

Consumer, Environment & Education Task Force
Staff Matrix Summary
~~October 27, 1998~~11/6/98 Revision

The brief summary below highlights responses by stakeholders and other interested parties to a series of forty-five questions covering the seven topics addressed by this task force:

- Public Benefits Charges for the Benefit of Low-Income Households
- Consumer Education.
- Customer Aggregation.
- Consumer Protection.
- Environmental Protection.
- Energy Efficiency.
- Electric Utility Worker Protection.

The purpose of this summary is to identify areas of agreement and disagreement among the respondents on key issues before this task force. The respondents include:

- Allegheny Power.
- American Electric Power.
- American Association of Retired Persons (AARP).
- Association of Energy Conservation Professionals.
- Attorney General's Division of Consumer Counsel.
- Consensus Group¹
- CNG
- Maryland-D.C.-Virginia Solar Energy Industries Association (MDV-SEIA)
- Ogden Energy Group, Inc.
- Southern Environmental Law Center.
- Virginia State Corporation Commission.
- Virginia Association of Counties (VACO).
- Virginia Citizens Consumer Council (VCCC).
- Virginia Cooperatives.
- Virginia Council Against Poverty (VCAP).
- Virginia Municipal League (VML).
- Virginia Power.

¹ The "Consensus Group" includes the Southern Environmental Law Center, Virginia Council Against Poverty, Sierra Club, Virginia State Conference NAACP, VMH, Inc., Association of Energy Conservation Professionals, International Brotherhood of Electrical Workers System Council U-1, and Virginia Power.

The parties' written responses have been posted to the SJR-91 Joint Subcommittee's web site, and are available under the link for this task force. The matrix summarizing their positions is posted to the same location.

Public Benefits Charges for the Benefit of Low-Income Households

Virginia currently has no statutory or regulatory programs furnishing energy assistance to low-income households throughout the Commonwealth. The task force learned, however, that a number of *voluntary* programs—such as Virginia Power's EnergyShare and AEP Virginia's Neighbor-to-Neighbor—provide emergency energy assistance to low-income households in need. Additionally, the Weatherization Assistance Program (WAP) provides weatherization assistance to low-income households on a statewide basis through a combination of federal and state funding.

The question put before this task force by consumer group representatives is whether—as part of Virginia's utility restructuring—the Commonwealth should formally adopt legislation establishing energy assistance programs for low-income households. Respondents were asked about eligibility, funding, and administration criteria for such programs.

Establishing low-income programs.

- Consumer groups such as the Southern Environmental Law Center, the VCCC, VCAP and others expressed support for programs that provided rate subsidies, crisis assistance, and weatherization assistance to low-income households.
- The Consensus Group said the law should establish a statewide low-income electric service payments assistance program and that home weatherization and energy conservation programs designed to assist low-income citizens also should be established.
- Virginia's utilities and cooperatives provided wide-ranging responses. AEP said that mandating such assistance is not appropriate. Allegheny Power, on the other hand, said that such assistance programs are both necessary and desirable—provided there are adequate funding mechanisms. Virginia's cooperatives recommend that policy makers recognize the additional costs of such programs and consider all of the other costs of restructuring in evaluating whether such programs would be appropriate.

Funding.

- If such programs were established through restructuring legislation, however, virtually all respondents agreed that these programs should be funded by a per-kWh, nonbypassable wires charge paid by all consumers of electricity.

Administration.

- All respondents agreed that any such programs should be administered by the Virginia State Corporation Commission, or by some other agency. Virginia's cooperatives and others noted that state agencies and non-profit organizations experienced in working with the low-income population administering social and public welfare programs could assist in coordinating such programs.

Eligibility.

- The VCCC and VCAP proposed a specific eligibility benchmark: households with income at 150% of federal poverty guidelines—an eligibility standard currently used for both the Weatherization Assistance Program (WAP), and the Low Income Home Energy Assistance Program, or LIHEAP. Other respondents suggested general support for means-tested eligibility criteria.

Other suggestions.

- Allegheny Power suggested that any low-income, energy assistance programs adopted be reviewed periodically to determine their efficiency and impact.

Consumer Education.

The parties all agreed that consumers must be prepared for the transition to a restructured electric utility market. During the course of task force meetings, repeated references were made to the consumer confusion and uncertainty generated by telecommunications market deregulation. There was universal agreement that restructuring could be even more complex to the average consumer.

Parties' presentations to the task force on this topic suggested several key questions: (i) the specific focus of such education programs, (ii) who should conduct consumer education programs, (iii) when should they be conducted, and (iv) what level of regulatory oversight is appropriate.

General purpose.

- The SCC's response was typical of that offered by other respondents: draw a sharp distinction between *marketing* and *public education*. The VCCC's response was also representative: (i) prepare consumers for structural changes, (ii) assist consumers in shopping for electric service, and (iii) inform consumers of their rights and obligations as customers.

When and for what length of time.

- In terms of a start date, some, including the Attorney General's Division of Consumer Counsel, suggested that such education programs begin at least six months prior to retail choice. Virginia Power suggested that it begin July 1, 1999. Many others, including the VCCC, believe that such education should continue through the transition, and for a reasonable period of time thereafter.
- The Consensus Group recommended that consumer education programs be implemented to inform consumers, in advance of competition and on a continuing basis, about changes in the way they may purchase electric energy and about using electric energy safely, efficiently, and in an environmentally sound manner.
- ~~Most~~ Several respondents believe that long-term consumer education programs may be necessary. VCAP, for example, stated that these programs should continue until such time as retail competition is determined to be effective. AARP offered the idea of an SCC investigation to help in this determination five years after the commencement of retail competition. Virginia's cooperatives do not believe an ongoing education program is necessary.

Funding and regulatory oversight.

- ~~Without exception,~~ Virtually all parties responding said that consumer education should be funded through a nonbypassable wires charge paid by all consumers of electricity.
- Allegheny Power, Virginia's cooperatives and American Electric Power envision a consumer education program coordinated principally by the Virginia State Corporation Commission. Other respondents mentioned state agencies with consumer expertise and contacts, including the Office of Consumer Affairs, the Department of Housing and Community Development, the Department for the Aging and others.
- According to the Consensus Group, effective and unbiased consumer education programs should be conducted, independent of the electric utilities and other electric energy suppliers, under the supervision of the State Corporation Commission and in association with other state governmental agencies. The SCC should contract with appropriate private non-profit organizations and other media, educational, and consumer organizations to implement such consumer education programs, the Consensus Group said.
- The VCCC and Virginia Power emphasized that non-profit, community-based organizations should play a role—particularly in educating hard-to-reach populations.

Customer Aggregation.

The aggregation issue concerns the development of electricity customer groups in a restructured market. Virginia's cooperatives were quick to emphasize their years of experience accomplishing just that. The task force discovered that virtually no stakeholder or any other interested party expressed any opposition to customer aggregation, per se. And study participants agreed that aggregators should be licensed—with some subject to more stringent requirements than others.

Testimony before the task force revealed that Massachusetts restructuring legislation permits localities to shop for the electrical power needs of all of their residents and businesses, except for those that affirmatively “opt out,” choosing to shop for power on their own. The “opt out” approach (also called community choice) proved to be very controversial as it was discussed before the task force. This issue pitted the incumbent utilities against locality representatives. VML, VACO and others believe that community choice offers residential customers and small businesses a realistic chance to benefit from utility restructuring. Incumbents take an opposite view, contending that community choice would effectively eliminate competition in locality markets.

Licensing and regulating aggregators.

- All respondents said that aggregation should be permitted, and that aggregators should be licensed by the Virginia State Corporation Commission. VCAP and Virginia's cooperatives cautioned, however, that overly-burdensome licensing requirements could discourage non-profit groups helping low-income households from obtaining licenses as aggregators.
- The Consensus Group said local governments, community action agencies, for-profit entities, and non-profit organizations should be permitted to aggregate customers for the purpose of purchasing electric generation service.
- VML and Virginia Power urged that the regulation of aggregators distinguish between those representing electricity suppliers and those negotiating on behalf of customer aggregates. Virginia Power thinks that the former should be required to provide proof of financial responsibility, reliability, and adequate reserve margins. In the same vein, Allegheny Power believes that aggregators contracting to provide energy should be licensed as generation suppliers and subject to all requirements applicable to that license.

“Opt out” or community choice, and other aggregations.

- ~~All of the~~ The investor-owned electrical utilities, and electric cooperatives, and CNG oppose it. All of the consumer and locality groups favor it. ~~It's that simple.~~ The electric cooperatives called it remarked that allowing localities to take over customers by simply declaring themselves to be aggregators would be tantamount to “state-supported slamming.” VML said that opt-out aggregation

will result in load profiles that will enable localities to successfully negotiate competitive electrical rates with generation suppliers.

- All parties responding on this issue supported localities aggregating their load with other localities, and with private companies outside their jurisdictions—~~with one exception: American Electric Power~~. Additionally, Virginia Power believes that locality aggregation with private entities should be scrutinized from a tax-equity viewpoint.

Consumer Protection

When this topic was before the task force, everyone agreed that some heightened consumer protection would be necessary in the transition to and aftermath of electric utility restructuring. However, the parties presentations and discussions that followed, suggested that a number of specific consumer protection issues are unique to restructuring, and that not everyone agrees on the appropriate approach to each of them.

Here are several of the issues raised by the parties, and then incorporated into staff matrix questions: (i) whether all generation suppliers should be required to provide certain information in their marketing materials, (ii) whether billing information should be standardized, and in what form, (iii) consumers' rights to cancel electricity supply contracts within a specified period of time, (iv) protections against "slamming" as well as against certain telemarketing practices, and (v) complaint assistance.

Standardized marketing disclosures.

- While most of the respondents expressed support for certain stipulated disclosures, Allegheny Power said that marketing materials should comply with existing laws, but that standardizing information may have the effect of stifling innovation. CNG also opposes standardization.
- Consumer groups, including the VCCC, VCAP, the Southern Environmental Law Center, said that, at a minimum, price, fuel mix, and emissions should be core disclosures. The VCCC also suggested that such disclosures include a description of cancellation rights, and toll-free information numbers. Virginia's cooperatives recommend that a standardized, generic formula for rate comparisons be established.

Billing disclosures

- AARP's response was representative: billings should be "unbundled" to show, separately, the charges for regulated services (most likely, transmission and distribution) and the charges for competitive generation. The VCCC and others also expressed support for uniform billing formats as well (uniform terms, clear language and visual simplicity). Virginia's cooperatives recommend that all services that are subject to competition be identified.

- The Consensus Group said customer bills should be presented in a clear, uniform and customer-friendly format. On customer bills and supplier marketing materials, the separate charges for the various unbundled services should be clearly shown. Bills should provide uniform information regarding the supplier's fuel mix and a meaningful representation of the emissions resulting from the power generation sold to the customer, according to the Consensus Group.
- Virginia Power's response also flagged the taxation and nonbypassable wires charges issues. It suggested that taxation charges be identifiable within bills. The company also stated that bills should break down customers' nonbypassable wires charges by component (e.g., stranded costs, low-income energy subsidies, etc.).

Consumer Cancellation Rights.

- Virginia's Home Solicitation Sales Act currently gives persons solicited at home (in person, or by telephone) the right to cancel any contract resulting from such solicitations within three business days. CNG believes that Act should be amended to include the sales of energy products and services. Most respondents felt that similar protection should be given consumers solicited by energy supply companies. AARP suggested a one week "cooling off" period; Virginia Power would apply such a right to contracts in which an energy service contract covers a specified period of time.

Slamming and certain telemarketing practices.

- The unauthorized switching of energy providers, or "slamming" should be specifically addressed in restructuring legislation, according to most respondents. VCAP suggested heavy fines for slammers, while Virginia's cooperatives, American Electric Power and VML believed this problem should be addressed through the registration and certification of energy providers, with the potential for loss of certification.
- The VCCC believes that changes in energy suppliers obtaining through telemarketing should be confirmed through third-party verification. This would be consistent with current FCC regulations governing slamming in the telecommunications market. The VCCC also believes that slammers should be barred from collecting payments for services from slammed customers—a remedy under consideration by the FCC for the telecommunications market, but not yet adopted.
- The Consensus Group said the law should protect consumers from unfair and deceptive advertising, marketing, and business practices, including misrepresentations of "green power" and intrusive telemarketing tactics. An

agreement to obtain service from a supplier should be made in writing with a 3-day right to cancel. Accordingly, any agreement made by telephone or electronically should be confirmed in writing, the Consensus Group said.

- On the telemarketing issue, most respondents believe that consumers should be protected against deceptive practices and intrusive telemarketing. Some, like Allegheny Power, believe that current law will suffice. Others, like the Virginia cooperatives, believe that applying the Virginia Consumer Protection Act to energy solicitations is appropriate.

Consumer Complaints.

- Most respondents would hand the SCC the job of mediating conflicts between energy suppliers and customers, although a handful—like ~~Virginia's cooperatives~~ and the VCCC—would give that duty to the Attorney General's office as well. However, American Electric Power cautioned that the SCC will likely require additional resources to carry out this broad tasking.

Other consumer protection issues.

- Consumer privacy protections concerning billing, payment history and consumption patterns were issues of concern to the Southern Environmental Law Center and the VCCC.
- The Consensus Group emphasized that customer privacy must be protected. Customer specific information, such as personal, billing or credit data, should be divulged only upon consent of the customer, according to the Consensus Group.
- Virginia Power recommends a Customer Advisory Board to review consumer issues and problems associated with the transition to retail competition. The proposed board would report annually to the Legislative Transition Task Force.
- The Consensus Group said safe, reliable and affordable electric services should be available for all consumers. State law should include a strong prohibition against electric energy supplier discrimination or supplier or distributor redlining based on gender, race, or income. All suppliers of electric energy should be licensed by the State Corporation Commission, according to the Consensus Group. All electric suppliers should be required to meet service quality standards set by the SCC. Within the boundary of its service territory, the incumbent electric utility, or distribution service provider, should be the supplier of last resort, at least in the beginning of the transition period, and should also serve as the emergency supplier for customers whose alternative supplier fails to provide electric energy as contracted, the Consensus Group said.

Environmental Protection.

For several years, the joint subcommittee—and now this task force—has been told by the Southern Environmental Law Center and others, that Virginia can help support the environment through its restructuring legislation. The Center has expressed its fear that retail competition for generation (with its intensive emphasis on price) will extend the operation of older, less efficient power plants entitled to emit at higher levels under federal clean air laws—plants that might otherwise have been retired in a regulated environment.

The Center and others have suggested that the General Assembly counter the effects of this possible development by (i) urging federal amendments to federal clean air laws, eliminating any and all emissions-related exemptions older plants currently enjoy, (ii) requiring all power suppliers in Virginia to disclose fuel mix and emissions, and (iii) adopting a renewable portfolios standard, in which a percentage of generation offered for sale in Virginia by each retail supplier must be generated from renewable resources.

The Consensus Group said electric utility restructuring should be implemented so that the competitive market for electric generation services operates in a manner that protects consumers, maintains environmental quality, and offers opportunities to enhance the quality of the environment.

Renewable Portfolios standards.

- Allegheny Power, ~~and~~ American Electric Power and CNG are firmly opposed to mandated renewables portfolio standards; Virginia's cooperatives said it was an issue for the General Assembly to determine, particularly in light of increased costs associated with such standards. Virginia Power supports research and development in this area, using funds generated by a nonbypassable wires charge.
- On the other side of the issue, the Southern Environmental Law Center, the VCCC, and MDV-SEIA support a statutory renewables portfolio standard.

Air quality provisions in Virginia restructuring legislation.

- Allegheny Power, ~~and~~ American Electric Power, CNG and Virginia Power are also firmly opposed to coupling new environmental mandates and restructuring legislation. ~~Both companies said~~ They believe that both the federal EPA and Virginia's DEQ have sufficient authority under current law to address all present and future air quality concerns. Ogden Energy—a waste-to-fuels company—expressed a similar sentiment, while the SCC stated that it does not recommend any new air quality initiatives as part of restructuring. Also, Virginia Power supports restructuring legislation that offers the opportunity to improve air quality indirectly by providing programs to

encourage conservation and the use of renewables which will reduce emissions and the need for additional generating capacity.

- With the exception of the Southern Environmental Law Center (which wants state support for changes in the federal clean air laws establishing uniform emissions restrictions for all generation facilities), almost all other respondents on this issue emphasized their support for enforcing existing emissions laws. Virginia's cooperatives recommend recognition of differences in emissions among the various sources of energy marketed in Virginia.

Generation fuels disclosures.

- On this issue, the electric utilities and cooperatives were in disagreement. American Electric Power and Allegheny Power opposed this requirement, while Virginia Power and Virginia's cooperatives supported it. CNG opposes it.
- To enable consumers to make informed choices among competing power suppliers, the law should require the disclosure by all suppliers of the fuel mix and the resulting emissions from the power generation sold by the supplier, according to the Consensus Group. This information must be provided in a clear, uniform and customer-friendly format on customers bills.
- The Attorney General's Division of Consumer Counsel together with all consumer groups and the Southern Environmental Law Center also supported this proposed requirement.
- Ogden Energy Group, however, supports voluntary program designed to help consumers identify green, clean electricity products.

Other issues:

- MDV-SEIA, a solar energy trade association, proposes that "net metering" be mandated. Net metering allows self-generators—such as those using solar power—to receive credit for electricity they generate in excess of their own usage.
- The SCC strongly advocated regulatory verification of green power suppliers' energy sources.
- The Consensus Group said that funding for programs that encourage the use of renewable energy resources and promote energy efficiency and conservation should be provided by a nonbypassable public benefits charge imposed on all purchasers of electric energy. These funds should be administered by an independent entity, according to the Consensus Group

Energy Efficiency

Electric utilities' efforts to use energy more efficiently fall into two categories: *conservation programs* and *load management programs*. Conservation reduces usage, and load management shifts usage to use generation units more efficiently. Collectively these two approaches are called "demand side management," or DSM. The overarching purpose of DSM is to reduce the need for constructing new generation.

The Southern Environmental Law Center and others have expressed their concern that restructuring will put a premium on short-term profits, making DSM programs (and their lengthy savings payback periods) unappealing. To counter that, the Center has proposed implementing a public benefits charge to ensure that DSM and renewable technology research is conducted in a post-restructuring market. This proposal raises two key questions reiterated in the staff matrix questions: (i) how should energy efficiency programs be supported during and after restructuring, and (ii) whether a public benefits surcharge should be imposed to fund R & D for energy efficiency and conservation.

- Consumer groups (VCCC, VCAP and others), together with the Association of Energy Conservation Professionals (AECOP) and the solar consortium MDV-SEIA, joined the Southern Environmental Law Center in suggesting that the best way to promote energy conservation is through a public benefits charge for energy investments.
- Funding for programs that encourage the use of renewable energy resources and promote energy efficiency and conservation should be provided by a nonbypassable public benefits charge imposed on all purchasers of electric energy, according to the Consensus Group. These funds should be administered by an independent entity.
- The electric utilities fell into three camps on this issue: those who opposed public benefits charges for energy efficiency (Allegheny and the cooperatives); those who supported them (Virginia Power) and those who took no position (AEP).
- Other ideas included that of Allegheny Power to use tax incentives to promote energy efficiency initiatives. MDV-SEIA believes that the Commonwealth should set the example by directly investing in energy efficiency "seed projects" through its capital outlay for new and renovated public facilities.
- The SCC does not support a public benefits charge for energy efficiency.

Electric Utility Worker Protection

The International Brotherhood of Electrical Workers, or IBEW has appeared several times before the joint subcommittee and its task forces to emphasize its concerns

about restructuring's potential impact on electric utility workers—both in terms of job retention, and in terms of easing their transition to new careers in the event of significant restructuring-related downsizing.

An IBEW representative reminded this task force of positions this labor organization had taken before the joint subcommittee at a meeting earlier this year in which it had urged statutory protections for utility worker, such as (i) minimum staffing levels linked to reliability considerations, (ii) continuing utility worker employment at generation units or stations, and protecting their wages and terms of employment, (iii) worker qualifications for purposes of quality, safety and reliability, (iv) quality, safety and reliability standards applicable to new market entrants, and (v) mandatory training and skill standards for all electrical workers responsible for systems and equipment after restructuring.

The IBEW continues to support these positions and desired responses to them from stakeholders and other interested parties. At the task force's direction, these issues were included in the staff matrix questionnaire. The electric utilities and cooperatives were the principal respondents to these questions.

The Consensus Group noted that a well-trained and highly skilled workforce will be essential for ensuring reliability in a competitive market for electricity. The Consensus Group suggested that programs that offer education, retraining and outplacement services should be established to assist electric utility employees directly affected by the implementation of competition in the generation and supply of electric energy.

Statutory protections, including minimum staffing levels and employment continuation.

- American Electric Power and Allegheny Power do not support providing new statutory protections for electric utility workers. However, they join Virginia's cooperatives and Virginia Power in supporting downsizing-related needs through a nonbypassable wires charge, e.g., covering such costs as severance pay, outplacement services, and retraining.
- Virginia's utilities showed no support for any minimum plant or station staffing level requirement. In sum, they believe that reliability is a responsibility all energy suppliers currently have and will have in the future, and that minimum staffing should not be mandated.
- The utilities also believe that electric utility workers assigned to any incumbent utilities' generation assets sold in restructuring-related sales, should receive no new statutory protections insofar as job protections or wage and benefits guarantees.

Worker standards for new market entrants relating to safety and reliability, and training and skill standards for all electrical workers.

- The utilities emphasized that new market entrants would and should be subject to current state, federal and industry requirements governing safety and reliability. These include standards imposed by the National Electric Safety Code, the North American Reliability Council and Regional Reliability Council rules, and utility interconnection requirements.
 - The utilities also emphasized that utility workers—employed by new entrants and incumbents alike—should continue to be trained in accordance with existing utility practices and standards, and in conformity to requirements imposed by applicable state and federal law. Any new standards generated by restructuring, they said, should be applicable to all.
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