

To: Lee O'Bryan

From: Wayne Smith

Re: Revised Comments on 12/21/98 4:40 PM Draft

Date: Dec. 29,1998

Chapter 26

Major

Page 7, Line 26 and Page 8, Line 1

Delete "or operating."

Other provisions empower Commission to assess only property owned by wholesale electric supplier. Change in our suggested language, which came from SB 619 and 620. In the alternative, 58.1-2628 D could be revised to require reporting of property owned or operated.

Page 13, Line 23-Page 14, Line 26

Why not repeal 58.1-2626.1 and amend 58.1-433 to cover all businesses eligible for the coal tax credit? I don't believe any water or gas companies have ever claimed it.

Minor

Page 6, Line 7

Insert "public service" between "every" and "corporation."

This change would make language consistent with lines 3 and 4 and the Commission's historic interpretation of language. Change in our suggested language.

Page 9, Line 23

Insert "equalized" before assessed valuation.

Change is consistent with rationing; avoids issues of assessing at fair market value. Not in our suggested language.

Page 17, Line 23

Was a "the" emitted?

Page 19, Lines 1 and 2

Strike "water" and add "by means of electricity" after "power."

Page 22, Line 25

Strike "water"?

Page 17, Line 19

The cross-reference should be to Sec. 58.1-2628 C and D, which cover reporting, or it should be omitted. Sec. 2606 addresses tax rates localities may apply.

Chapter 29

Major

Page 21-22

I assume that the differences between this provision and the provision on page 19 will be addressed. It appears that the rates and some language were picked up from SB619 carried over from the 1998 Session.

Minor

Page 2 1, Lines 13-14, 20-21

The tax is described in the Code as the "special regulatory revenue tax," and references probably should be to §§ 58.1-2660 et seq. In addition, it is not the State Corporation Commission's tax. It is levied by the General Assembly as an alternative to imposing fees or funding from general tax revenues. Part of the special tax goes to the Department of Taxation to cover costs of assessing railroad property.

Page 22, Line 25

Omit "water"?

Other

Page 3, Line 17 to Page 4, Line 5

I thought that the drafting group agreed to levy the corporate income tax on Virginia Power and AEP on the same terms as any other taxpayer. The apportionment formulae exempt the transmission and distribution activities. This, of course, increases the consumer tax. I wish the Department of Taxation well in figuring out what is distribution and transmission. I don't think we ever had the final answer.

Page 4, Line 6

Where is the amendment to Sec. 58.1-440?

Page 24, Lines 19-26

The Commission's definition of "generating equipment" assessed pursuant to Sec. 58.1-2633 B and made a separate item and class might include items not considered machinery and tools as defined in Sec. 58.1-3507. On the other hand, does this provision require the Commission to consider the definition of machinery and tools when defining "generating equipment"? Does the provision empower the localities to divide the separate item and class of generating equipment into machinery and tools and other tangible property?

All generating equipment reported to the Commission and assessed is a separate item and class, regardless of its ownership. Does this language mean that the wholesale electric suppliers will pay a rate capped by a machinery and tools rate while the others will pay at the real estate rate?