

**Structure & Transition Task Force
Narrative Plans
Staff Summary of Key Areas of Agreement & Disagreement [rev. 9/21/98]**

The following is a summary of the positions of stakeholders and other interested parties concerning key issues involving the structure of a restructured market, and the transition to such a market. This summary was initially developed from (i) information contained in the staff matrix summarizing the parties' narrative plans, and (ii) from information received from the parties subsequent to the matrix's release at the task force's August 12 meeting.

This version incorporates revisions requested, in writing, by stakeholders and other interested parties on and through September 18. This revised summary, together with the revised matrix, will be presented to the full joint subcommittee at its meeting in Roanoke on September 23.

Note:

- Except as otherwise indicated, wherever this summary indicates that the parties were unanimous in their approval or disapproval of any particular point or issue, the comment refers only to those parties who responded to the same.
- Changes requested by the parties are indicated in double-underlined text. Comments concerning SCC positions were added by staff.

I. The Transition to Retail Competition.

1. *If the Virginia General Assembly enacts comprehensive electric utility restructuring legislation, which services should be made competitive?* [Matrix pp. 17, 20].

- *The SCC believes that incumbent utilities should be obligated to provide service on a regulated basis until competition becomes an effective regulator of rates for service considered for competition.*
- The greater majority of respondents said that generation should be made competitive, and that transmission and distribution should remain regulated services (the former by FERC, the latter by the SCC).

- AARP and VCCC said that the SCC should have the authority to determine which, if any, services should be made competitive once it determines that effective competition exists for these services.
- Some respondents, including *AEP-Virginia, AOBA, CNG, Virginia Power and Washington Gas*, said that metering and billing and other ancillary distribution services could be considered for competition following transition to retail competition.

2. When should retail competition begin? [Staff Matrix pp. 1-3].

- *The SCC believes that the HB-1772 schedule should be subject to modifications, if necessary. Additionally, the SCC believes that there should be no predetermined schedule for the deregulation of generation assets.*
- The AARP and VCCC believe that no service should be made competitive until the SCC determines that there exists in the market effective competition for that service.
- However, ~~all of the investor owned utilities supported~~ Virginia Power and Allegheny support the timetable established by House Bill 1172 (1998) which begins the transition in 2002 and concludes it in 2004 (following the establishment of ISOs and RPXs in 2001).
- *AEP-Virginia believes the schedule in HB-1172 is aggressive. The company supports a 4-5 year transition period following an unbundling period. Moreover, AEP Virginia believes that if the transition to retail competition begins on January 1, 2002, then full retail choice should occur in 2005 or 2006.*
- ALERT and the Virginia Committee for Fair Utility Rates favor more aggressive timetables: ALERT wants full retail competition for all classes by 7/1/2001; The Committee would like retail choice for industrial customers not later than 1/1/2002.

3. Should the SCC have authority to delay the commencement of retail competition? [Staff matrix, pg. 5].

- *The SCC believes it should have this authority.*
- The parties were nearly unanimous in declaring that the SCC should have such authority. But many, including *ALERT, Virginia Power,*

Allegheny and *MEPAV* suggested that such authority be limited to specific circumstances, mainly the lack of readiness for competition at particular legislative milestones.

- *AEP* believes that continuing oversight will be necessary throughout transition. Such policy oversight, in its estimation, should come from the legislature, with assistance from the Commission.

4. Should the commencement of retail competition be made contingent upon the implementation of an ISO/RPX? [Staff Matrix, pg. 4]

- The SCC believes that an ISO should be in place before significant customer choice is implemented.
- Nearly all of the parties said yes. *Allegheny*, the Virginia Committee for Fair Utility Rates and CNG said no.

5. Should pilot programs accompany the transition to retail competition? [Staff matrix, page 7.]

- The SCC notes that pilot program development is in progress at the SCC.
- Virtually no one objected to pilot programs, with one exception—CNG—which believes that Virginia should simply make use of pilot program information developed in other states. However, *Allegheny* and *Virginia Power* believe it's unnecessary to include them in any comprehensive restructuring plan since the SCC has already requested that Virginia's investor-owned utilities submit pilot programs by November 2.
- *AOBA*, on the other hand, believes that large-scale pilot programs should be key components in any phased restructuring plan. *Washington Gas* also believes pilot programs should be formally included in any restructuring plan.

6. Should retail competition be phased in? [Staff Matrix pg. 3].

- Nearly all respondents agreed that retail competition should be phased in; they were far from unanimous about how that should be accomplished. *AARP* and *ALERT*, for example, believe that equal percentages of each customer class should be phased into retail competition over a specified phase-in period.

- *AEP-Virginia believes that a phase-in may be a practical necessity; that no customer class should be disadvantaged during a phase-in.*
- ~~*Virginia Power and the*~~ *The Virginia Committee for Fair Utility Rates recommended that industrials customers go first by 2002. The Virginia Council Against Poverty took the opposite view: residential and small business first, then the other classes.*
- *The Co-ops, CNG, the VCCC and The Southern Environmental Law Center believe that all customers and customer classes should begin retail competition together.*
- *The SCC believes in flexibility tailored to fix circumstances.*

7. Should unbundling of utilities' current rates accompany retail competition? [Staff Matrix pg. 6.]

- ~~*Virtually everyone*~~ *The SCC and virtually all the parties agreed that unbundling (i.e., separating each utility's rates into their component parts) is essential. However, the parties drew sharp distinctions between informational unbundling and competitive unbundling. AEP-Virginia and Allegheny support preliminary cost of service studies or rate analysis as the basis for informational unbundling.*

8. Should mandatory baseline rates cases precede retail competition? [staff matrix, pg. 5]

- *Allegheny, Virginia Power, CNG and the Co-ops suggested that rate unbundling would serve the same purpose; thus, baseline rate cases would be unnecessary.*
- *AEP-Virginia agrees that unbundling can serve the same purpose. However, it also believes that there may be a need to examine costs at the time of transition, thus recognizing major cost changes such as environmental costs.*
- ~~*Virginia Power believes that pre transition rate cases should be filed under existing statutes.*~~
- *AOBA says the SCC should have discretion to require baseline cases, but that rate cases for unbundling purposes should be mandatory.*
- *Washington Gas suggests that rate cases should be used to establish base rates and to unbundle rates.*

- *The SCC favors a flexible approach, recognizing the unique circumstances of each utility.*

9. Should preliminary rate freezes or rate caps be utilized in mitigation of stranded costs? [staff matrix, pg. 5]

- *The SCC believes that rate caps may be the most effective means of providing (i) long-term consumer rate protection, and (ii) the return of any stranded benefits.*
- *All of the investor-owned electric utilities favor or support rate freezes or rate caps, with AEP Virginia and Allegheny favoring frozen retail rates during a 4-5 year transition period. The Co-ops said they are not opposed, but believe that a preliminary review of stranded costs must precede any rate freezes.*
- *CNG and AOBA oppose such rate freezes, with CNG voicing opinion that such freezes stifle competition.*

II. Supplying and Pricing Electricity in a Restructured Market.

10. Should all retail electric energy suppliers in a restructured market be licensed? [staff matrix, pg. 18]

- *Stakeholders and interested parties were unanimous in their opinion that all such suppliers should be licensed and subject to regulatory oversight (most suggested the SCC for that role). The SCC concurs. Virtually all agreed that suppliers should be bonded, or required to provide proof of financial responsibility, and required to meet certain market standards of conduct.*
- *The Co-ops, AOBA, and AARP suggested that all suppliers should also furnish proof of adequate generation reserves. Virginia Power also supports this requirement.*
- *The VCCC also believes that all such suppliers should be required to offer service to every customer within the service territories chosen by the suppliers.*

- CNG also believes that that all suppliers should furnish proof of adequate generation reserves, so long as suppliers are permitted to demonstrate adequate generation reserves either through contractual or equity means. Rationale: Limiting market access to suppliers owning an equity stake in generation facilities would be a barrier to entry and would serve to restrain competition.

11. Should municipal power suppliers be exempted from retail competition? [staff matrix, pg. 1]

- The majority agreed that municipals could be exempted, but only if they refrained from offering electricity to customers outside their distribution territories. Most agreed that municipals should be permitted to “opt in” to retail competition on a reciprocal basis, i.e., if the municipals permit other suppliers to sell generation service to municipal customers.

12. Who should provide default, supplier-of-last-resort, and emergency service in a restructured market? [staff matrix, pp. 19, 28]

- Nearly all of the parties (except ~~CNG, SELC and AARP~~) agreed that incumbent utilities or incumbent local distribution providers (e.g., co-ops and municipal power suppliers) should provide all of these services during the transition to retail competition.
- ~~CNG, SELC and AARP~~ believe that default provider service should be competitively bid at the outset. VCAP and Washington Gas support making these services competitive following the completion of the transition period.
- CNG believes that the SCC should determine when there is sufficient competition to allow competitive bids; sufficient competition could occur at any time but is unlikely to happen during the transition to competition.
- The VCCC says that the SCC should designate providers of last resort; that all suppliers should be able to serve as suppliers of last resort either through assignment or competitive bidding for that load.
- The SCC says that it is currently developing a proposal with respect to this issue.

13. Should voluntary customer aggregation be permitted? [Staff matrix, pg. 20]

- The parties were unanimous in their support for aggregation.

- AOBA emphasized that aggregation should be permitted without any restrictions on utility service, customer class, etc.
- AARP believes that the SCC should assist customer aggregation, while VCAP suggested that the development of nonprofit or public aggregators for residential and other small consumer groups should be encouraged. Virginia Power also supports the development of nonprofit or public aggregators.
- *The VCCC also advocates customer aggregation by municipalities, cooperatives, or non-profit or for-profit entities.*

III. Transmission, Distribution and Wholesale Pricing of Electricity in a Restructured Market.

14. What are the respective roles of the SCC and FERC in the transmission and distribution of electricity in a restructured market? [staff matrix, pp. 7, 8]

- The parties agree that FERC will have authority over transmission (including transmission rates) and the SCC will have authority over distribution. *Virginia Power* believes that this separation of regulatory jurisdiction should be stated in any Virginia restructuring bill.
- The *Co-ops* suggests that the SCC have seats on ISO boards of advisory committees.
- *MEPAV* suggests that FERC's 7-factor test for distinguishing between transmission and distribution facilities be incorporated into any Virginia restructuring legislation.
- *The SCC advocates retaining maximum state authority in any restructuring legislation; and to ensure no gaps in authority between state and federal authority.*

15. What role should the General Assembly and the SCC play in the development of independent system operators serving Virginia? [staff matrix, pp. 9-11]

- The respondents are unanimous in their agreement that ISOs are needed to coordinate the transmission system and to ensure its reliability.

- The parties disagree about whether Virginia restructuring legislation should condition utilities' participation in ISOs meeting Virginia-specific criteria. Related to this issue are the collateral issues of appropriate ISO size (matrix, pg. 8), ISO board composition (matrix, pg. 7), and ISO identification and dispatch of must-run units (matrix, pg. 8).
- Virginia Power, Allegheny, and AEP Virginia believe that the SCC can bring its influence to bear in ISO development through ISO approval processes before FERC.
- *AEP-Virginia also notes that development of ISOs is essentially under FERC jurisdiction and that the SCC can provide input through that body's approval process.*
- Others, including ALERT, AOBA, the VCCC and SELC support the development of a public interest standard, or giving the SCC authority to approve each utility's participation in an ISO. *The Virginia Committee for Fair Utility Rates supports the SCC's development of advisory standards to guide utilities in developing or joining an ISO.*
- *The SCC believes the Commonwealth has an important role to play in ISO formation, and notes that it has an open docket on this issue.*

16. Should the SCC have any oversight of electric utilities' participation in ISOs following ISO implementation? [staff matrix, pg. 10]

- Virginia Power, Allegheny and CNG believe that any post-implementation concerns should be addressed by the SCC to FERC.
- ALERT and The Virginia Committee for Fair Rates, however, believe that the SCC should continue to have oversight and enforcement authority over utilities' ISO involvement—ALERT, for example, believes that any change in structure or operation of an ISO could trigger an SCC review to determine whether continued participation by Virginia utilities is appropriate.
- The VCCC believes that the same standards for continued operation of ISOs should apply as for joining ISOs.

17. Should incumbent investor-owned utilities, electric cooperatives and municipal power suppliers retain their role of distributors during and following any transition to retail competition? [matrix, pg. 17]

- The parties were nearly unanimous in declaring that distribution should remain a regulated service, and that incumbents should continue to furnish it through their current distribution system. AOBA suggested that it could be considered for competition at some time in the future.

18. What role should regional power exchanges, or RPXs play in Virginia's utility restructuring. [matrix, pp. 12-14]

- The parties did not advocate that the establishment of RPXs be addressed in legislation. *Virginia Power, AEP-Virginia* and *Allegheny* responses suggest that the mix of the marketplace and FERC oversight will be sufficiently protective of the public interest.
- *ALERT* believes that any Virginia utility's involvement should be subject to SCC approval.
- ~~The parties all~~ *A majority of the parties* agreed that (i) bilateral contracts should be permitted between suppliers and customers, (ii) not all sales need be made through RPXs, and (iii) Co-ops and Municipal power suppliers should be permitted to participate in RPXs.
- *The VCCC and VCAP oppose bilateral contracts, contending (in the case of VCAP) that such contracts will permit some to by-pass wires charges intended to pay for stranded costs or fund public benefits programs. The VCCC adds that bilateral contracting permits large electricity customers to by-pass the market and lock up low cost power.*
- *If bilateral contracts are permitted, the VCCC proposes residential customers rate reductions indexed to reductions in large customer rates.*

IV. Market Power.

19. Should incumbents be required to divest themselves of their generation, or functionally separate generation from distribution in order to mitigate potential market power in a competitive retail market? [staff matrix, pg. 23-25]

- The investor-owned electric utilities and cooperatives oppose mandatory divestiture, while either supporting or not opposing functional separation.

MEPAV believes that functional separation may require SCC or FERC oversight to prevent cost-shifting.

- ALERT, MEPAV, the VCCC and VCAP said that the SCC should have the authority to mandate divestiture if necessary to eliminate market power.
- CNG and AOBA said that incumbent utilities should be given incentives to divest.
- *The Virginia Committee for Fair Utility Rates says it favors both (i) permitting the SCC to require divestiture of a utility's generating assets if it determines that the utility may influence unduly the price of electricity and (ii) permitting the SCC to impose conditions on the sale of such assets in order to promote competition and the public interest (including conditions to ensure that any buyer or group of buyers is not able to influence unduly the price of electricity).*
- *The SCC believes that functional separation and divestiture could be helpful in alleviating generation market power. Additionally, the SCC said that divestiture could also be helpful in quantifying stranded costs and benefits.*

20. How should the General Assembly and the SCC address potential market power arising from transmission constraints, e.g., market power associated with must-run units? [staff matrix, pp. 8, 11, 14]

- *The SCC believes that state regulatory authority must be maintained over "must run units." The SCC further notes, however, that FERC's pricing of transmission in constrained areas will vary across ISOs.*
- ALERT and the investor-owned utilities believe, in general, that market forces (the construction of merchant plants, in particular) will ultimately resolve market power associated with transmission constraints.
- *AEP* advocated transmission line construction in its service territory as a means of alleviating some existing constraints. *MEPAV and Virginia Power* concur.
- However, the Co-ops contend that must-run generation in transmission-constrained areas should be regulated and priced by the SCC on a cost-of-service basis until any such constraint is eliminated. *AEP-Virginia, Allegheny, and CNG* concur.

- Virginia Power believes that pricing of must-run units should be addressed by FERC, which can establish a rate based on cost and a reasonable return.
 - *AEP-Virginia also notes its belief that market power and transmission constraint issues must be dealt with prior to and as a part of the development of full customer choice. One solution this company offers is the construction of facilities to eliminate constraints. AEP-Virginia also says that its current proposal for construction of a 765 kV line is solely predicated on maintaining reliability of service to its native customers.*
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