will provide customer choice; the specific services customers will be able to choose; the rates the utility will charge for the continuing services; how the utility will interact with other energy providers; and many other details.

"Unbundling"

When it is used to describe the big picture, "unbundling" may refer to the same process of industry change intended by the term "industry restructuring." In Order 888, FERC used the term "functional unbundling" to describe the process of separating a vertically integrated electric utility's activities into broad, self-contained business areas like generation, transmission and distribution.

But in the context of a state restructuring proceeding, stakeholders often use the term "unbundling" to describe the process in which a utility breaks apart its comprehensive package of "bundled" products and services, and offers customers the opportunity to pick and pay for only the specific services they want. A good analogy is moving from a fixed price restaurant menu to an "a la carte" menu: rather than having to buy an entire meal at a set price, a customer can order soup, salad and entree, but skip dessert.

The simplest form of unbundling is the separation of the *sale* of the commodity (gas or electricity) from the *delivery* of the commodity. That is, the customer can buy gas or electricity from any supplier but still elect to have the utility deliver it. Broader unbundling means that more services are broken out of the utility package, so that the customer can buy services such as ancillary services, balancing, metering, billing and collection, either singly or in any combination.

How far -- and how quickly -- the unbundling process should go continues to be controversial. And once services are unbundled, it does not necessarily mean that those services have been removed from price regulation. Some unbundled services may never be provided by anybody but the utility. But others might eventually be offered by independent marketers or other suppliers, leading to a competitive market.

"Deregulation"

This term refers to making competition, rather than regulatory control, the guiding force in a marketplace. Typically, when we say "deregulation," we do not mean that regulation will disappear, but rather that price regulation will be replaced by competitive forces. Traditionally, the state utility commission has had the responsibility of protecting customers from monopoly pricing practices. In a deregulated market, the Commission may continue to oversee various aspects of the electric business, but for some unbundled products and services multiple suppliers will market to many customers, providing sufficient competition to protect consumers without price regulation.

Given these definitions, CNG believes that unbundling may occur before deregulation, but that each electric utility situation is unique. The determination of which electricity services should be unbundled and, ultimately, deregulated, varies by utility. Legislation should determine the general schedule under which

utilities file restructuring plans with the SCC and provide a list of services that should be considered for unbundling, but the details of which services are unbundled, and when, should be left to the SCC. If Virginia is similar to other states, there will be no shortage of stakeholder input to the SCC on this issue, but unique circumstances at each utility that should be considered to ensure system reliability and consumer protection. Unbundling and deregulation of services are likely to take place over many years, as the market develops, as consumers become more familiar with alternative choices, and as determinations are made regarding the sufficiency of competition to protect consumers and justify deregulation. To allow the transition to competition to occur smoothly and with a minimum of missteps, the SCC should be tasked with oversight of service unbundling and deregulation.

Finally, technology will play a role in bringing competition to traditional utility services such as ancillary services, and metering and billing. Writing legislation that attempts to precisely predict the impact of technology on competition for traditional utility services isn't feasible. A better approach would be to build flexibility into the legislative framework to permit technology to develop and enhance consumer choice and savings.

Suppliers of Last Resort and Default Providers.

The Default Provider, has been described as the entity that supplies those customers that choose not to choose. In most states, this function is part of the Supplier of Last Resort responsibility. A common definition for the Supplier of Last Resort is that entity that:

1. Has responsibility for those customers that choose not to choose,
2. those customers that cannot find a supplier, or
3. those customers whose supplier fails to supply their energy needs.

As a policy matter, customers that cannot find a supplier should not be treated any differently than those customers that choose not to choose, other than providing assistance programs if they are unable to pay their electricity bill. Separating the Supplier of Last Resort and Default Provider will result in different treatment of these two customer segments. The most important difference that could emerge may be a price difference.

CNG believes that there should be one entity – the Supplier of Last Resort -- that provides an indexed rate for electricity. This index will set the benchmark for customers who want to do comparative price shopping. The Commission should retain the authority to approve this indexed rate. Furthermore, because the entity supplying this service will also “backstop” approved suppliers, the Commission should impose more stringent licensing requirements on this Supplier of Last Resort than on competitive suppliers.

Finally, it is probably prudent to have the distribution utility maintain this Supplier of Last Resort function during the initial years of transition to competition, but the SCC should monitor the market and be required to periodically assess the viability of allowing third party suppliers to bid for the provision of this service.

CNG appreciates the opportunity to provide these comments and looks forward to working with this Task Force and the Joint Subcommittee as you move toward competitive energy choice for Virginia consumers.

Thank you.