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Recommendations of ALERT  
Alliance for Lower Electric Rates Today  
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## **Outline of Senate Bill 688**

### **Issues raised by Stakeholders and Interested Parties**

#### ***Article 1—General Provisions***

**§ 56-576. Short title.**

*No response required.*

**§ 56-577. Definitions.**

*No response requested at this time.*

**§ 56-578. Applicability; municipalities.**

*Basic issue: The treatment of municipally-owned and operated electric utilities under a comprehensive restructuring act.*

Representative issues:

- Retail choice by current customers of municipal power suppliers.
- Retail electric power sales by municipal power suppliers to customers outside their municipal distribution systems.

ALERT recommendations:

- Measure applies to all electric utilities (i.e., generation, transmission and distribution).
- Exemption for generation solely for self-consumption at site of generation.
- Exemption for electric utility owned by municipality that so files with SCC unless such utility sells or offers to sell (i) outside municipality or (ii) through a RPX or (iii) to a supplier/distributor of electricity.

#### ***Article 2--Phased Transition to Retail Competition.***

**§ 56-579. Schedule for transition to retail competition; Commission authority.**

*Basic issue: The timeline and structure of transition to retail competition, including timelines, SCC oversight, rate cases, linkages to ISO/RPX formation.*

Representative Issues:

- Commencement of competition; phase-in (e.g., PA), or concurrent commencement for all customer classes (e.g., CA).

ALERT recommendations:

• Timetable:

- By 1/1/2000: formation of ISO and RPX completed; commencement of purchases/sales through RPX and all transmission through ISO.
- By 7/1/2000: commence competition.
- By 7/1/2001: full competition in place.
- (Recognize dependent on progress regarding ISO and RPX.)

• Phase-in:

- Net result: 18 month phase-in by percentage of class of customers.
- Phase-in by each utility making competition available to set percentage of each class of customers (industrial, commercial and residential) by a specified date.
- Customer may purchase from incumbent utility or other generator/supplier.
- Customer may purchase through RPX or through contract with generator/supplier.
- 33 1/3% of each class: 7/1/2000.
- 100% of each class: 7/1/2001.
- First come, first serve; if sign up more than permitted %, then use lottery to select participants; if sign up less than committed percentage, then use that unused capacity for other classes.

- Relationship between commencement of retail competition and completion of ISOs and RPXs.

ALERT Recommendations: See above.

- Relationship between commencement of retail competition in Virginia and similar commencement in other states served by ISOs serving Virginia.

ALERT recommendation: Virginia goes forward regardless of what other states in ISO do regarding competition unless delayed by SCC per below recommendation.

- Authority, if any, of Virginia State Corporation Commission to vary time schedule.

ALERT recommendations:

- SCC may accelerate time schedule if it determines appropriate based on considerations of reliability, safety, communication and market power.
- SCC may delay time schedule if it determines so necessary based on considerations of reliability, safety, communication and market power, but only for the period of time necessary to satisfactorily address such issues.

- SCC to periodically report to General Assembly on status of progress to implementation of retail competition per above timetable.

- “Baseline” rate cases.

ALERT recommendation: There should be a "Baseline" rate case in the sense of establishing charges for (i) distribution services and (ii) for metering and billing (to establish standards/criteria for competition in these areas or, in the alternative, to establish standards/criteria for such services until competition is allowed).

- Rate freezes in mitigation of stranded costs.

ALERT recommendations: Address as part of stranded costs issue.

- Preliminary wholesale competition.

ALERT recommendation: Wholesale competition already exists; no additional measures related to wholesale competition are necessary.

- Unbundling.

ALERT recommendations:

- All retail services other than actual transmission and distribution shall be unbundled and subject to competition.
- Services to be unbundled and subject to competition include, but are not limited to, the following:
  - Generation.
  - Metering and billing; subject to standards/criteria established by SCC; also, consumers may own or provide for metering and billing, subject to such standards.
  - Maintenance, backup and supplemental power services.

- Pilot programs.

ALERT recommendation: No "Pilot programs" after retail competition commences as there will be appropriate phase-in over 18 months transition as described above. Pilot projects will have already occurred prior to commencement of retail competition under SCC/utilities actions currently under discussions.

### **§ 56-580. Nondiscriminatory access to transmission and distribution systems.**

*Basic Issue: Access by electricity suppliers to transmission and distribution systems currently owned and operated by incumbent electric utilities.*

Representative issues:

- Delineation of jurisdictional limitations of both SCC and FERC.

- Transmission import constraints, and impact on market power.
- Regulation of transmission rates where transmission constrained until constraint relieved.

ALERT recommendations: Transmission and distribution; general.

- All transmitters and all distributors shall provide reasonable and nondiscriminatory access to their respective transmission and distribution systems for all generators, suppliers and retail customers.
- Rates shall be just, reasonable and nondiscriminatory.
- Transmission system rates to be determined by FERC.
- Distribution system rates to be determined by SCC.
- SCC to have the authority to and, if appropriate, shall promulgate rules and regulations to assure reasonable and non-discriminatory access to and rates for distribution.
- Transmission and distribution services provided to each generator, supplier and retail customer shall be at least equal in quality to those provided by such transmitter or distributor to itself or an affiliate.

ALERT recommendations: Market power - Functional divestiture.

- Functional divestiture of vertically integrated utility.
- Code of conduct for affiliate transactions.
- Enforcement of anti-trust laws.

ALERT recommendations: Transmission.

- ISO to determine need for transmission modifications.
- ISO to authorize and direct the construction of transmission modifications by transmission owners.
- ISO to require transmission owners to upgrade facilities to reduce transmission constraints based on FERC established criteria.
- Local utility to build additional transmission facilities, using eminent domain powers.
- SCC to authorize use of eminent domain.

Query: Should ISO construct, own and maintain transmission facilities and have eminent domain?

**§ 56-581. Independent system operator.**

*Basic issue: The role of regional independent system operators (ISOs) in furnishing generation dispatch coordination.*

Representative issues:

- ISO governance; board membership composition.

ALERT recommendation: ISO to be independent of control or ownership of transmission owners with a Board that is independent and disinterested; however, if a stakeholder Board is implemented, all stakeholders must have equal and effective role in the governance of the ISO.

Stakeholders include all classes of consumers (residential, commercial and industrial) that individually shall be equally represented on such Board and that collectively shall have equal representation with transmission owners.

- Conformity of ISOs to a Virginia “public interest” standard, or to any other Virginia-specific standards.

ALERT recommendations: SCC to have authority to approve the participation of a Virginia utility in an ISO. SCC shall place special emphasis on considerations of reliability, transmission constraints and market power.

- Extent of Virginia oversight of ISO following formation and approval of electricity dispatch in Virginia through ISO; ceding oversight to FERC.

ALERT recommendation: Following approval of ISO by SCC, oversight of ISO shall be with FERC and not SCC. SCC to have authority to determine if continued participation in ISO by Virginia utility is appropriate upon change in structure or operation of ISO.

- Determining ISO responsibility for coordinating with load serving entities, voltage stability, generation reserves and overall generation and transmission upgrades & reliability.

ALERT recommendation: Responsibility of ISO which shall be the exclusive real-time operator and control of the transmission system.

- Identification and obligations of must-run generation units.

ALERT recommendation: Responsibility of ISO; "must-run" based on reliability considerations only.

- Minimum size requirements.

ALERT recommendation: Preference is for (i) all Virginia utilities to be in the same ISO (ii) that has broad geographic dimensions and (iii) without any transmission constraint between such utilities.

- Eminent domain and rights of condemnation.

ALERT recommendation: See above.

- Dispatch of must-run units.

ALERT recommendation: Responsibility of ISO, but only to the extent necessary for reliability and integrity.

## **§ 56-582. Regional power exchange.**

*Basic issue: The role of regional power exchanges in providing electricity pricing mechanisms.*

Representative issues:

- Conformity of RPXs to a Virginia “public interest” standard.

ALERT recommendation: The involvement of a Virginia utility in a RPX shall be subject to SCC approval.

- Opportunities for bilateral contracts between suppliers and customers.

ALERT recommendations:

- RPX must not be exclusive; retail customers should not be required to make all purchases through the RPX.
- Retail customers shall have the right to purchase from a generator/supplier either through RPX or by a bilateral contract.
- Retail customers are allowed to aggregate purchases.
- Determination of whether all sales must be made through RPX.

ALERT recommendations: See above.

- Relationship to electric cooperatives and municipal power suppliers.

ALERT recommendation: Electric cooperatives and municipal power suppliers may purchase through RPX.

- Pricing of generation from must-run units.

ALERT recommendation: Pricing to be cost-based with cost to be spread over all grid users.

ALERT recommendation: Pricing under RPX should follow these principles:

- The generator/seller is to receive the price that generator/seller actually bid.
- Buyer is to pay the weighted average of the bid ... not the highest accepted bid price (e.g., market clearing price).

## ***Article 3--Regulation of Electricity Generation, Transmission and Distribution.***

### **§ 56-583. Transmission and distribution of electric energy.**

*Basic issue: The regulatory and structural framework for electricity’s transmission and distribution.*

Representative issues:

- Equality of treatment between incumbent utilities and new market entrants.

ALERT recommendation: Incumbent utilities and new market entrants to be treated the same with regards to both their rights and responsibilities.

- Continuation of eminent domain authority under SCC oversight.

ALERT recommendation: As set forth above, SCC to continue eminent domain authority.

- Siting of merchant plants and any other new generation; role for SCC.

ALERT recommendations:

- SCC to have greatly diminished legal authority over authorization of merchant plants under deregulation; the decision as to the wisdom of building merchant plants that will not be included in any rate base will be left to the market place.
- SCC to retain authority, however, regarding authorization of siting since merchant plant public utility will be requesting eminent domain power.
- Preservation of current IOU, cooperative and municipal power supply systems' distribution service territories.

ALERT recommendation: Existing service areas to remain.

#### **§ 56-584. Regulation of rates subject to the Commission's jurisdiction.**

*Basic issue: Transitional and ultimate rate regulation for bundled and unbundled electric service.*

Representative issues:

- Determination of services subject to rate regulation, and those subject to competition.

ALERT recommendations:

- Transmission charges to be determined by ISO with FERC oversight.
- Distribution charges to be determined by SCC.
- Cost of retail services that are subject to competition are set by the market place.
- Cost of unbundled services that are not competitive, if any, to be set by SCC.

#### **§ 56-585. Licensure of suppliers of retail electric energy; license suspension or revocation; penalties.**

*Basic issue: Licensing, financial responsibility and customer service requirements imposed on all suppliers of electricity within the Commonwealth.*

ALERT recommendations:

- Suppliers required to obtain appropriate approvals from SCC, demonstrate minimum financial responsibility/practical capabilities and comply with requirements of Commission necessary for the protection of the public.
- Aggregators, marketers and brokers must be licensed by and comply with requirements of Commission necessary for the protection of the public.
- SCC to have full regulatory authority over all suppliers, aggregators, marketers and brokers.
- SCC may adopt reasonable rules and regulations regarding the requirements for obtaining, retaining and renewing the license required.
- SCC may impose bond and cost requirements as it determines appropriate.
- All requirements to be nondiscriminatory and make no distinction between incumbent utilities and new market entrants.

**§ 56-586. Suppliers of last resort [and default suppliers].**

*Basic Issue: Determining the generation suppliers of electricity customers who (i) are unable to obtain generation supply services, or (ii) do not affirmatively choose generation suppliers.*

Representative issues:

- Backstop providers where contract suppliers fail to delivery generation supply.

ALERT recommendations:

- Supplier of last resort is the utility which will retain the obligation to serve customers who are unable to obtain a generation supplier or who have returned to such services because they were terminated by their supplier.
- The default provider is the entity that will provide electric service to individuals that do not exercise their choice of a generation supplier.
- Process must be developed for equitably assigning both sets of customers, either together or as separate groups.
- SCC to have responsibility to determine supplier of last resort and default provider.
- Alternatives include the following:
  - (i) designate the local distribution company as the supplier of last resort and/or default provider;
  - (ii) procurement of competitive bids for a default provider; (iii) distribute among the retail service providers those who do not or are unable to choose a provider so that the supplier of last resort and default provider roles are shared on a pro rata basis among those doing business in the Commonwealth.
- In all instances, there will be a need for backstop providers where a contract supplier has failed to deliver generation supply. This occurrence should normally be addressed by a contract, with the electric power being purchased at the RPX, with the price difference to be charged to the contract supplier.



**§ 56-587. Voluntary aggregation permitted.**

*Basic Issue: The framework within which individual electricity customers may aggregate demand in negotiating for generation supply.*

ALERT recommendation: Any and all consumers may voluntarily aggregate their electrical energy demand for the purpose of negotiating the purchase of electric energy from any supplier thereof.

**§ 56-588. Metering, billing and other related distribution services.**

*Basic Issue: How billing, metering and related services will be handled and regulated.*

Representative issues:

- Determining whether any of these or any other distribution services should be provided on a competitive basis.

ALERT recommendations:

- Consumer shall be allowed the option of purchasing services in a bundled or unbundled fashion.
- "Back-up" services (maintenance, back-up and supplemental power services) to be provided on a fully competitive basis. Back-up power would likely be bought directly on a spot market if other contractual arrangements are not made. Buyers should be allowed to blend contracts and spot purchases to meet their needs and risk purposes.
- Metering and billing - Consumers should be allowed to competitively solicit these services; they also should be allowed to own their own metering and load control equipment; all metering and billing shall be subject to standards/criteria established by the SCC.

**§ 56-589. Consumer protections and customer services; penalties.**

*Basic issue: Maintenance of customer service functions during and after transition to retail competition, plus consumer information and disclosures during transition.*

Representative issues:

**[No response requested at this time; issue is before the Consumer and Environmental Education and Protection Task Force]**

- Antitrust consideration.

ALERT recommendation: All existing federal and state anti-trust provisions to remain in full force and effect with no state action immunity.

- Runaway prices.

ALERT recommendation: Provide authorization to the SCC to take action in a true emergency situation for the protection of the public health, safety and welfare.

**§ 56-590. Public purpose programs.**

*Basic issue: The establishment or continuation of public benefit programs, including universal service, energy efficiency and conservation, etc.*

**[No response requested at this time; issue is before the Consumer and Environmental Education and Protection Task Force].**

***Article 4--Additional Provisions.***

**§ 56-591. Transition costs and benefits.**

*Basic issue: Allowance for and calculation of stranded costs and benefits—an issue currently before the task force assigned this topic.*

Representative issues:

***No response requested at this time since this issue is currently pending before the Stranded Costs Task Force***

**§ 56-592. Nonbypassable wires charges.**

*Basic issue: The extent to which and the methods by which retail customers could be assessed pro rata surcharges for stranded cost recovery, the cost of establishing ISOs and RPXs, the cost of public purpose programs, etc.*

ALERT recommendations:

- Handle as part of Stranded Costs Task Force deliberations.
- As a general principle, broad policy to be established by General Assembly with all implementations/determinations to be made by SCC after appropriate hearings/deliberations.

**§ 56-593. Divestiture not required; functional separation [and other corporate relationships].**

*Basic issue: Treatment of incumbent utilities' current vertically integrated structure.*

Representative issues:

- Divestiture to sufficient numbers of entities to create a competitive market.
- Separation of generation and distribution.
- Relationships between suppliers or distributors and their affiliates.
- Mergers and acquisitions.

ALERT recommendations: Functional divestiture.

- There should be a functional separation of generation, transmission and distribution capabilities.
- Codes of conduct for affiliate transaction.
- Ensure enforcement of anti-trust laws.
- Nondiscriminatory pricing of all users of transmission and distribution services.

ALERT recommendations: Generation divestiture.

- Appropriate regulatory safeguards for must run units.
- Divestiture should neither be mandated or prohibited by statute.
- SCC to have authority to require divestiture, if deemed appropriate, to resolve market power or determine stranded costs.

ALERT recommendations: Market power - generation.

- Major emphasis: Modify Virginia law to both allow and encourage construction of merchant plants to provide alternative power sources in the service area of the incumbent utility and to overcome market power of incumbent utility.
- Modifications in regulatory environment to encourage development of cogeneration and other distributed generation.

**§ 56-594. Legislative transition task force established.**

*Basic issue: The role of the General Assembly during phase-in to retail competition.*

ALERT recommendation: Joint Subcommittee to be continued as a legislative policy oversight entity.

***Market Power.***

*Basic issue: Striking a competitive balance between incumbent utilities and new market entrants.*

Representative issues:

- Mitigating market power associated with existing generation.
- Market power impact of existing generation sites as candidates for new, incremental generation.
- Competitive advantages associated with ownership of SO<sub>2</sub> allowances and the ability to generate NO<sub>x</sub> offsets necessary to build generation in non-attainment areas.
- Competition for default service.
- Implications of long-term contracts between incumbent utilities and existing customers prior to commencement of retail competition.

ALERT recommendations: Functional divestiture. See § 56-593 above.

ALERT recommendations: Generation divestiture. See § 56-593 above.

ALERT recommendations: Market power. See § 56-593 above.

ALERT recommendations: - SO<sub>2</sub> and NO<sub>x</sub> - to be determined by Environmental Task Force.

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