Deregulation of the sale of wholesale power will require changes to the tax structure for wholesale suppliers of power. Senate Bill 620 attempts to address this issue from the "corporate tax" perspective. As regulated companies, wholesale power suppliers are subject to license tax on gross receipts. This will no longer be the case in a deregulated environment. Because deregulation should be neutral from a tax standpoint, those taxes are expected to be replaced with the corporate tax which is paid by other non-regulated entities doing business in Virginia as set forth in Senate Bill 620.

SENATE BILL NO. 620

A BILL to amend and reenact § 58.1-401 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 58.1-400.2, relating to taxation of wholesale electric suppliers.

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-401 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 58.1-400.2 as follows:

§ 58.1-400.2. Taxation of wholesale electric power suppliers.

A. An investor-owned wholesale electric power supplier shall be subject to the tax levied pursuant to § 58.1-400.

B. Cooperatives, associations, partnerships and other business entities engaged in selling wholesale electric power shall be subject to corporate tax based on modified gross receipts.

C. The following words and terms, when used in this section, shall have the following meanings:

"Modified gross receipts" means all revenue from the sale of wholesale electric power within the Commonwealth, including the proportionate part of interstate revenue attributable to sales in the Commonwealth, with the following deductions:

1. All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on the sale of wholesale electric power.

2. Revenues billed on behalf of another such wholesale electric supplier to the extent such revenues are later paid over or settled with that supplier.

"Ordinary and necessary expenses paid" means ordinary and necessary expenses paid or incurred as defined in § 162 of the Internal Revenue Code.

"Sale of wholesale electric power" means all sales other than to the ultimate retail consumer.

"Wholesale electric supplier" means any corporation, cooperative, partnership or other business entity providing wholesale electric service.

The Department of Taxation may by regulation prescribe such exceptions to this section as it deems appropriate.

§ 58.1-401. Exemptions and exclusions.

No tax levied pursuant to §*§* 58.1-400 ~~or §~~*,* 58.1-400.1 *or § 58.1-400.2* is imposed on:

1. A public service corporation to the extent such corporation is subject to the license tax on gross receipts contained in Chapter 26 (§ 58.1-2600 et seq.) of this title;

2. Insurance companies to the extent such company is subject to the license tax on gross premiums under Chapter 25 (§ 58.1-2500 et seq.) of this title and reciprocal or interinsurance exchanges which pay a premium tax to the Commonwealth as provided by law;

3. State and national banks, banking associations and trust companies to the extent such companies are subject to the bank franchise tax on net capital;

3a. Credit unions organized and conducted as such under the laws of the Commonwealth or under the laws of the United States;

4. Electing small business corporations (S corporations);

5. Religious, educational, benevolent and other corporations not organized or conducted for pecuniary profit which by reason of their purposes or activities are exempt from

income tax under the laws of the United States, except those organizations which have unrelated business income or other taxable income under such laws;

6. Telephone companies chartered in the Commonwealth which are exclusively a local mutual association and are not designated to accumulate profits for the benefit of, or to pay dividends to, the stockholders or members thereof;

7. A corporation that has contracted with a commercial printer for printing and that is not otherwise taxable shall not become taxable by reason of: (i) the ownership or leasing by that corporation of tangible personal property located at the Virginia premises of the commercial printer and used solely in connection with the printing contract with such person; (ii) the sale by that corporation at another location of property of any kind printed at and shipped or distributed from the Virginia premises of the commercial printer; (iii) the activities in connection with the printing contract with such person of any kind performed by or on behalf of that corporation at the Virginia premises of the commercial printer; and (iv) the activities in connection with the printing contract with such person performed by the commercial printer for or on behalf of that corporation; and

8. Foreign sales corporations (FSC) and any income attributable to an FSC under the rules relating to the taxation of an FSC in Part III, Subpart C of the Internal Revenue Code (§ 921 et seq.) and the regulations thereunder.

#