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May 9, 1997

**VIRGINIA POWER**

The Honorable John D. Dingell, Ranking Member
Commerce Committee Democratic Office
564 Ford House Office Building
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Dingell:

The attached comments are provided in response to your letter of April 10, in which you pose a number of questions about a federal role in restructuring the electric utility industry. I fully agree with your statement that this is a complex policy area, and that it is important for the Commerce Committee to have as full an understanding of the facts as possible before taking action. Virginia Power is following this very important issue, and I welcome the opportunity to respond to your questions.

For your information, I testified before the Energy and Power Subcommittee in May 1996 on behalf of the Edison Electric Institute. Although a year has passed, these remarks still reflect the Virginia Power's position and principal concerns. I have enclosed a copy of these comments as Attachment A. More recently, Ms. Eva S. Teig, Virginia Power's Vice President-Public Affairs delivered testimony before the Energy and Power Subcommittee at its field hearing in Richmond on April 18, 1997. Enclosed as well is a copy of her testimony as Attachment B.

While these recent hearings and those underway in the Senate Committee on Energy and Natural Resources indicate that progress is being made in identifying the key issues that must be addressed in any transition to retail competition, the testimony of the witnesses shows that there is no consensus at this time on how best to proceed.

I appreciate the opportunity to respond to the critical questions you have raised, and I hope that the following responses will be helpful to the Commerce Committee's deliberations. If additional information is needed, please do not hesitate to contact me or Ms.Teig at Virginia Power.

Sincerely,

Jim Rhodes

J. T. Rhodes

1. From your company's point of view, is it necessary to enact legislation bearing on retail competition, and why? If you favor legislation, please outline which issues should be addressed and how you think they should be resolved.

**Response:** While we do not feel that comprehensive federal legislation is necessary at this time, any such legislation should take care not to preempt state jurisdiction over retail electric service. The states have had longstanding jurisdiction over retail electric service for good reasons. Among these reasons are closer proximity to the consumer, and the ability to address the unique economic, environmental and demographic characteristics of the respective states. Each state should be allowed to determine if and when retail access is in the best interest of its citizens. Moreover, nearly all states are at some stage of addressing the competition issue and prescriptive federal legislation would disrupt the orderly transition to competition already underway in the states.

There is, however, an important role for specific federal legislation in the transition to a more competitive structure. Only federal legislation can undo certain policies which impose unfair and unacceptable distortions on the electricity market. Specifically, PURPA should be reformed, PUHCA should be repealed and federal subsidies and tax exemptions for public power entities should be corrected. However, these issues should be addressed on their own merit, not as part of a federally brokered deal to coerce investor-owned utilities to engage in retail wheeling or divest their assets. In addition, if federal legislation were to set a date certain for retail competition, state transition plans already in place should be grandfathered and not superseded by a federally prescribed process. In addition, if a state finds that retail access is not in its interest and can so demonstrate, then it should be allowed to opt out of opening retail access by the specified date (see response to question 3a as well).

2. If the state(s) you serve has adopted or is considering adopting retail competition, what are your biggest concerns? Please be specific. Indicate how you are dealing with them and any recommendations you may have.

**Response:** Both states in which the company serves, Virginia and North Carolina, have initiated efforts to study the issue of retail electric competition. To date, neither has taken any action to implement retail customer choice. The Virginia State Corporation Commission (VSCC) initiated a formal proceeding in September 1995 to investigate issues related to electric industry restructuring and competition (Case No. PUE950089). Their investigation is ongoing, but the Commission and its Staff have both expressed serious concerns about the possible implications of retail electric competition. Their general position is that Virginia should adopt a cautious and measured approach. Concurrent with the VSCC's review, the Virginia General Assembly has established a joint legislative subcommittee to examine electric industry restructuring and determine what state laws, if any, should be changed to advance the public interest in Virginia with regard to the electric utility industry. Virginia Power's Executive Vice President, Robert E. Rigsby provided testimony before this subcommittee on July 2, 1996. A copy of his testimony is included as Attachment C.

The North Carolina Utilities Commission (NCUC) has also initiated a proceeding to investigate emerging issues in electric industry restructuring (Docket No. E-100, Sub 78). However, its investigation is not nearly as extensive as the one being conducted in Virginia. In addition, legislation has been enacted in North Carolina that will establish a study commission to determine whether state legislation is necessary to ensure the adequate, reliable, and economical electric service with regard to the current restructuring debate.

Should either state adopt retail competition, Virginia Power's biggest concern would be the large number of contracts between the company and various non-utility generators. These agreements commit the company to purchase power at prices substantially above the present and projected future market price of power. The majority of these contracts were entered into as a result of PURPA, in accord with the policy of the VSCC. For this reason, we regard this exposure as a stranded investment for which recovery should be provided. Efforts are underway to renegotiate these agreements, with encouragement from the VSCC. Additionally, in the application for approval of an Alternative Regulatory Plan which was submitted to the VSCC on March 24, 1997, the company proposes a means of reducing exposure resulting from these contracts. A summary of this proposal is attached as Attachment D and is also discussed further in the response to question 3b.

3. Whether or not you favor federal legislation, please indicate your position on the following specific issues (to the extent not addressed in your prior responses):

3.a. *A Federal mandate requiring states to adopt retail competition by a date certain.* If retail competition is under consideration in the state(s) you serve, do you believe Congress should provide additional direction or authority?

**Response:** Regarding a federal mandate to adopt retail competition by a date certain, please see the response to question 1. Regarding additional direction or authority that Congress should provide, that response cites the need to reform PURPA, repeal PUHCA and address the subsidies and tax treatment of public power entities. Furthermore, <u>Congressional action should include an affirmation of state jurisdiction over retail electric service and explicit authorization of states to impose non-bypassable surcharges as a means of collecting stranded/transition costs.</u>

In addition, Virginia Power's general concerns regarding the transition to a competitive structure are expressed in the following five principles:

- **Fairness & Equity**---Competitive markets must be structured so that <u>all</u> consumers are treated fairly.
- **Power System Reliability**---It is imperative that the electric grid remain dependable at all times.
- **Recovery of Stranded Costs**--- Legitimately incurred stranded costs should be assigned to customers who choose to leave their local utility, so remaining customers are not subjected to higher rates.
- **Parity Among all Suppliers**---All electricity suppliers should operate under the same rules.
- **Federal & State Jurisdictional Matters**---The existing authority of states and their differing circumstances regarding retail electric service should be respected. State and regional approaches should be allowed.

Any federal legislation should conform to these principles and provide sufficient flexibility for states to determine the structure which best suits the needs of its citizens.

3.b. *Recovery of stranded investment.* If the state(s) you serve already has adopted retail competition, how was this issues addressed and are you satisfied with the outcome? If your state(s) is considering adopting retail competition, how would you recommend that this issue be treated? Do you think Congress should enact legislation relating to stranded cost issues, and if so what would you recommend? Is securitization a useful mechanism for dealing with stranded costs, and whom does it benefit?

**Response: As indicated in our response to question 2,** on March 24, 1997, the Company filed an application with the Virginia State Corporation Commission (VSCC) seeking approval of an Alternative Regulatory Plan (please see Attachment D). As part of the Plan, the company proposed to freeze its base electric rates through the year 2002 and pledged to eliminate approximately $500 million in potential stranded costs during the rate freeze period. In addition, the company presented an illustrative analysis of its potential stranded costs based on a given set of assumptions. It also presented a proposed methodology for quantifying a non-bypassable Transition Cost Charge (TCC) for each customer class. The company requested that the VSCC approve, in principle, the recovery of all unmitigated stranded costs and the proposed TCC methodology, which would be applied only if, or when, retail competition is implemented in Virginia.

The TCC is proposed as a non-bypassable charge that would be applied explicitly to all customers who require use of the company's transmission or distribution system to import power from other suppliers, or who elect to take service from Virginia Power pursuant to unbundled rates that include a market-based generation component. The term TCC was used to further identify these very real costs that were prudently incurred in the discharge of the company's public service obligation -- costs that may become unrecoverable after the transition to retail competition. Further, the company's filing emphasized the position that any transition from regulation to competition must provide a reasonable opportunity for utilities to recover all costs that were prudently incurred to serve customers in keeping with the duty to provide reliable service. Fairness dictates that these costs be recovered from the customers who created the need for which the costs were incurred.

Under the longstanding, traditional industry model, utilities have a legal obligation to serve which is supported by an implicit promise that they will have an opportunity to recover prudently incurred costs. Stranded costs are those costs incurred or commitments made by an electric utility under cost-based regulation that may not be recoverable in a competitive market.

It is the company's position that the important issue of stranded costs must be addressed with a policy of full recovery, whether the transition is governed by state or federal authority. Under traditional utility regulation and under Virginia law, Virginia Power has been given the territorial monopoly for electric service in a specified geographic area. Within that area, the company has a duty to serve that carries with it the responsibility to incur whatever obligations may be necessary to ensure that it will be able to fulfill its public service obligation and reliably meet the power requirements of its customers. To meet its legal obligations, the company has made long-term investments in generating facilities and entered into long-term purchased power agreements. Since it was the state PUCs that were given the jurisdiction to review such actions and determine the prudence of the utility's decisions in the past, it seems appropriate for these same regulatory authorities to preside over the transition to a new regime.

The company believes that if the decision is made by state policymakers that retail competition is in the public interest, then stranded costs must be addressed, and full recovery should be provided for by state legislators and/or regulators. However, if Congress dictates a date certain for retail competition and gives FERC an expanded role in the process, then full recovery of stranded investment should be federally mandated.

The company is continuing to review securitization as a useful mechanism for dealing with potential stranded costs. Use of securitization techniques currently being developed within the industry can be effectively used to leverage mitigation efforts to reduce stranded cost exposure. The company's review of other states' securitization plans indicates that where the state authorizes recovery of transition costs through non-bypassable charges to customers, the utility's right to recover those charges is an asset that can be used as the basis for raising capital. If the arrangement is correctly structured, it may be possible for such financing to be 100% debt with a AAA rating, even though the utility may only have an A rating or lower. The combination of this high leverage and high rating enables the utility to raise capital at very low cost, and the low cost funds can be used to either restructure non-utility generator purchase obligations or to refund higher-cost financing. In both situations, the effect would be a substantial reduction in the amounts that customers would be required to pay.

3.c. *Reciprocity*. Can states condition access to their retail markets on the adoption of retail competition by other states? Should Congress enact such a requirement? Could such a requirement create an incentive for states with low electric rates not to adopt retail competition, in order to keep cheap power at home?

**Response:** In general, reciprocity is desirable for the proper functioning of a competitive market, and FERC recognized this principle when opening the wholesale power market. FERC requires public power entities to open their transmission systems for wholesale wheeling if the public power entity intends to use the transmission lines of an investor-owned utility.

However, state efforts to bar interstate access to customers unless the retail power market in the supplier's home state is opened will probably run afoul of the Constitution. Congressional action to require reciprocity would not appear justified at this time as it would have the effect of limiting the number of suppliers available to customers in those states that elect to open the retail market. The issue is further complicated by the fact that many existing suppliers serve customers in more than one state. While reciprocity may ultimately be a condition for market forces to be most effective, states in which regulators and utilities have controlled costs and kept rates low should not be penalized in the transition to retail competition. Each state should be allowed to make its own determination of the appropriateness and timing of retail competition and to devise its transition process rather than being driven by federal legislation.

The company supports parity among competing suppliers and believes that retail competition should only be established when done in an equitable manner for all participants. Virginia Power continues to study how this parity can best be achieved, as well as the appropriate regulatory authority to oversee the resolution of the many interconnected issues associated with assuring reciprocity.

4. If Congress enacts comprehensive restructuring legislation, should it mandate "unbundling" of local distribution company service? What effects would this have, and would they differ for various customer classes? Would this entail substantial expense, and who would incur any such costs?

**Response:** If Congress enacts comprehensive restructuring legislation the decision to unbundle local distribution company service should be left to state authorities. Distribution service is directed toward providing electric service at a local level and any restructuring of this service is best decided by the regulatory agency overseeing local issues, that being the state authorities. However, in the likely case that distribution service remains regulated, distribution rates for each customer class should be set at parity. Thus any subsidies that existed in the bundled rates for distribution would be eliminated. To that extent, some customer classes would realize an increase in rates for distribution services, while others would realize a decrease. This allocation of costs associated with unbundling distribution service would be borne by the affected customers.

5. Recently Chair Moler of the Federal Energy Regulatory Commission recommended that, as part of comprehensive legislation, Congress authorize the Commission to enforce compliance with North American Electric Reliability Council standards to help maintain reliability of service. Do you believe this is necessary, and why or why not?

**Response**: Chairman Moler's proposal should be given serious consideration. Clearly FERC now has serious concerns regarding reliability of the transmission system in the emerging competitive structure. Congress needs to seriously consider the extent to which reliability of the nation's transmission system will be at risk before proceeding to mandate retail access, and should only proceed if and when the reliability of the system can be assured. The company believes that the NERC standards for reliability are necessary and must be mandatory for all transmission providers. The company is participating in the development of the NERC standards and guidelines that will help assure system reliability.

6. What concerns does your company have with respect to the role of public power and federal power marketing agencies in an increasingly competitive wholesale electric market? In markets in which retail competition has been adopted? Are there concerns you would like to have addressed if Congress enacts comprehensive restructuring legislation? Should Congress consider changes to federal law as it applies to regulation of public or federal power's transmission obligations?

**Response:** The existence of federally subsidized power marketing agencies and the preference sale of power to public power entities, e.g., rural electric cooperatives, is inappropriate in an increasingly competitive wholesale power market and totally unacceptable in a retail power market. The original use of public funds to establish these entities was in the public interest. However, there seems to be general recognition that the initial objectives of this program e.g., rural electrification, hydroelectric power and flood control, have been fulfilled. It is now time to privatize the power marketing agencies. Likewise there is little to justify the continued subsidies to the electric cooperatives in the form of low interest loans and tax exemptions. It is clearly unfair for these subsidized entities to compete in the market with investor-owned utilities. If the electric industry is to undergo a comprehensive restructuring, this would be the time to reform this structure and place all suppliers on an equal footing. Public and federal power authorities should operate under the same provisions of FERC orders opening wholesale transmission access as apply to investor-owned utilities. Should there be legislation to open retail access, the subsidies and preferential access to power for public power entities should be removed before these entities are given access to customers currently served by investor-owned utilities.

7. If Congress enacts comprehensive restructuring legislation, should changes be made to Federal, state or local tax codes, and if so why? Please be specific.

**Response:** If federal restructuring legislation is enacted, federal, state and local tax codes should be changed in order to allow consumers of electricity to obtain the full benefits of competition.

**State & Local Taxes**

For many electric utilities, state and local tax payments exceed Federal income tax payments, often by a significant amount. Tax bases and tax rates applied to electric utilities vary greatly from state to state. In many cases, state and local governments impose certain taxes uniquely to "utility" property and business activities or apply differential (higher) rates to these entities than to non-utilities. The definition of "utility" is a matter of state or local law and may or may not encompass newly structured entities and transactions.

Experts agree that deregulation could cause a substantial shortfall in revenue to state and local governments. Care should be taken to ensure that attempts to make up revenue shortfalls do not fall disproportionately on any segment of the electric utility industry.

High and differential state and local tax rates long have been a concern of electric utilities. It is not expected that Federal electric restructuring legislation would address tax issues subject to state and local jurisdiction, but it could encourage states to address differential tax rates across various types of competing market participants. The concern is that state and local governments should not disproportionately burden electric utilities or their subsidiaries and spin-offs in seeking new sources for replacing lost tax revenues. Higher tax rates on only one sector of the power supply industry would lead to market distortions and an unlevel playing field among competing suppliers. The result would be efficiency losses in power markets and a reduction in the benefits of competition for electric power users.

This issue could be addressed in legislation as part of revising PURPA Title I. This title requires states to consider various aspects of retail access and industry restructuring. Among other specific issues that should be considered, legislative language could be included as follows:

"Each state regulatory authority shall consider and make a determination concerning the potential impacts of retail access and electric power industry restructuring on state and local tax revenues and how any reductions in revenues as a result of retail access and industry restructuring could be mitigated in ways that are non-discriminatory across various types of power suppliers and would not contribute to distortions in competitive power markets."

## Federal Tax Issues

### Corporate Structure Tax Issues

Deregulation could cause significant corporate reorganizations within the electric utility industry. Regulators may require divesture of certain utility assets as a condition of restructuring. As a result, significant corporate tax structure issues should be recognized and resolved.

Two types of divestiture are occurring in the industry. First, as part of new competitive initiatives, some states may require the sale of assets. Second, as the industry restructures, merger activity has accelerated. Both Federal and state approval of mergers and other forms of consolidation occur only if these events will not unduly increase market power. To avoid these market power issues, divestiture in the form of "spin-offs" is being proposed. Existing tax rules need to be modified to minimize the unfair tax results of divestiture. In this regard, two principal issues need to be addressed:

**Corporate Spin-offs**

The most important corporate structure tax issue to the electric utility industry in an era of competition and deregulation is the ability to use current tax law provisions which permit a corporation to spin-off to its shareholders on a tax free basis a subsidiary containing part of its business assets and activities. To qualify for this treatment, a corporation must meet a number of technical requirements. The popular technique to meet these requirements is commonly called a "Morris Trust" transaction.

The President's budget for fiscal year 1998 proposes the effective abolition of Morris Trust transactions by taxing the value of the spin-off business. This action was taken in response to certain widely publicized perceived abuses to this tax free spin-off treatment. In those cases, like Viacom and GM-Raytheon, non-conventional transactions were undertaken involving debt shifting and other variables beyond the general scope of Morris Trust transactions. Unlike the perceived abuses cited above, electric utility industry spin-offs involve basic Morris Trust transactions that historically have been approved by the Internal Revenue Service (IRS).

On April 17, 1997, Representative Bill Archer (R-TX) and Senators Roth (R-DE) and Moynihan (D-NY) introduced legislation (H.R. 1365 and S. 612) that would tax these transactions as sales at the corporate level, effective April 16, 1997. The tax free spin-off and reorganization provisions contained in the current provisions of the Internal Revenue Code (IRC) provide important flexibility for corporations to rearrange and modify their business structures to meet new priorities and changing economic and competitive environments. The courts and IRS have long recognized that the Morris Trust transactions should not be inhibited by the tax system because they are a legitimate vehicle for accomplishing such business objectives. The basic Morris Trust provisions currently in the IRC should remain unchanged.

**Like-Kind Exchanges**

Current tax law permits the exchange of "like-kind" property without subjecting the gain realized on the exchange to Federal income tax in the year of the exchange. In this instance, the taxation of the gain is deferred to future years.

The IRS is restrictive in its interpretation of what constitutes like-kind property eligible for this tax deferral. Under this restrictive definition, electric utilities cannot exchange, for example, generation assets for distribution assets on a tax free basis because those assets are not considered like-kind property. This limitation may inhibit utility restructuring and may prove to be particularly unfair in the event that a utility is forced to divest assets in the course of deregulation.

For the like-kind exchange provisions to work properly in the electric utility industry, there is a need to establish a new legislative definition of a tax free, like-kind exchange. The new definition should permit assets used predominately in the trade or business of the furnishing or sale of electric energy to be exchanged tax free for other assets used in the same trade or business. To ensure that such a new definition would meet its legislative objective, a further requirement could be established that the exchange be the direct or indirect result of deregulation of the electric industry at the Federal or state level.

**Municipalization Tax Issues**

As competition increases in the electric utility industry, areas of the IRC relating to tax-exempt bonds are coming under scrutiny. A number of cities are exploring the use of tax-free municipal bonds to expand their electric systems in order to compete for customers outside their service territories. At the same time, support is building to eliminate Federal subsidies such as tax-free bonds in order to create the level playing field necessary for competition to flourish.

Municipalization activity has been aggressive in the past year. A truly competitive electricity marketplace will never materialize if governmental owned utilities that have substantial tax benefits compete with private industry. Instead, tax benefits will skew competition and favor government ownership. Municipalization efforts will increase costs to residential and commercial customers; increase revenue loss from the Federal Treasury; and continue the current situation where the majority of taxpayers, the 78 percent served by shareholder-owned utilities, subsidize benefits for the 14 percent of customers served by municipal utilities nationwide.

Create a "fence" around state and locally owned electric utilities that would take away the ability to finance operations with tax-exempt debt for sales outside a governmental owned utility's existing service territory, and subject such sales to Federal income tax.

As the electric industry moves toward a more competitive model, the market will be distorted if a few competitors are granted tax advantages. The fence proposal continues to allow governmental owned utilities to finance facilities with tax-exempt debt to the extent the facilities will be used solely for selling electric energy to persons within such a utility's existing service territory. The proposal only affects electric sales outside the existing service territory of governmental owned utilities.

**Nuclear Decommissioning**

IRC section 468A allows an electric utility company with an interest in a nuclear power plant to elect to deduct contributions made to a Qualified Nuclear Decommissioning Reserve Fund (Fund), subject to certain limitations. A taxpayer first must obtain a "schedule of ruling amounts" from the IRS before making a deductible contribution to a Fund.

IRC section 468A, when enacted in 1984, was designed to operate within the structure of a regulated electric utility industry. Its mechanics are dependent on traditional cost-of-service ratemaking principles. As a result of the Energy Policy Act of 1992 (Public Law 102-486), the electric utility industry is in the process of deregulation and restructuring. In the future, many electric utility companies with Funds may no longer be subject to traditional cost-of-service ratemaking.

Legislation is needed to provide the necessary modifications to IRC section 468A to permit continued deductibility of contributions made to Funds in a deregulated environment. Specifically, permissible deductible contributions to a Fund should be computed on a levelized basis over the remaining operating license term or the deregulation transition period specified by Federal or state legislative or regulatory action, whichever is shorter. The computation of the levelized amounts would conform with current law, taking into account only the post-1984 portion of nuclear decommissioning costs, a reasonable rate of return on assets in the Fund and a reasonable rate of inflation for nuclear decommissioning costs until incurred.

To eliminate an unnecessary administrative burden to taxpayers, legislation should delete the requirement that a taxpayer obtain a schedule of ruling amounts from the IRS before claiming a deduction for a contribution to a Fund pursuant to IRC section 468A. A taxpayer's deductions for contributions to a Fund would be subject to audit by the IRS as with any other item on its tax return.

8. What, if any, concerns do you have about the reliability of the electric system? If the industry moved to retail competition, will adequate reserves be available? Is the transmission system capable of handling full retail competition?

**Response:** Reliability of the electric system must be addressed from both long-term planning and near-term operating perspectives. The long-term planning function includes acquisition of sufficient resources to ensure availability of the energy to meet load under various outage and contingency conditions. This long term planning should include generation and transmission system development to support load growth, generation placement, and electric system operations.

The operational reliability of the bulk electric system has been a concern under wholesale competition. Transmission flow patterns experienced in the last two years have been more volatile than previously experienced. NERC committees are devoting much effort to instituting mechanisms to manage transmission systems under these new conditions. Initial implementation of new tools, procedures and processes to more effectively manage the system use is a dynamic process but significant progress is expected to be made in the next year. One of the expected improvements includes implementation of regional security coordinators. These regional security coordinators are to be fully operational by January 1, 1998. The security control centers will have the necessary telemetry and information equipment to ensure full open access that is non-discriminatory. Also, the implementation of automatic tagging systems for all transactions, which will identify flow patterns for the security centers, is expected to be in operation by mid-1998. Testing and modification of the new procedures and mechanisms will take at least two years, at which time system reliability issues associated with wholesale competition could be better evaluated.

If the industry evolves toward full customer choice, the operational reliability issues associated with retail competition will need to be addressed. While some of the knowledge on managing system reliability in a competitive environment has been acquired through the changes brought on by wholesale deregulation, the transition to full customer choice will introduce different reliability issues that must be addressed in a way that the resulting changes are equitable to all customer classes. Further, the scope and time frame for the evolution to full customer choice as well as the assignment of appropriate parties to manage the different aspects of this transition must be clearly defined to ensure reliable management of transmission operations. Retail competition will be considerably more complex than what we have seen in the wholesale competition model. The transmission operators and the tools available today will not provide the real-time operations which would be needed for implementation of the full retail competition model.

If the industry moves to retail competition, the availability of generation reserves would have to be assured within a competitive market framework. States could require electric suppliers which contract to sell power to end-use customers in that state to demonstrate control of sufficient capacity to meet customer peak demand plus a reserve margin. In this model, states and regions would coordinate with the NERC to determine and maintain an adequate reserve margin. One characteristic of the electric utility industry that makes it different than other market-based industries, is that energy is generated and used simultaneously. Most other markets can depend on inexpensive storage or inventory devices to accumulate supplies to meet demand during peak periods, or make the choice not to supply 100 per cent of the peak load during the peak times (e.g., in the telephone industry, the customer may endure a busy signal for a short time period if the capacity on the telephone lines is being fully used). This is simply not the case in the electric business.

The transmission system is capable of handling full customer load as served today but was not designed to serve customers from any direction at any time. The simple reason for this is the transmission system is not designed to carry the variety of flow paths possible under a competitive supply choice scenario where all customers have "equal" choice of supplier. Full retail competition means that every retail entity could choose their energy supplier without restriction, however, the transmission system, as it exists today, would be unable to handle this type of unrestricted access by all customers to all suppliers. The ramifications of full retail access on the transmission system should be thoroughly understood before proceeding. The technology necessary to move to full retail competition, and the investment needed for that technology to be implemented should be understood as part of the cost of a transition to open retail access.

Attachments:

A: J.T. Rhodes Congressional testimony, May 15, 1996

B: E.S.Teig Congressional testimony, April 18, 1997

C: R.E. Rigsby Virginia legislative subcommittee testimony, July 2, 1996

D: Summary of Alternative Regulatory Plan