

TO: SJR 91 Task Force on Legislative Drafting

FROM: Trip Pollard, Senior Attorney
Southern Environmental Law Center

DATE: January 5, 1999

RE: Comments on Draft Legislation

The Southern Environmental Law Center appreciates the opportunity to submit the following brief comments on the draft restructuring legislation that has been prepared.

Although the draft legislation does contain a number of important and valuable provisions, SELC continues to have a number of concerns about the environmental and consumer impacts of the proposed restructuring of the electric utility industry, which the bill does not adequately address. These concerns are represented in the various matrixes that have been prepared, and in our previous comments and submissions. We will not repeat them here.

Perhaps the most important environmental provisions in the draft bill are the provisions of § 56-589(C) and (D) regarding the disclosure of fuel mix and emissions data in marketing and billing information. We strongly support the inclusion of such provisions, which are necessary to enable consumers to make informed decisions about the power they purchase. However, we urge the drafting committee to make two changes to these provisions.

- First, the provisions state that the standardized marketing and information the Commission develops may include fuel mix and emissions data. This is insufficient to ensure that consumers get the information they need. The draft should be changed to state that the Commission shall include the specified information.
- Second, we urge the drafting committee to delete the language that the standardized environmental information be developed "to the extent feasible." This qualifier is not added to the other provisions on marketing and billing information and could limit

development of necessary standards. Standards for disclosure have been developed in New England, New York, and Illinois, so there is no question about the feasibility of developing such standards. At the very least, if the drafting committee decides to retain some qualifier regarding the development of environmental disclosure, we urge the committee to state that the information should be developed "to the maximum extent feasible" to express a stronger intent that such standards be developed.

In addition, although we would have preferred establishment of a mechanism to fund energy efficiency and renewable energy, we believe that assigning energy efficiency to the Legislative Transition Task Force is an acceptable alternative. Renewable energy issues, however, should be added to the charge of the Transition Task Force.

Finally, we believe that the aggregation provisions of §56-590 should be expanded to increase the ability of localities to act as aggregators on behalf of their citizens. In particular, we believe that localities should be permitted to form inter-locality aggregates and to aggregate load with private entities outside their territorial jurisdiction. Experience with restructuring thus far has shown that there may be few options for residential consumers in a restructured electric industry. The aggregation authority provided in the draft legislation is helpful, but many localities may be too small to avail themselves of the limited authority provided. Localities should be given broad authority to pool a larger number of customers, since this will increase their bargaining power and may enable them to present a more attractive load profile.

We appreciate your consideration of these comments.